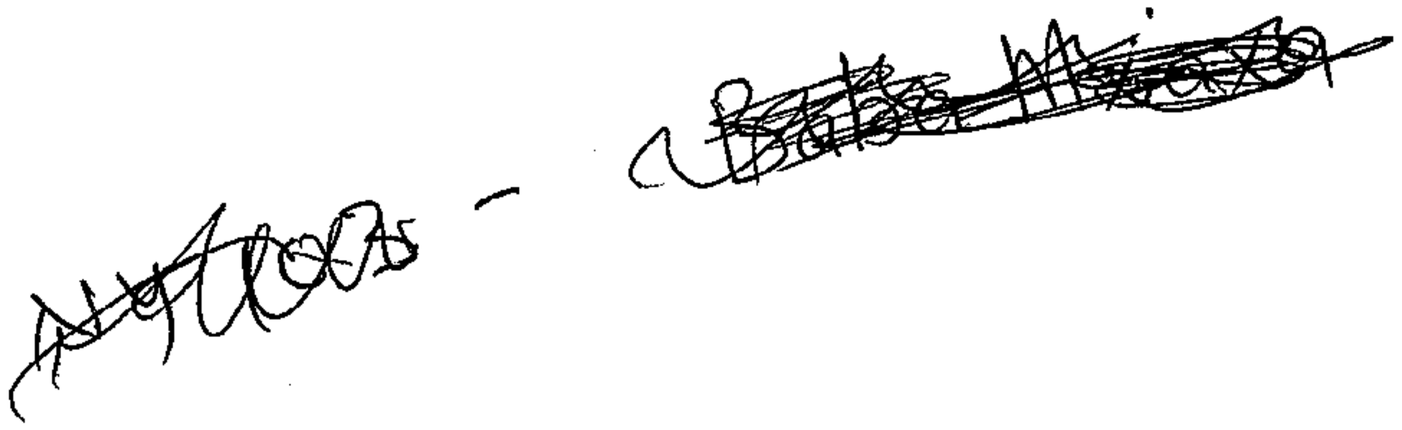
# SOCIAL SECURITY - PENSIONS & Care of the AGED.

1997



pensions

3/1/97

(300) BD

# Official tardiness creates uncertainty on

**Linda Ensor**

CAPE TOWN — Official tardiness in finalising a new tax regime for retirement funds had created a climate of uncertainty and led in some cases to irrational conduct by prospective retirees, Momentum Life assistant GM Martin Kourie said.

"One cannot help but feel sympathy for the plight of the SA retirement planner over the last decade — a period which has seen a battery of somewhat radical proposals to alter the retirement tax system by various commissions," Kourie wrote in an article in the newsletter of the Institute of Life and Pension Advisors (Ilpa).

The findings of most of this string of commissions — contained in the Margo commission report of 1987, the Mouton committee report of August 1992, the Katz commission proposals of 1994 and 1995 and the Smith Committee report in 1995 — had been shot down by a barrage of public criticism.

But the uncertainty to which they had given rise had led to badly timed retirement fund withdrawals and the premature relinquishing of highly skilled and much-needed manpower.

Kourie said people with retirement funds were particularly sensitive to changes in retirement policy, and often reacted "undesirably and irrationally to short-term signals" and to pronouncements that do not have the backing of adequate policy formulation and consultation.

"Substantive proposals, particularly those affecting retirement, should as far as possible be avoided until policy formulation has properly run its course," he said.

The 1996/97 budget, in generally supporting Katz's proposals on the taxation of retirement funds, had given firm assurances that a new system would not be introduced before March this year and that vested rights of members of state funds would be protected.

However, Kourie noted that private fund members had not been promised such full protection of their rights.

He believed the fact that their funds would become subject to any new dispensation only after a five-year phase-in period of the new system was "cold comfort".

The parliamentary committee on finance had recognised the need for correct policy formulation last June and supported the Smith proposal that a draft policy be drawn up for discussion at a national convention. While welcoming the fact that the process was back on track, Kourie was disturbed that none was driving it.

"In the meantime aspirant retirees languish in murky waters, whilst the date of expiry of government's guarantee not to change the retirement tax regime, being the 28 February 1997, rapidly approaches," Kourie said.

# Conference aims to set pension milestone

(300) BD 6/11/97

**Linda Ensor**

CAPE TOWN — An important milestone in arriving at consensus on a new national retirement system for SA will be reached this week when the first workshop of the national retirement consultative forum is held.

Representatives of government, employers, trade unions and the country's life offices are to attend the meeting in Midrand on Thursday.

Life Offices' Association (LOA) CEO Jurie Wessels said the association was excited and optimistic about the event, which was regarded as a "major breakthrough".

Theme committees would be established at the workshop on old age assistance, retirement provision for the private sector, public sector and local authorities and parastatals respectively, as well as one on medical aid with regard to its effect on retirement plans.

After the workshop — to be chaired by Deputy Finance Minister Gill Marcus — these committees would formulate concrete proposals on their specific areas of focus.

Katz commission chairman Michael Katz and Smith committee representative Reg Munro would make presentations on the proposals contained in the Katz and Smith reports. One of the recommendations of the Smith report was that such a consultative conference be held.

Terms of reference for the committees were proposed which could later be amended. The private sector committee, for instance, was asked to develop a special type of retirement system for the informal sector; to formulate tax incentives for pension provision — especially one for low income earners; and to make provision for loans to members from pension funds for their "lifetime needs".

The civil service committee was asked to investigate the establishment of a defined contribution arrangement for public servants. A further suggestion was that "the employer contribution rate be reduced from the current 20,3% of salaries to as low as 15% and savings be applied towards salary increases, especially at the lower end of the salary spectrum", the conference documents stated.

It was also proposed that the existing retirement benefit for public servants "which is unaffordable to the state as sponsoring employer" be changed to one that was both fair and affordable.

It was further suggested that the Government Employees' Pension Fund (GEPF) should be partially funded, although on a scientific and not an ad hoc basis; that the effect of funding pension funds on government borrowing be quantified, and that a GEPF investment policy committee of experts be established.

The document also said there should be proposals on how the difference in the tax treatment of public and private funds could be eliminated, and how the existing rights of members relating to the tax-free status of lump sum payments could be protected.

COMMITTEE TOLD OF ABUSE, NEGLECT

# Spotlight on need to protect the elderly

(50)

ET 28/1/97 (300)

**TAUNTING**, rough handling, authoritarian sisters and management and incorrect and over-medication are just some of the problems faced by the elderly. **CHRIS BATEMAN** reports.

MEASURES for the protection of the frail and elderly are likely to be included in the Western Cape's constitution after horror stories of neglect and abuse of senior citizens were yesterday submitted to the province's Standing Committee on Constitutional Affairs.

Chairperson of the non-profit Concerned Friends of the Frail and Aged (CFFA) Mrs Marilyn Lilley cited examples which caused a sharp intake of breath among committee members.

She took the province to task for ommitting protection of the elderly from their draft constitution in spite of appeals and visits by members of her organisation to Premier Mr Hernus Kriel, Health and Welfare MEC Mr Ebrahim Rasool and Rasool's senior officials.

She cited as examples of abuse relatives who found that a two-week-old bandage on their grandmother's leg covered a broken bone that was "almost protruding", and a 95-year-old woman who "begged to be let free" after being strapped into a straitjacket to "prevent her from wandering".

She cited the case of an elderly woman who endured "three weeks of agony" after being prescribed headache tablets and physiotherapy for what turned out to be a broken hip — while another woman was found to be dehydrated a week after admission to an old age home.

More recently a woman was discovered dead in her upmarket retirement home "days" after she had consistently missed communal meals.

"Teasing, taunting, rough handling, authoritarian sisters and management, incorrect and over-medication, stealing of residents' possessions, financial irregularities are but a few problems — complainants are told to leave if they don't like it," Lilley added.

The recent slashing of subsidies to old age homes had aggravated the situation by forcing cut-backs to staff and services, she said.

Anyone could open, own and manage an old age home and needed no knowledge of the ageing process or any nursing ability.

Lilley said her organisation had received 900 complaints so far.

She said penalties of R20 000 or five years imprisonment faced child abusers while those guilty of abusing the elderly faced fines of R100 or three months jail.

Lilley recommended that:

- A department be created to supervise all government agencies.
- Reporting of abuse be made compulsory as should the hiring of qualified staff.
- Provision be made for the registration of old-age care centres with surprise inspections by officials who would ensure that a compulsory code of conduct be prominently displayed at the centres.

Lilley challenged the committee to introduce the measures in their "own self interest".

Committee chairman Mr Hennie Bester said his members had been receptive to the recommendations and that measures for the protection of the aged were likely to be included in the constitution.

## Green watchdog must have teeth, says expert

CHRIS BATEMAN

GREATER watchdog powers with "teeth" were needed for the environmental commissioner proposed in the Western Cape's draft constitution — and the person appointed should have powers of arbitration in expensive and protracted disputes, a top local expert said yesterday.

Giving evidence to the Standing Committee on Constitutional Affairs, Ms Marlene Laros of the Wildlife and Environmental Society of South Africa (Wessa) suggested a full Environmental Commission with expert members and decision-making powers.

She proposed the draft constitution be changed to read that the commissioner "ensure" rather than "promote" the protection of the environment — the latter term being shunned by international legal convention.

Laros emphasised the need to clarify what environmental powers would be devolved to provincial governments, and said her suggested changes would apply only if substantial local powers were granted.

If an independent commissioner merely advised provincial government — as suggested in the draft constitution — then he or she would be severely hamstrung and ineffective.

"The body needs some teeth in intervening with decision-making — no politician would like this — but we'd like to see this function hold government accountable," Laros added.

Lawyers advising the committee warned that this could amount to a "kind of environmental court", for which the province had little present judicial jurisdiction.

# Pensioners upset over changes

STAFF WRITER

SIXTY representatives of black pensioners from all over the Western Cape met senior politicians yesterday to express their unhappiness at having to get their pensions from the Post Office again.

The Post Office has the contract from the Department of Social Services to pay out pensions and subcontracted the job to Nisec, who for the past two years has paid the province's 40 000 black pensioners via its mobile computerised cash dispenser.

Last month, the provincial tender board cancelled Nisec's contract on the grounds that the Nisec technology had not, at the time the contract was granted, complied with the contract's requirements.

Nisec's system had been touted as the answer to ongoing fraud at various links in the payout chain.

Its computer was supposed to have been able, right from the start, to positively identify and verify payments to beneficiaries.

Health and Social Services MEC Mr Ebrahim Rasool, who wanted the contract cancelled, said through his lawyers that the Nisec system had not always been able to do what it was supposed to. (It has over time been upgraded).

The 60 representatives of the Pensions Forum told Posts and Telecommunications Minister Mr Jay Naidoo and Rasool that they were concerned about possibly having to wait in long queues at the Post Office on payout days.

They were also worried about the security of the cash in transit, and about the security of the pensioners themselves at or near the Post Offices on payout days.

Naidoo and Rasool assured them that the payout points would be exactly the same as they had been under Nisec.

The first of the Post Office payouts will be made from 6.30am on February 3.

Payout hours have been extended to avoid long queues.

● Nisec will be contesting the cancellation of its contract in the Cape Town Supreme Court today.

(300) CT 29/1/97

SOLE DISCRETION FOR FIVE-MEMBER BOARD

# R450m payout for freedom fighters

## Identity crisis for Province

DALE GRANGER

"A ROSE by any other name" ... but the Western Province rugby team are struggling for an identity and need help from their fans.

"The Mountain Goats" and "Striped Jerseys" never stuck so they're desperately trying to find a name and a symbol for the team.

Coach Harry Viljoen has suggested the Dolphins", a friendly creature of intelligence, speed and grace, much loved by humans but more important, a natural enemy of Sharks (the symbol of Currie Cup champions, Natal) which keep well astern of them.

There are two snags: firstly Natal's cricket team have adopted the mammal for their team and secondly many dinosaur rugby officials will want an animal symbolic of aggression and raw power, like the leopard, to characterise their heroes. The players weren't much help over the weekend when asked for their input. Wing Simon Berridge joked that they should be called "the Province Poodles" and burly prop Tommy Laubscher couldn't resist suggesting "the Province Chihuahuas".

So while Natal (Sharks), Transvaal (Golden Lions) and Northern Transvaal (Blue Bulls) all have a ferocious identity, WP, in a region renowned for wine, culture and Table Mountain, remain nameless.

The team's emblem is the Disa, so maybe they should be called "Flower Power". Perhaps "the Berglies" or "the Winos" (or the Wine Bus) may tickle your fancy.

What do the team's fans think WP should be called?

Phone the Cape Times today between 10am and noon on 488-4716 and give us your views.




**ALL ABOARD:** If you pop down to Newlands to see WP practise you may think they've lost their marbles. Besides seeing Chester Williams in full flight, you'll find players "aqua-diving" and punching tackle bags with mitts. ● See Page 27 *PICTURE: ANNE LAING*



**A FIVE-MEMBER** special pensions board will have sole discretion over who will receive payouts in terms of the new Special Pensions Act. **LINDIZ VAN ZILLA** reports.

CT 29/1/97 (300)

THOUSANDS of former liberation movement members and political activists are to receive pension grants in recognition of years of sacrifice and hardship — a process that will cost the government R450 million this year alone.

The primary requirement for qualification for the special pensions is that the person must have been over 35 years of age when the pension scheme came into operation on December 1 last year.

The pension payouts are projected to run for a 50-year period and will be overseen by a five-member special pensions board that will have sole discretion on who will receive pensions.

The Special Pensions Act, which was promulgated on October 30 last year and signed by President Nelson Mandela, provides for several categories of freedom fighters and activists who qualify for the pension payouts.

A person must have been active in a banned organisation for at least five years, or been imprisoned or in exile for the same period, or restricted to a specific area for five years, or have been disabled as a result of their participation in the freedom struggle.

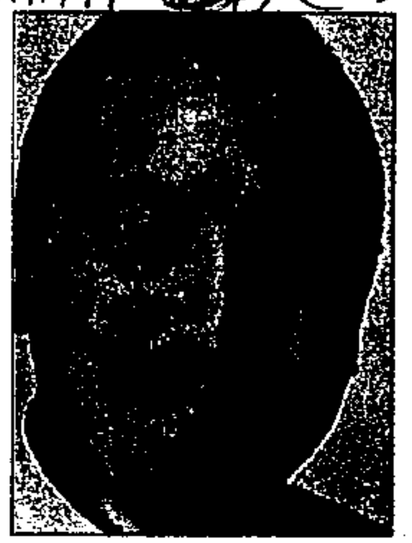
Those known to have applied for the pensions include veteran ANC stalwarts Mr Walter Sisulu, outgoing Eastern Cape Premier Mr Raymond Mhlaba and Minister of Environment Affairs and Tourism Dr Pallo Jordan.

The widows of several prominent anti-apartheid activists, among them Black Consciousness leader Mr Steve Biko, PAC leader Mr Zeph Mothopeng and former Housing Minister Mr Joe Slovo, are also on the list of applicants.

The pension beneficiaries have been cast into two age brackets — those between 35-45 and those between 45-65.

Those in the younger bracket will receive a minimum annual pension payout of R6 000 and a maximum of R24 000, depending on the years of service. These so-called dormant members won't receive their money until they reach 60.

However, there is a clause that permits people to take their pensions at age 50, but this comes with a three percent penalty.



**CO-ORDINATOR:** Mr Trevor Wentzel

Those in the upper bracket will receive pension payouts ranging from R12 000 to R30 000 a year, once again depending on the number of years of service.

A super-bracket for struggle veterans who are 65 and older and have more than 25 years of active service behind them provides for a total amount of R84 000 a year (R7 000 a month).

Apart from the monthly pension payments, a formula has also been devised to provide beneficiaries with lump sum payouts. This amount is backdated from the time a person's pension application is approved to April 1, 1995.

The project, expected to run over a 50-year period, is set to cost the taxpayer billions of rand in pension payouts.

The national co-ordinator of the Department of Finance's Special Pensions Department, Mr Trevor Wentzel, said more than 17 000 applications for the special pensions have been received.

Provision had been made, however, for an estimated 20-25 000 applications, he said. The deadline for submission of all applications is December 1 this year.

● Turn to Page 2

### Who qualifies for payouts

PROVISIONS set down in the Special Pensions Act for former liberation movement members and political activists include:

- Only those over 35 qualify.
- Five years in prison, exile, membership of the organisation or disabled in the struggle.
- Applications close December 1 1997.
- The 35-45 age-group get a R6 000 to R24 000 lump sum and a R500 to R2 000 monthly pension.
- The 45-65 age-group get a R12 000 to R30 000 lump sum and a R1 000 to R2 500 monthly pension.
- Super-bracket over 65 and 25 years of active service — R84 000 lump sum and R7 000 monthly pension.

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# Pensions for freedom fighters

(300) (250)

From Page 1

CT 29/11/97

Wentzel said the process of adjudication on who qualifies for the pensions is in the hands of a five-member special pensions board, who have sole discretion on who is awarded the pensions.

The first pensions are to be paid out later this year, but there are plans to host a symbolic pension payout by President Nelson Mandela in Pretoria on March 21.

Wentzel said the Special Pensions Board would begin reviewing the first applications next month.

The head of communications in the Special Pensions Department, Mr Samuel Jooste, said the Minister of Finance had set aside R450 million for this year's initial pension payouts.

This figure will be revised each year by the Minister of Finance who will present it to Parliament in his annual budget speech. "The pension budget will definitely drop after this year's initial lump sum payouts," Jooste said.

Wary of public criticism on the amount spent on the pensions, Wentzel, himself a former Robben Island prisoner, said the pension payouts could never make up for sacrifices people had made in the struggle for a democratic country.

"Many people sacrificed their jobs and their income, or went into exile, to fight against apartheid," he said. "The government can never compensate for that, but have awarded the pensions just as a means to give them something in return."

P.413

e character national constitution. Provincial Legislatures."

# Nisec seeks reinstatement of Cape pension payment contract

**Linda Ensor**

CAPE TOWN — Denel subsidiary Nisec applied to the Cape Town Supreme Court yesterday to set aside the provincial administration's cancellation of its contract to pay pensions and social welfare benefits worth R135m monthly.

The administration opposed the action, saying the state and taxpayers would lose R70m if the contract were to run its course to the end of 1999.

Nisec CEO Alec Cilliers argued that the provincial tender board's decision on December 17 to cancel the contract was irregular in that the rules of natural justice and procedural fairness had not been applied.

The board had no legal right to cancel the contract for the reasons given, he said.

Cilliers claimed that Nisec had fulfilled the terms of the contract and at no time during its currency had the social services department voiced dissatisfaction over the manner in which this was done.

The type of technology used was irrelevant to the terms of the contract. Nisec's infrastructure would collapse if the contract was cancelled, he said.

Social services department head Virginia Peterson said Nisec had obtained the contract under false pretences, fraudulently claiming that it had the technology to identify and verify recipients of payments.

The department was made aware of the alleged fraud only when the Office for Serious Economic Offences raided Nisec's offices.

Between December 1994 and October last year Nisec received R63m from the administration for payments to 224 000 people, who were in fact paid by the post office. Nisec paid only 50 000 of the 280 000 beneficiaries, subcontracting with the post office at a fee of R36m to pay the remainder.

Peterson said Nisec had received R27m for the transfer of funds to the post office (which would take less than half an hour a month) and for monthly reconciliations which involved not more than eight hours' work.

She said the state and taxpayers would lose R58m by the the time the contract expired if this system persisted, in addition to the R12m cost of having payments made by magistrate's courts and welfare institutions.

# Pension payout firm contests cancelled contract

ARG 30/1/97

DENNIS CAVERNELIS
SUPREME COURT REPORTER

**Nisec, the pension pay-out company, has asked the Cape Supreme Court to review and set aside a decision by the Western Cape Tender Board to cancel its R240-million contract.**

Last year the board terminated Nisec's lucrative five-year contract to administer about 290 000 welfare and pension pay-outs.

The respondents are the Tender Board, provincial MEC for Health and Social Services Ebrahim Rasool, and Western Cape Premier Hernus Kriel.

In court papers, Nisec said the Tender Board had made its decision on the basis of claims that Nisec's fingerprint comparison technology did not conform to the contract requirements; the contract was fraudulently obtained because of non-disclosures by Nisec; that the security requirements of the contract were not met and that Nisec had acted "in bad faith or improperly".

Counsel for Nisec argued that the meeting at which it was decided to cancel the contract had not been properly constituted and even if it was properly constituted, with all 16 members, the decision could be taken only if they all agreed to it.

It was argued that the decision could be reviewed as one of the board members was also a member of the provincial administration of the Western Cape and apparently biased.

The hearing continues today.

# Judgment reserved on pensions contract

(300)

DENNIS CAVERNELIS

ARG 31/1/97

A company which pays out social pensions and grants has no grounds for asking the Supreme Court to set aside the cancellation of its R240-million contract, counsel for the the MEC for Health and Social Services has argued.

The company, Nisec, is asking the court to review and set aside a decision by the Western Cape Tender Board last year to cancel its lucrative five-year contract to administer welfare and pension payouts.

Counsel for Ebrahim Rasool, Jeremy Gauntlett, SC, argued that the board had given sufficient reasons for cancelling the contract. Mr Justice J J Fagan and Mr Justice W J Louw reserved judgment.



ROY WIGLEY

**Running smoothly:** satisfied pensioners collect their payments in Guguletu where the Post Office has taken over payouts from Nisec

# New payouts go off without hitch for Guguletu pensioners

(300) ARG 4/2/97

STAFF REPORTER

**Things ran smoothly for Guguletu pensioners who were paid out by the Post Office instead of contractors Nisec for the first time yesterday since the cancellation of Nisec's pension payout contract in December.**

Director of Social Security Waldi Terblanche said during a visit to Guguletu yesterday that he was "fairly happy" with the way the payouts had gone, although some "teething problems" were experienced.

He said the fact that most pensioners came early in the morning meant there was a huge demand between 7 and 9am, creating a bottleneck.

Dr Terblanche accompanied Western Cape Minister of Social Services Ebrahim Rasool and Director of Social Services Virginia Petersen on an on-the-spot inspection of the new payout system.

A spokesman for the Guguletu Pension Forum said the forum was happy with the way the pensions were paid out. He said the Post Office had agreed that its officials would count the pension money overnight, which would mean shorter delays.

Nisec's contract was cancelled after it was alleged that it had been obtained fraudulently. However, Nisec is appealing against the Tender Board decision in the Cape Supreme Court.

# Pension payments cut off as anti-fraud forms go missing

ARG 6/2/97

(300)

MAUREEN MARUD
ARGUS ACTION

**The Finance Ministry's department responsible for civil service pension payments to retired government employees is showing signs of chaos.**

Like dozens of pensioners, a Cape Argus reporter was unable to even make contact with the department to query the apparent widespread non-payment of civil service pensions this month.

The apparent problem is that life certificates posted by the department in Pretoria were not received by huge numbers of pensioners.

The purpose of the certificates – forms that require pensioners to swear to the fact that they are still alive – is to counteract fraudulent claims for pensions in cases where pensioners have died.

But many pensioners who did complete the life certificates have also not been paid.

"What are pensioners supposed to live on if they don't get their pensions?" asked a desperate Olwen Pryde of Cape Town, one of several people who called the Cape Argus.

Alice van Wyk of Bonteheuwel said a Telkom spokesman assured her there was nothing wrong with the telephones at the Finance Department in Pretoria.

"I was told there are too many people inquiring about pensions and that is why they don't pick up at the exchange."

After reaching deputy director Frans Faber, the Cape Argus is still without an explanation.

"Every month we send out about 25 000 life certificates," Mr Faber said. "As soon as people get them they return them to the office."

Asked what happened if they were not received, he said: "I can't help you there. It is out of my line. I am not working in that part of the factory."

He promised to contact somebody who could provide an explanation "later today".

Gardens pensioner Jack Smithers said he was able to get through to Pretoria early in the morning and was told the life certificates were lost in the post.


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# SA set for World Bank loan

RICH MKHONDO
WASHINGTON BUREAU

ARG 6/2/97

**Washington – After three years of an "advisory and analytical" relationship between South Africa and the World Bank, the government is set to borrow.**

World Bank president James Wolfenson and his vice-presidents for Africa, Callisto Madavo and Jean-Louis Sarbib, said on the eve of their departure to South Africa and three other countries that discussions over the loan would be completed soon.

"The South Africans have used our analytical experience to put together their own programmes, while discussions over their first loan are at an advanced stage. We will approve the loan soon," Mr Madavo said.

Mr Madavo did not say how much the loan would be for, or what it would be used for.

South Africa has borrowed money from the International Monetary Fund to finance public works projects. It has never asked for money directly from the bank.

The International Finance Corp, a member of the World Bank Group, has approved about $45-million (R202,5-million) to finance seven projects – four in the financial sector, one in business, one in manufacturing and one in a small enterprise.

# Pensions law grey areas 'likely to be highlighted'

BD 11/2/97 (300)

**Belinda Beresford**

UNRESOLVED grey areas in pensions law were likely to come to the fore after the selection of the Pensions Fund Adjudicator later this month, Pension Lawyers Association president Kobus Hanekom said yesterday.

He said that the full impact of the dispute resolution procedure outlined in the Amended Pensions Fund Act of last year had not yet been felt, because the adjudicator's post was unfilled.

The biggest flaw to the resolution procedure was the uncertainty relating to fair retirement fund practice issues. At the moment there was insufficient recourse to the labour courts for such disputes, a situation Hanekom described as "disastrous".

"As far as I am concerned that is the biggest shortcoming in that area at the moment. It is not fatal, the system can work, but it could possibly pick out undesirable results," he said.

"In my opinion the National Retirement Consultative Forum is the best place for developing fair retirement fund practices, due to the fact that it contains representatives of the three Nedlac (National Economic, Development and Labour Council) components, but also has the retirement fund industry and the regulators involved," Hanekom said.

He pointed out that as the retirement fund industry was overhauled, residual unfair labour practice laws were still needed. However, at present this legislation did not automatically allow for disputes between pension funds and employees, only between employers and employees.

Hanekom said other issues needing clarification, including who had the final decision on the investment of pension fund monies, risk of abuse of the complaints procedure, and the lack of definition of "actuarial reserve".

Actuarial reserve is the amount of money credited to an individual who shifts between pension funds. Hanekom said guidelines were needed because the retirement fund industry had to be made to recognise that actuarial reserve also included part of the stabilisation reserves of the pension fund.

Investment strategy was an area open to dispute, because employers with defined benefit funds felt that they should have the final decision, since they carried the risks of investment, Hanekom said.

However, he felt that the fund members should be allowed some say, even if this meant they took some of the risk of their chosen investments underperforming.

Although the dispute resolution procedure was designed to be efficient and easy, Hanekom felt it could be open to abuse. To prevent this, he suggested levying a fee from the complainant, or giving the adjudicator powers to make penal cost arrangements, as is done in the UK.

# All control boards to be abolished — Hanekom

BD 11/2/97

**Wyndham Hartley**

CAPE TOWN — Agriculture Minister Derek Hanekom has reaffirmed his decision to abolish remaining agricultural marketing boards by the end of the year.

He said these boards would not be allowed to take their assets and form private companies.

Hanekom said that in future no "single channel" marketing mechanisms would be allowed. Those control boards still in business would be closed this year.

The assets of the boards would have to be used for the benefit of the industry as a whole. They would not be allowed to go to a small group of producers when those assets were accumulated as a result of the statutory function performed by the boards, he said.

Hanekom also said that the agriculture department had made its position on the European Union free trade negotiations known. He was unhappy about the exclusion of agricultural products where SA had a competitive advantage, however, and it was going to be very difficult to get the EU to change its position.

He stressed that part of the negotiations on the exclusion of agricultural products was based on making the EU understand that SA's approach to the free trade agreement was on the basis of its relationships with neighbouring countries in the SA Customs Union and the Southern African Development Community.

Hanekom said that while Europe was an important trading partner, the idea was to look to Africa and other areas such as Latin America, Central Europe, and the Far East for expansion of markets for agricultural products.

# Man 'killed for replacing flag'

CRADOCK — A woman told the truth commission in Cradock yesterday her brother was shot dead in 1992 for allegedly trying to replace the SA flag with the flag of the ANC at a township police office.

Xoliswa Ethel Mboya said her brother, John Boya, was fatally shot by police on October 20 1992, for allegedly resisting arrest.

However, in her written submission, Mboya said her brother had tried to replace the SA flag on the roof of Cradock security police headquarters.

She said at the time of her brother's death, the ANC had been unbanned since February 1990 and it was no longer illegal to display its flag.

The family had laid a charge of murder against the police, who were the only witnesses to the shooting, but there were no prosecutions and the family was still in the dark about who shot and killed John.

# Pensions logjam likely to go on for months

(300)

Star 11/2/97

## Many not paid for as long as a year

By Troye Lund

Close to 20 000 new pensioners in Greater Johannesburg, who have already had to survive without grants for up to a year, may have to wait another six months without money.

Delays in capturing the apartheid era's 14 social security departments on one data base are to blame, according to Gauteng's Welfare and Population Development Department (WPD).

The administrative nightmare began in February last year when a private computer firm was commissioned to do the amalgamation by the national WPD.

"We were told the amalgamation would be complete in Gauteng this past weekend. Now the date is March but that is what we were told last March. I will believe it when I see it," said Gauteng's WPD director Jerry Reece.

Even if Gauteng's pensioners are on a single data base by March, Reece warned, payments would not be "problem-free" or immediate.

"The new system has huge inadequacies. For example, it works on identity numbers which so many pensioners do not have. Many files do not have other vital details like addresses or complete names," he said.

The problems of double payments, or payments to people who have died or moved, also still have to be solved.

Fraud is another problem to be addressed. Large amounts from the R2-million that is taken daily to paypoints around Greater Johannesburg have frequently been reported missing, said officials at Newgate pension office.

In addition, said Reece, a significant number of the department's experienced employees had left after opting for severance packages. Many new recruits would have to be appointed and trained.

But Gauteng WPD spokesman Pravienna Naidoo said getting posts unfrozen was causing untold frustration.

"We have the money but cannot fill posts. We are constantly breathing down provincial services' necks to unfreeze posts and are just managing to avert a major crisis," she said.

Reece said the only hope for an efficient pension system hinged on recommendations made by a committee appointed to investigate the restructuring of South Africa's social-security system.

This committee's report deals with all aspects of pension services and is due to be made public this week by national Welfare and Population Development Minister Geraldine Fraser-Moleketi.

(ii) Strengthening of management systems, especially after the in-depth study of the Airline by SBC Warburg, which will identify areas of weakness in the systems.

(iii) A focus on the quality of cabin and other services to customers. Other improvements include the removal of plastic cutlery and other aesthetic upgrades.

(iv) A feeder system for the Airline in the Southern African Region is being strengthened in order to ensure that passengers are brought into centres serviced by the Airline.

(v) New livery and colours for the Airline will be launched soon. This will be accompanied by a superhuman effort to create and present to the travelling public a new product, a new enthusiasm and a new pride in the Airline.

**Diplomatic links with Republic of China**

*21. Dr B L GELDENHUYS asked the Minister of Foreign Affairs:†

Whether the former Secretary-General of the United Nations, Dr Boutros Boutros-Ghali exercised any pressure on the South African Government to sever diplomatic links with the Republic of China; if so, what are the relevant details? N64E

The MINISTER OF FOREIGN AFFAIRS:

No. The former Secretary-General of the United Nations, Dr Boutros Boutros-Ghali, did not exert any pressure on the South African Government to sever diplomatic links with the Republic of China.

**TV licences: renewals**

*22. Mr J J DOWRY asked the Minister for Posts, Telecommunications and Broadcasting:†

(a) How many TV licences were renewed in 1996 in comparison with the number of the renewals in 1995 and (b) what are the reasons for the decrease or increase in the number of licences that were renewed in 1996 in comparison with the number of renewals in 1995? N65E

The MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING:

(a) Total licensees for the licence year:
1 October 1994 to 30 September 1995
2 331 000
1 October 1995 to 30 September 1996
2 221 000
A decrease of 110 000 licensees.

(b) The reasons for the decrease are:

- The culture of non-payment has not left the SABC unscathed.
- The changes implemented by the SABC to meet the requirements of its mandate to provide services to all people of South Africa have evoked diverse response to be expected for a turn-around of the magnitude of change introduced by the SABC.
- Some people of South Africa are still watching television but are demanding more and better for the R19,00 per month. Since their demands (which would require a television licence of R90,00 per month) are not met, they refuse to pay their television licence.
- A growth of 6% in the sale of TV sets whereas the dealers are not demanding a paid television licence before selling a set as required by the law.

**Intelligence Services: Inspector-General appointed**

*23. Mr J W MAREE asked the Minister of Justice:†

(1) Whether an Inspector–General of Intelligence Services was appointed in 1996; if so, (a) when and (b) when did this person assume his or her duties;

(2) whether he will make a statement on the matter? N66E



The MINISTER OF JUSTICE:

(1) Yes, (a) Advocate Lewis Skweyiya, SC was appointed as Inspector–General for Intelligence Service with effect from 1 June 1996.

(b) The appointed Inspector–General did not assume his duties.

(2) The Joint Standing Committee on Intelligence established in terms of the Intelligence Services Control Act, 1994 (Act 40 of 1994) at the beginning of 1996, invited and interviewed candidates for the position of Inspector–General. On 4 June 1996, Advocate L Skweyiya was appointed to this position with effect from 1 June 1996.

Advocate Skweyiya ceased practice as an advocate and prepared to assume duties on appointment. However, at the time of the appointment the terms and conditions of his employment contract were not yet finalised. A proposal by the Ministry for Intelligence Services pertaining to this contract was submitted to the aforementioned Committee for consideration. (In terms of sections 7(3) and 8 of the Act, the contract shall be finalised with the concurrence of the President, the Minister and the Committee.) After due consideration of the contents of the proposed contract and its possible implications, the contract was not acceptable to the Committee and it was referred back for further consultations.

During the process of further consultations the Inspector-General appointed, tendered his resignation as a result of the frustration arising out of the prolonged and delayed negotiations.

The position of Inspector-General is therefore still vacant. The matter is however receiving attention and I trust that it will be finalised in due course.

**Pensions: double payouts**

*24. Mrs T J MALAN asked the Minister for Welfare and Population Development:†

(1) Whether any cases of double payouts of pensions occurred in 1996; if so,(a) what is the amount involved in this regard and (b) which provinces were involved in such double payouts;

(2) whether she will make a statement on the matter? N67E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) Yes, there were cases of double payments involving welfare pensions during 1996. The estimated number of duplicates for beneficiaries is about 26 000 with a potential annual savings of R134 160 000 since amalgamation of the system began in June 1995.

There is an agreement between the national office and the provinces that duplications will not be suspended until each province conducts an investigation into the respective duplicates. The amalgamation process has picked up duplicate ID numbers on the amalgamated data base.

With the amalgamation of the transverse computer system known as SOCPEN, the process of taking on 14 different pension systems onto one data base has to be done in a phased manner. Therefore, each system has to be taken one at a time, and not all at once. The ex-Provincial Administration (PA) is being taken on from each province now. Four provinces have been taken on to date. The taking on of the ex-Ciskei and ex-Transkei system is in process.

In order to address the inefficiency in the delivery of social security, and to eliminate the existing fraud and corruption, I have with the support of Cabinet and the MEC's for Welfare of the provinces, appointed the Committee for the Restructuring of Social Security (CRSS) which was chaired by Rev Frank Chikane. The Committee has made recommendations which have far-reaching implications for the problems which are being experienced within our social security system.

The situation in the provinces can be summarised as follows:

- *Eastern Cape*

  The province has eliminated 14 000 duplicates. The estimated amount involved is R6 020 000. Beneficiaries within the province used multiple documents on application. The duplicate payments did not involve payments across provincial borders.

- *Free State*

  After the amalgamation of the old House of Assembly and the House of Representatives onto the Provincial system during 1996, seven cases of double payments were identified. These cases were cancelled and a deduction will be made as soon as the pay out history is updated. The amount involved is R40 880. Payments across provincial borders were not involved as the amalgamation process in the other provinces has not been finalised yet.

- *Gauteng*

  This province's response was in the affirmative – presumably that there were double payments. Quoted as: "Yes, unable to determine at this stage."

- *KwaZulu-Natal*

  They have conceded that duplicates are occurring. However, it is difficult to provide an accurate answer as to the numbers and the amount involved.

- *Mpumalanga*

  One duplicate payment was identified. This was uncovered by accident as the beneficiary had two identity numbers and received payment using two different payment methods. No amount was provided.

- *North West Province*

  All cash beneficiaries have been reviewed. Due to the fact that the amalgamation has not been completed, the reviews can to date not be captured on the system to eliminate duplicate payments. Duplicate payments were detected during the previous amalgamation with the ex-Bophuthatswana system. The number of duplicates are unknown, and hence no amount is provided.

- *Northern Cape*

  Their response states that "all the cases that were affected by a possible double payment in this province were rectified prior to the pay date."

- *Northern Province*

  Their Social Security Directorate confirmed that there were no double payments in this province during the period specified.

- *Western Cape*

  Double payments can and do occur. The ability of the Western Cape Social Services Department to counter this is limited. The private company previously contracted by the province enrolled about 194 000 of the 300 000 beneficiaries onto a database. The company verified 1 040 clients as possible double payments, but upon investigation it seems that only a few of these were double payments. An exact number of beneficiaries and amounts involved could not be provided,



(2) no, an official press conference accompanied by the investigative Report of the Committee on the Restructuring of Social Security will be released early tomorrow by myself with the complete recommendations of a structured task team chaired by Rev Frank Chicane.

*25. Dr E A SCHOEMAN – Agriculture and Land Affairs.† [Withdrawn.]

*26. Dr D J DE VILLIERS – Public Enterprises.† [Withdrawn.]

*27. Mr J S A MAVUSO – Transport.† [Withdrawn.]

**Language policy in education: guidelines**

*28. Mr T D LEE asked the Minister of Education:†

(1) Whether his Department is currently compiling guidelines on the application of the language policy in education; if not, why not; if so, when will these quidelines be available;

(2) whether he will make a statement on the matter? N71E

The MINISTER OF EDUCATION:

(1) Yes. The national Department of Education is currently compiling guidelines on the application of the language policy in education. This process could result in three documents:

  1 Norms and Standards Regarding Language Policy published in terms of Section 6(1) if the South African Schools Act, 1996.

  2 The Language in Education Policy, ecompassing

  - the aims
  - the policy
  - reference to norms and standards in document 1.

  3 A Guideline Document, ecompassing

  - explanations
  - recommendations
  - a glossary
  - proposals on the composition, status, functions and funding of Provincial Advisors on Language Policy in Schools.

(2) Statements in this regard will be made after 27 February 1997.

**SAA: delayed flights**

*30. Mr J T ALBERTYN asked the Minister for Public Enterprises:†

(1) How many flights of the South African Airways were delayed during the period 1 March to 31 December 1996 in comparison with the corresponding period the previous year;

(2) whether she or her Department intends taking any steps in this regard; if not, why not; if so, what steps? N73E

The MINISTER FOR PUBLIC ENTERPRISES:

(1) During this period there was a strike by technical workers at SA Airways, causing an unusual number of delays. Any comparison with the corresponding period in the previous year would therefore be meaningless in that it will not be illustrative of any trend.

(2) In response to a concern from the Department, the Transnet Board of Directors and the Management of the Airline are involved in monitoring the issue in order to curtail delays to an absolute minimum.

  It is important to note that delays are not only created by the Airline. Other factors

# CONTENTS


| | COL. NO |
|---|---|
| WEDNESDAY, 12 FEBRUARY | 1 |
| WEDNESDAY, 19 FEBRUARY | 67 |
| THURSDAY, 20 FEBRUARY | 145 |
| FRIDAY, 21 FEBRUARY | 149 |
| WEDNESDAY, 26 FEBRUARY | 153 |
| THURSDAY, 27 FEBRUARY | 163 |
| FRIDAY, 28 FEBRUARY | 169 |
| TUESDAY, 4 MARCH | 179 |
| WEDNESDAY, 5 MARCH | 183 |
| THURSDAY, 6 MARCH | 205 |
| MONDAY, 10 MARCH | 213 |
| TUESDAY, 11 MARCH | 219 |
| WEDNESDAY, 12 MARCH | 239 |
| THURSDAY, 13 MARCH | 247 |




## NATIONAL ASSEMBLY

INTERPELLATIONS (300)

The sign * indicates a translation. The sign †, used subsequently in the same interpellation, indicates the original language.

**Pensions paid on a quarterly basis**

1. Mr Z I NCINANE asked the Minister for Welfare and Population Development:

   (1) Whether pensioners of the former homelands receive their pensions on a quarterly basis whereas pensioners in the rest of South Africa receive theirs on a monthly basis; if not, what is the position in this regard; if so,

   (2) whether she or her Department intends rectifying the matter with a view to placing pensioners of the former homelands on an equal footing with pensioners in the rest of South Africa as far as the payment of their pensions is concerned; if not, what is the position in this regard; if so, what are the relevant details? N169E.INT

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT: Madam Speaker, there are no beneficiaries who receive pensions on a quarterly basis in South Africa. However, in the areas formerly known as the Transkei and Ciskei, beneficiaries receive their benefits bimonthly. Elsewhere in the country all beneficiaries of pensions and social grants receive them on a monthly basis.

With regard to the second part of the question, my department is involved in the process of rectifying this matter, and the department entrusted with welfare and health in the Eastern Cape is currently involved in this. I do, however, want to reflect on some of the administrative difficulties facing them which are not unique to the province.

Firstly, one of the difficulties they are facing concerns the amalgamation of the different computer systems whereby all the data will be amalgamated into one system. The data of the former Transkei's system has been tested and is in the process of being amalgamated. In the recent testing of data approximately 300 records were rejected. A report in this regard was submitted to the systems administrator.

Evaluations are also being done of the data on the former Ciskei's system and we are trying to resolve that as well. The Eastern Cape, however, still has to adapt their computer system to accommodate the printing of cheques and reconciliations. The complete amalgamation of these systems is scheduled for 14 March 1997.

Another broad area is the backlog in the allocation of identity documentation. Furthermore, I also want to say that certain problems are being experienced arising from the loss of documentation in the 1993-94 financial year. Those people who were affected were encouraged to reapply for identity documentation. This has, of course, not been without various problems.

Generally we are also conscious of the fact that there are complaints about the arbitrary exercising of powers by officials and about the way in which they are administering the payment of grants throughout the country. In view of all these problems it should be noted that we are developing a national response on the whole question of the social security system, but I will come back to that a little later, after responses from members.

Mr Z I NCINANE: Madam Speaker, hon members of this House, there is a grave injustice that is affecting some of the neediest people in our society, especially pensioners in the Eastern Cape.

While the new Government has worked to reunite our country and has swept away the immoral homeland system that the NP created, the job is still not finished, because the administrative chaos that we inherited from the NP's division of our nation means that many pensioners in the former homelands are still being discriminated against, while in the rest of South Africa pensioners receive their pensions every month.

In the former homelands, especially in the Eastern Cape, pensioners are only being paid bimonthly.

Many pensioners are not able to budget effectively and are running into debt or going hungry long before their next pension is due.

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT: Madam Speaker, I want to agree, as I stated earlier, that there indeed is an injustice in the country in terms of the problems that exist in the social security system.

What we are in the process of completing, with the aim of eliminating fraud and duplication in the system, is a national social grants register. The register contains critical data in respect of beneficiaries and will eliminate duplicate payments.

We have also started working towards a link between the national social grants register and the population register at Home Affairs to ensure that the identities and fingerprints of all applicants are verified. However, I am raising this in relation to the fact that we have now, at the level of the national Cabinet, taken a decision to put in place a national social security system for the sake of uniformity and efficiency and to eliminate the kinds of problems that we are experiencing in different parts of the country.

Yes, indeed, the situation in the Eastern Cape is particularly problematic, but today the MEC for Welfare is presenting a proposal to the provincial cabinet in order to deal with some of these problems in the short term. But I think we should accept, in this House, that we need to re-engineer the social security system that has been fragmented into 14 parts completely. One of the ways to deal with bimonthly payments in the short term is the finalisation of the outsourcing of pension payments to a private contractor, and that is being finalised in the province.

Mrs M A A NJOBE: Madam Speaker, the fact that pensioners in all provinces are paid monthly, while those in the former Transkei and Ciskei are still paid bimonthly, shows just how much the Bantustan system was entrenched in these areas. However, with a democratic Government now in place, this should not be allowed to continue.

When these people voted for the ANC in 1994, it was in anticipation of change, and among the voters were the elderly. Fair enough, there are visible changes with regard to pensions, for example equal pay for all, regardless of race or sex, and the recent introduction of payment by cheque rather than in cash.

However, the inconvenience caused by the bimonthly system of payouts still leaves people with a lot of hardships. The hon the Minister is aware of the poverty and unemployment existing in these areas. In many instances entire families rely on pensioners for financial support. It is they who foot the family bills for food, the educational needs of grandchildren, and their own transport costs to clinics for health purposes and to other areas for personal needs. Thus payment which comes only after two or three months results in distressing situations for many families. The bimonthly system favours the staff officials rather than the beneficiaries.

The Minister has mentioned a lot of problems that are causing delays in the conversion to a monthly payout system. Whatever the causes, we appeal to the Minister to intervene urgently to ensure that all obstacles to the monthly payout system are removed so that the senior citizens of our province can enjoy the same constitutional rights as those in the rest of South Africa.

Mr Z I NCINANE: Madam Speaker, we appreciate that this injustice is not the fault of the Minister or of her department, but I must ask the Minister to address this concern with the utmost urgency.

The pensioners of this country have borne the brunt of the evil of apartheid. They suffered for half a century under the unreasonable and frustrating NP, and it is time that we ended this suffering. Let our pensioners enjoy their remaining years without constantly worrying about where their next meal is going to come from.

The regularisation of pension payments across the whole of South Africa to correct the continuing injustice in the former homelands will be an important and welcome improvement for tens of thousands of South Africans. However, I thank the Minister for her positive response and hope and trust that this matter will be rectified in no time. [Applause.]



The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT: Madam Speaker, I wish I had the same optimism that it will be resolved in no time at all.

However, I wish to state that we have started working on the much-needed restructuring of the social security system. I want to agree with the speakers preceding me that the present social security system and the range of problems in terms of administration, management and information systems, inadequate human resources and the fragmentation of the social security system and its administration, are indeed things that we have inherited. However, we are in the process of resolving that. We have put on the table a five-year plan to deal with the complete restructuring and implementation of changes to the system.

The discrepancy that exists in the Eastern Cape, and the inaccessibility as a result of bimonthly payments, are matters we are hoping to resolve in no time. We also hope to resolve the problems that are linked to inadequate human resources where there is inappropriate customer service and so on. Together, as the Ministry for Welfare and Population Development and the department, both nationally and provincially, we are trying to tackle this problem and we are moving some way towards ensuring that we resolve it by putting in place the various stepping stones we can in the meantime.

Debate concluded.

**Future relations with Republic of China (Taiwan)**

2. Dr B L GELDENHUYS asked the Minister of Foreign Affairs:*

(1) Whether he or his Department has appointed a working committee with a view to determining the level of future relations with the Republic of China (Taiwan); if not, what is the position in this regard; if so, who are the members of this committee;

(2) whether this committee has made any progress yet in this regard; if not, why not; if so, what progress? N17IE.INT

The DEPUTY MINISTER OF FOREIGN AFFAIRS: Madam Speaker, the answer to the first question is that the department has appointed a Foreign Affairs departmental negotiation group of officials and legal experts to deal with this issue. Moreover, the Department of Foreign Affairs is in the process of consulting with all Government departments and the provinces, the SA Centre for Chinese Studies in Beijing and the South African ambassador in Taipei, as well as the parliamentary Portfolio Committee on Foreign Affairs.

The answer to the second question is that, thus far, the South African Government has had two rounds of discussions with the Foreign Minister of the Republic of China, Mr John Chang. The first round was held from 1 to 5 December 1996 and the second on 19 January 1997. During these discussions, the principles on which South Africa's future relations with Taiwan would be based were spelt out, namely that South Africa wanted to maintain friendly and constructive relations with Taiwan, that Taiwanese investors would continue to enjoy any benefit and advantage extended to other foreign investors in South Africa, and lastly, that not later than 1 January 1998, South Africa's future relations with Taiwan would have to be based on international law and state practice. South Africa will look at a practical *modus vivendi* that will conform to these parameters.

Extensive research has already been done by the Department of Foreign Affairs on the position of Taiwan within international law and state practice. We are thus fully aware of the practice and tendencies which have evolved in the structuring of unofficial relations with Taiwan.

The South African Government and the government of the Republic of China have established a channel of communication through the local ROC embassy for further discussions.

Dr B L GELDENHUYS: Madam Speaker, we appreciate the fact that the working group has been appointed, but we are not very satisfied with the progress made thus far.

# Private pension plan comes under threat

**Belinda Beresford**

(800)
BD 12/2/97

GOVERNMENT's plans to encourage private pension arrangements were under threat because of misconceptions about the speed of change necessary in the industry, Actuarial Society president Steve Handler said yesterday.

Speaking in Johannesburg after a meeting of the National Retirement Consultative Forum's theme committee on private sector provision for retirement, Handler said the primary goal of the forum was pension preservation. This meant discouraging people from taking money from their retirement policies in times of need or taking lump sums instead of an annuity at retirement.

Handler said unions were under the misperception that changing retirement policy would have a "dramatic and immediate impact".

This, combined with employer fear of union action, had created an alliance which was less committed to preserving pensions. Rather there was a swing towards pension fund members having the right to take money out when leaving employment, or in cases of life emergencies.

Several committee delegates agreed with this idea, saying that a pension was no use for a retrenched worker with a family to feed and little chance of another job.

One delegate cited his experience in Botswana, where employees with more than a certain amount in their pension funds were unable to withdraw money when retrenched.

Blignault Gouws, of the Actuarial Society, said the committee had decided to recommend that members be allowed access to 50% of their accrued benefit in times of need. They should also be able to take up to 33% as a lump sum upon retirement.

Throughout the committee meeting, it was emphasised that a priority had to be the education of pension fund members.

# Pension payout restructuring called 'necessary nightmare'

(300) Star 13/2/97

**By Troye Lund**

Although restructuring the pension payroll system has been an administrative nightmare of delayed and double payments, the Gauteng department of welfare and population development (WPD) said it was necessary.

The amalgamation of the computer systems, whereby people were previously paid according to the colour of their skins, must take place although certain problems are being experienced, according to the department.

The WPD disputed estimates given to The Star by pension officials in the department's Newgate House office in Johannesburg that a backlog of 20 000 files had built up over the year of amalgamation.

Spokesman for the province's WPD Samantha Collins said a backlog of only about 3 000 files existed in Greater Johannesburg and that officials were working overtime to process applications.

But officials at Newgate House remained adamant that backlogs had grown beyond 3 000.

On top of the backlog, officials at the Newgate office said they had 160 000 files that could not be registered on computer until sufficient information about the beneficiaries had been obtained.

To overcome the theft of money taken to the 165 paypoints in the province over the days that pensions are paid out each month, the department has given the task of payments in communities to a private company.

Winning tenderer Cash Paymaster Services (CPS) has undertaken to introduce a more efficient service as well as to introduce an automated payment system, a banking system and to re-register beneficiaries.

The problems that have been experienced in attempts to restructure South Africa's social security system as well as recommendations on how to improve the task have been documented by a committee appointed to investigate the issue.

This report is due to be made public this week by national WPD Minister Geraldine Fraser-Moleketi.

# Pension payout firm: court ruling

ARG 14/2/97 (300)

Nisec, the controversy-racked pension payout company, has lost an application in the Cape High Court for the court to review and set aside a decision by the Western Cape Tender Board to cancel its R240-million contract.

The board last year terminated Nisec's lucrative, five-year contract to administer about 290 000 welfare and pension payouts.

Mr Justice W J Louw and Mr Justice J J Fagan dismissed Nisec's application and ordered them to pay costs to the Tender Board and Ebrahim Rasool, MEC for Health and Social Services.

The judges said the Tender Board had acted reasonably in terminating the Nisec contract after finding that Nisec was not complying with the contract conditions. The board said Nisec's fingerprint comparison technology did not conform to the contract requirements and the contract was fraudulently obtained because of non-disclosures by Nisec. – High Court Reporter

# SA loses R1-bn a year to pension fraud

MtG 14-20/2/97 (300)

**Marion Edmunds**

PENSION fraud is costing South Africa at least R1-billion a year, and only direct government control of the welfare system can stop it, a government task team says.

The task team — the Committee For Restructuring of Social Security, led by Reverend Frank Chikane — says the current province-based system of handing out pensions and grants is in "crisis".

The Cabinet has already been briefed on the team's 94-page report, and the recommendations will be phased in from next year.

The report says that about R1-billion of the R14,3-billion allocated each year for the needy is lost to corruption or incompetence as the provinces struggle to control their welfare officials.

The task team found that in the Western Cape alone, master files identifying beneficiaries of payouts were woefully inaccurate.

Nearly half the master files for the House of Representatives, 81% of the House of Assembly files and 89% of the Cape Provincial Administration contained invalid South African identity numbers. Other provinces' records were probably even worse, the team says.

The team says the only solution is for the national Welfare Department to intervene and develop a new delivery system that would apply to all

"The primary advantage to the pensioner population is that they know that wherever they live in South Africa they will get exactly the same treatment," task team member Alan Thompson says.

"A national system will be easier to co-ordinate, reducing the potential for cross province multiplier claims and fraud.... If there is one national set of instructions there can be no question of 'we don't do it that way here'."

No price-tag is put to the plan, but it could cost millions of rands to put such a system in place and hire personnel to run it.

There could also be constitutional difficulties in forcing provinces to fall into line behind the national minister, Geraldine Fraser-Moleketi.

The team also says that punishment of corrupt officials is ineffective.

"Whenever a member of staff is suspected of fraud or corruption, the matter is reported to the SAPS," the report says.

"The task of investigating and prosecuting the suspect is left to the SAPS ... The investigation and prosecuting process takes years to complete and is frequently inconclusive when the suspect is either not charged or acquitted for lack of evidence."

A key obstacle to weeding out rogue officials is the complexity of departmental disciplinary rules. There is also little communication between provincial departments, the report adds, and the police and the government blame each other when corrupt officials slip through the net.

# Court finds Nisec 'acted in bad faith and improperly'

ARG 15/2/97 (300)

NORMAN JOSEPH
STAFF REPORTER

**The Cape High Court has dismissed with costs an application by Nisec to review the provincial Tender Board's decision to cancel Nisec's contract with the Department of Social Services for the payouts of pensions and social grants.**

On December 17 last year, the board resolved to cancel the contract after allegations of wide-spread fraud and corruption emerged at Western Cape pension payout points.

The case was first heard in court on January 29 this year. Yesterday, the court ruled against Nisec.

The court found that Nisec misled the Department of Social Services by not informing it of the shortcomings of the technology.

Court papers stated that Nisec acted in bad faith and improperly and by its own admission in a letter did not have the technological capability to do the job. Nisec had tried to conceal this fact from the department.

The court found that Nisec's service had not been in line with contractual requirements.

Provincial Welfare Minister Ebrahim Rasool signed a five-year contract with Nisec in 1994 to render a service for the Cape Provincial Administration to pay out social pensions and other welfare grants.

Yesterday, Mr Rasool hailed the outcome of the court case as a victory for the department.

He said the involvement of former Minister of Welfare Abe Williams in the award of the national tender was still under investigation by the Office for Serious Economic Offences.

# National pension system leaves provinces room

BD 27/2/97

**avid Greybe**

APE TOWN — The cabinet decision to opt for a nationally organised ystem for social security payments id not preclude provincial variaions, Welfare Minister Geraldine 'raser-Moleketi said this week.

The decision also did not rule out future move to a provincial organsation of the system, Fraser-Moleketi said in a speech behind losed doors at Monday's intergovernmental conference. "It is important to note that a central system does not necessarily imply central processing of information and it certainly does not imply central delivery of grants," she said.

The minister's comments came in the wake of her short announcement at a parliamentary media briefing two weeks ago that cabinet had opted for a nationally organised system for social security payments.

The welfare department estimated that 86% — or R12,3bn — of its R14,3bn budget this financial year would be spent on social security, spread among about 3-million beneficiaries. Fraser-Moleketi said previously that up to 10% of the budget was lost to fraud annually.

Welfare director-general Leila Patel was confident yesterday that the introduction of a nationally organised payment system would "substantially reduce" fraud.

The uncovering of duplications and "underage" pensioners were two areas, for example, which would generate substantial savings over time, Patel said. The establishment of better auditing systems would also contribute a lot to savings.

Fraser-Moleketi said on Monday that the phasing out the 14 fragmented provincial and homeland social security systems was one of the department's major policy initiatives this year.

The cabinet two weeks ago endorsed the key recommendation by the committee for restructuring of social security that social security be organised as a national system.

This was also endorsed by Minmec — the intergovernmental forum made up of representatives from central government and the nine provincial administrations.

The committee, which produced its report after a six-month investigation, was chaired by Frank Chikane, the director-general in Deputy President Thabo Mbeki's office. In a key finding, it said before an administration system could be developed, "an urgent policy decision must be made regarding whether social security administration be a national system or nine separate provincial systems or a hybrid of the two".

It concluded that the "consensus emerging" from the committee task teams was that "a system which is nationally organised and which provides a clear definition of roles, uniformity in administrative procedures and responsibilities and with some provincial flexibility and autonomy, is the most favoured option".

Fraser-Moleketi said the new national system would be phased in next year and be fully operational by 2000. "A lot of technical work is being commissioned and this process will be carried forward in close collaboration with the provincial departments," she said.

# for manoeuvre

# Safegu
# for We

## *Government*



**Concerned:** Friends of the Frail and Aged chairman Mari

ARG 1/3/97

300

# ards against abuse -tern Cape's elderly

(300) ARG 1/3/97

## o pass legislation protecting aged

ADELE BALETA
STAFF REPORTER

**The Western Cape government has taken the lead in adopting measures aimed at protecting the elderly in a bid to end the rampant abuse and neglect of people that were once the economic backbone of South Africa's society.**

Chairman of the non-profit organisation, Concerned Friends of the Frail and Aged (CFFA), Marilyn Lilley welcomed the move as a positive step toward caring for the aged saying this would give them hope for the future.

Mrs Lilley, whose organisation has been campaigning for the protection of the aged since its inception in 1992, gave evidence before the Western Cape Province's Committee on Constitutional Affairs of harrowing cases of abuse and neglect of the country's frail and aged.

She said senior citizens had endured taunting, rough handling, authoritarian and corrupt management of institutions, over-medication and the dispensing of incorrect drugs, theft and exploitation.

This abuse and neglect has continued unabated.

In an interview this week, Mrs Lilley and CFFA committee member Chris Schultz said that the law was inadequate to give even minimal protection for elderly victims of physical and mental abuse, neglect and exploitation. The Provincial legislature last week adopted in principle measures to ensure an environment in which all frail and elderly persons:

- have access to family care or appropriate alternative care when removed from the family environment,
- are given basic nutrition, shelter, health care services and social services, and
- are protected from maltreatment , neglect, abuse, degradation or involuntary seclusion.

Provincial leader of the Democratic Party and former chairman of the Standing Committee on Constitutional Affairs, Hennie Bester said the provincial constitution was not a bill of rights as it could not conflict with the National Bill of Rights. However, the inclusion of protective measures for the aged provides benchmarks for policy implementation and development.

"By itself the policy directives do not give legal recourse for the aged but would force the Western Cape Department of Welfare and Social Services to enact legislation in due course and to commit resources to the aged," Mr Bester said.

He said it was not a total solution but one step in a process that gave official recognition to the plight of the aged. "It can be used as a platform from which activist groups like the CFFA can continue to lobby for legislation."

The Department of Welfare had endorsed the International Federation on Aging's Declaration on the Rights and Responsibilities of the Aged as well as the United Nations Declaration of the Right of the Elderly, but without suitable legislation this could not be enforced.

***'Senior citizens have endured taunting, rough handling, and over-medication***

The national Human Rights Commission was investigating a bill of rights for the elderly, according to CFFA committee member Chris Schultz.

Mrs Lilley said with the Western Cape government's adoption of measures, the way could now be open for an ombudsman for the aged.

She said her organisation had received 900 reports of neglect and abuse, mainly from families and residents about institutions for the elderly where abuse is rife.

The aged are discriminated against in terms of the law. Child abusers face penalties of R20 000 or five years imprisonment while those guilty of abusing the elderly face fines of R100 or three months jail.

Mrs Lilley has won a bursary to attend a conference on the aged at Durham University in England but required sponsorship for the trip. Anyone interested in assisting or if anyone needs advice on treatment of the aged are asked to contact Mrs Lilley at 725754.



JACK LESTRADE

Lilley and committee member Chris Schultz

Real power is economic

# Mobile pension pay-out centres

(300)

Sowetan 10/3/97

## The new pay-out system is aimed at alleviating pensioners' long wait

By Abdul Milazi

THE Free State government's new revolutionary mobile pension pay-out centres could be the answer to the long queues normally associated with pension days in black areas.

The planned mobile pay centres will be introduced by Allpay, an ABSA consortium which was awarded a government contract last week to pay out pensions in the Free State.

According to ABSA spokesman Jan du Plessis, the consortium, comprising Face Technologies and Liembo Security, will begin implementing the new system in Kroonstad next month.

"ABSA, as the primary contractor, will manage the project and in addition provide the logistical infrastructure and finance. The mobile units will be protected by Liembo Security in which Springbok Patrols has a stake. Face Technologies will provide the hardware and software," says Du Plessis.

Free State director of the Department of Welfare Gerald Roberts says the new system will go a long way in creating employment while taking pension payments to the people.

The first phase of the project will involve the re-registering of pensioners.

According to Du Plessis, the system will involve stationary units which will be installed in community halls and mobile units installed in armoured cars.



**Pension queues of this nature in the Free State may be a thing of the past following the ABSA mobile pension pay-out centre that the Free State Government intends introducing.**

The units will be equipped with a data system containing pensioners' personal details including fingerprints and photographs, and automatic banking facility for those who wish to deposit money into their accounts.

Du Plessis says the reduction of fraud was a major consideration when ABSA designed the system.

The system is only accessed through the use of a smart card and uses the world-acclaimed biometric technology for verifying fingerprints.

He argues that the new system will make pension payment quicker and easier because money will be transferred direct from the provincial bank account to the pensioners' account, and can be withdrawn at any ABSA Automatic Teller Machine.

ABSA plans to complete the installation of the pay-out centres for the 180 000 Free State pensioners over a period of three years.

# Welcome 9,3% boost for old age pensions (300)

ORG 12/3/97

**Old age pensions are to go up by 9,3 percent to R470 a month from the beginning of July as part of a comprehensive poverty relief package revealed by Mr Manuel.**

Mr Manuel said the Government was setting aside more than R1-billion extra this year for social security.

This would make it possible to raise grants to elderly people from R430 to R470 a month.

A total of R300-million would be allocated to community-based poverty relief programmes, targeting women in rural areas in particular, he said.

Also as part of the poverty relief package, child support benefits, which would cost the state R75-million, would be phased in from this year.

These would replace the existing maintenance grant, Mr Manuel said.

"The legacy of apartheid is most stark when we consider the abject poverty which characterises the lives of a substantial portion of our population," he said.

# All pensioners get more – some 6,6 percent (300)

Civil pensioners are to get increases from April 1, and public servants who retired before April 1 last year will see their pensions increase by 6,6 percent. The pensions of those who retired after that date will be raised by 0,55 percent for each month since retirement, up to the end of March 1997. Increases in military pensions will be announced later. – Business Editor

BRG 13/3/97

# Pension fund caution lauded

300

Belinda Beresford

THE Life Offices' Association of SA has welcomed government's decision not to announce major changes to the tax and regulatory systems regarding retirement funds.

Association executive director Jurie Wessels said: "The decision not to introduce ad hoc measures which might have produced short-term revenue gains at the expense of proper planning, illustrates government's commitment to holistic reform of the retirement funding industry."

The association was concerned that retirees from private sector funds would be treated less favourably than those from public sector funds as the decision to tax lump sum payments from the public sector on the same basis as those from the private, which would come into effect from March 1 next year, would be "subject to the protection of vested rights".

BD 13/3/97

# Errant taxpayers will lose out on a slice of the action

By Charlotte Mathews



Those who want to do business with the government will in future have to show that they are paying their taxes.

"It is fair that only those South Africans whose tax affairs are in order should be allowed to participate and benefit from the economic policies we are introducing," Finance Minister Trevor Manuel said in the Budget speech.

"To this end we have decided that any South African who wants to tender and participate in any form of contract to provide goods and services to government, or who wishes to access any financial assistance opportunities, must be a registered taxpayer and sign a declaration that their tax affairs are in order."

He said the culture of non-payment and evasion that characterises South Africa's tax system is severely hampering the government's ability to implement a fair tax system.

The government is taking steps to improve tax collection in various ways. For its own part, it has drafted and circulated for comment the client charter shown below, which commits the SA Revenue Services (SARS) to courtesy and impartiality.

It will also start the wheels rolling on re-drafting the Income Tax Act to ensure that the tax code is accessible to all citizens but remains clear and certain in its details.

**DRAFT CHARTER: YOUR RIGHTS AND OBLIGATIONS**

YOU ARE ENTITLED TO EXPECT SARS

TO HELP YOU
- by being courteous at all times
- to understand your rights and obligations
- by continuously upgrading our services

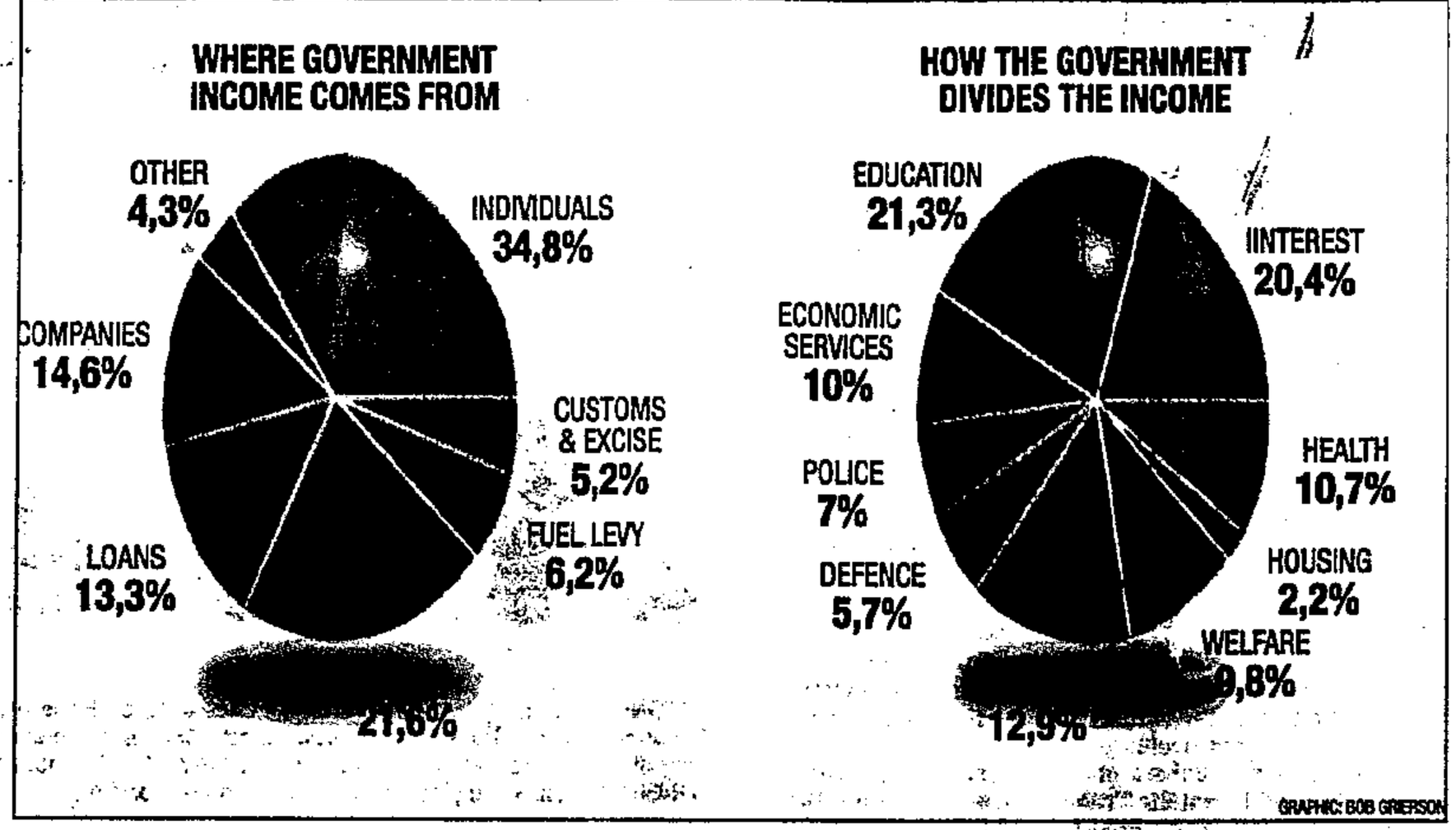
TO BE FAIR
- by expecting you to pay what is due under the law
- by treating everyone with equal fairness

TO PROTECT YOUR CONSTITUTIONAL RIGHTS
- by keeping your private affairs strictly confidential
- by furnishing you with reasons for adverse decisions
- by applying the law impartially and consistently

IF YOU ARE NOT SATISFIED
- you may ask that your tax affairs be re-examined
- you may exercise your right to object and appeal
- on request, we will advise you of the procedures to be followed in lodging an objection and appeal

IN RETURN, YOUR OBLIGATIONS ARE
- to be honest
- to submit full and accurate information
- to pay your tax on time

**THE COLLECTING & DIVIDING OF THE GOLDEN EGG**




# Relief for old age pensioners

By Bruce Cameron



Social pensioners have been given a 9,3 percent increase in their pensions from July 1 this year.

Social pensions for the destitute aged have been increased from R430 to R470 a month.

Maria Ramos, the director-general of Finance, said at a post-Budget meeting held by accountants KMMT Brey & Associates in Cape Town that the government had deliberately pitched the increase above the expected inflation rate of 8,5 percent.

"It is an investment in people."

Ramos said research had shown that each pensioner supported "10 or sometimes 12" other people.

Raising old age pensions was one of the best means of redistributing income.

"We find this actually gets to people on the ground. It's hard to find another mechanism which is as effective."

The government would have liked to increase old age pensions by far more.

In a budget that is aimed at relieving abject poverty, government has moved on a broad front to provide community-based poverty relief programmes, unemployment relief programmes and greater support for the aged and for child and family support programmes.

Trevor Manuel recommitted the government to relieving the plight of the poor but pointed out that the long-term solution was growth in the economy and job creation.

The increase in social pensions has cost an additional R1 billion.

An amount of R300 million has been set aside for programmes that target rural areas and that benefit women while another R75 million has been provided for a flat-rate child support benefit. The details are still to be announced.

Pensions of all civil servants who retired before April 1 1996 are to be increased by 6,6 percent from April 1 this year.

The pensions of all civil servants who retired after April 1, 1996 are to be increased by 0,55 percent from April 1 this year for each completed month since retirement calculated up to March 31 this year.

Increases in military pensions will be announced later.

# Pay out chaos

## Pensioners

## 9 633 waiting for their money

ST(CM) 30/3/97

YVETTE VAN BREDA

(300)

THE Western Cape's pension payout scheme is in disarray. There is a backlog of 9 633 applications waiting to be finalised, including grants for the aged, war veterans, disabled people, foster care, maintenance and care dependency.

The backlog also includes 1 843 pensioners who have been waiting for months for their first pension payouts.

Two of the victims are Nobby and Myra Clarke, who have waited for more than a year for their first pension payout.

But even Nobby (George is his real name), 76, and Myra, 81 — who own a house in Claremont and a 1968 car — have to admit that they are better off than most of the other pensioners. But, they add: "We cannot eat our house and car".

This week they were happy to hear that on May 8 they can collect an initial lump sum backdated to May last year, but were displeased about the monthly amount of R161 each.

Their pension application had at first been refused because they had a house, but in November last year, their priest, Peter Anderson, took up their fight. He eventually wrote to provincial premier Hernus Kriel, who fast-tracked the application.

Anderson said this week: "The real tragedy is that many poor folk at the pensions office have been waiting for over a year in dire circumstances. Is this fair?

"This tragic situation is causing so much suffering to so many older folk I just don't know how to get help."

The department's spokesman, Almo Geldenhuys, said they were addressing a very serious problem as best they could. She admitted some people had been waiting up to a year for their first payouts, but pointed out that since December last year the backlog of 12 000 had been reduced to the current 9 633.

Geldenhuys attributed the "unfortunate situation" to the national amalgamation of 14 different mainframe systems, the new Social Assistance Act requirements, staff cuts and low morale.

Health Minister Ebrahim Rasool blamed extensive corruption in the department and called on people to report any officials who took bribes. He said about 30 prosecutions were in progress.

Geldenhuys said the department was "mindful of all the odds against it and had proceeded with attempts to alleviate the devastating effects" as customer service and relations were high on their agenda.

A further step involved the advertising of 58 key posts in the Social Security Directorate, and these would start to be filled from May 1.

"It is difficult to estimate when the backlog will be eradicated, but the public can be assured that the department is vigorously working to normalise the situation, while at the same time plans are underway to shorten the average waiting period from three months to one."

A departmental task team, assisted by a consultant, is involved in the clean-up of the data on the mainframe system. And in an attempt to eliminate fraud, it was being checked whether beneficiaries were still alive and entitled to their grants.

# Childhood, frail care bear brunt of cuts

CT. 3/4/97

300

**POLITICAL STAFF**

EARLY childhood and old-age home frail care programmes will bear the brunt of a R33-million cutback in the Western Cape's welfare budget.

The department will also be forced to curtail plans to build at least three additional multi-purpose centres for poorer Western Cape communities. The centres are designed to provide a range of services under one roof.

Western Cape chief director for Social Services Ms Virginia Petersen said the 1997/98 budget would allow the welfare department to fund 30 630 children on the early childhood programmes.

Although this was 3 600 more than last year, the department would be forced to stagger the funding to about 2 000 of these children for 12 to 18 months.

The department had hoped to bring the funding for the frail and aged in old-age homes up to the national norm of R1 300 a month.

However, it would now be able to sustain the programme only at the current rate of R1 100 for each beneficiary, Petersen said.

The multi-purpose centres building programme has had to be cut by R7m. Two such centres are in the pipeline for Atlantis and Worcester this year, but plans for three more have now been stymied by the cuts.

The department would also have to put on hold the purchase of equipment and motor vehicles.

Describing the cuts as "tough", Petersen said the curtailment of its programmes had to be seen in the context of the overall reduction in the provincial budget.

About 90% of the social welfare budget goes to pensions, social grants and subsidy payments.

The department's budget has increased from R2,055 billion to R2,28bn, the bulk of which will be taken up by increases in social pensions from R430 to R470 from July this year.

Petersen said that although the actual increase in beneficiaries would be between 4% and 7%, the department had only been able to budget for an increase of up to 4%. The number of people in the province receiving old-age pensions was expected to increase from 252 682 to about 280 000 this year.

The department had also been forced to delay filling staff vacancies, she said.

The Western Cape has been hit hard by the national department's revision of its priorities to place a greater emphasis on shifting resources to poorer provinces.

# Korsten denies wrongdoing in sour pension deal

(300)

CT(BR) 4/4/97

**NANCY MYBURGH AND BRUCE CAMERON**

Johannesburg — Laurie Korsten, who headed the 1991 Korsten committee to investigate privatisation of state pension funds, said yesterday he had not personally authorised R29 million of interest-free loans that were granted to companies owned by his family from a pension fund he chairs.

The Financial Services Board this week made an urgent application to the high court to have the CAF Pension Fund placed under curatorship.

Korsten said the fund granted interest-free unsecured loans of more than R29 million to one of the contributing employers of the fund, AMK Technologies, and its parent company, Korfinans, which is wholly owned by his family. At the end of November, the fund's assets stood at just R33 million, he said.

But now AMK Technologies, a printer and photocopier distributor, is insolvent. Korsten applied for liquidation of the company on Tuesday.

"I did not make the loans (to AMK and Korfinans) personally. But I am the chairman of the board of trustees of the pension fund, and at the end of the day, the buck stops with me," Korsten said.

He refused to disclose who in fact had given the loan authorisation. The fund has 66 existing pensioners and 286 contributing members.

Korsten said about R8 million of the loan to Korfinans had already been paid back to the pension fund and that, between further Korfinans assets that would be paid into the fund and the liquidation of AMK Technologies, the pensioners could be repaid. It was likely the contributing members could be repaid too. Korfinans was still "a very profitable company", he said.

Korsten said he would meet potential buyers for all or part of AMK Technologies today.

AMK Technologies has the franchise for the distribution of Konica Copiers in South Africa, among other products. It is wholly owned by Korfinans, which was established in 1994 with the help of Hennie Diedericks consulting services.

Diedericks, a former chief executive of Volkskas Bank and Trust Bank and chief executive of the Post Office, was also a former managing director of the ill-fated Tollgate, which was liquidated in 1994 by the Absa group.

"I did some consulting work for the company for about two months in 1994 ... but I was never involved in the day-to-day running of the company," Diedericks said.

Diedericks left the company in 1994 after that two-month stint, Korsten confirmed.

# CAF Pension Fund fall-out hits Registrar

CT (BDR) 16/4/97 (300)

**NANCY MYBURGH**
FINANCIAL SERVICES EDITOR

Johannesburg — A committee of employees of AMK Technologies, now in liquidation, has alleged that the Registrar of Pension Funds has been "lax" in regulating the administration of the company's pension fund, the CAF Pension Fund, which is chaired by Laurie Korsten.

The CAF Pension Fund was placed under curatorship earlier this month after it emerged that about R30 million in unsecured, interest-free loans had been made from the fund's assets to companies owned by the Korsten family, including AMK Technologies and Wokor Investments, also known as Korfinans. Korfinans and another Korsten-owned company, Corporate Acceptances Finance, have both been placed under provisional liquidation in the past two weeks.

Andre Swanepoel, the deputy executive officer of the Financial Services Board, said yesterday he did not believe the committee had a strong case.

The committee alleged in a letter delivered on Monday to the Office of the Public Protector that the Registrar of Pension Funds "was lax in demanding that audited accounts (of the fund) be presented timeously", and that it did not enforce the requirement that trustees of the fund arrange fidelity guarantees.

"The lack of action by the Registrar has seriously prejudiced members' interests," the letter stated.

Swanepoel said the Financial Services Board had granted the CAF Pension Fund a three-month extension of the reporting deadline, "which we do for a lot of funds", particularly those reporting for the first time, as the CAF Pension Fund was. The board turned down a second application for an extension, he said.

The auditor's report would have shown whether a fidelity guarantee had been arranged, Swanepoel said. "We are re-looking at our policy toward extensions now (in response to this case). It will be a lot more strict in the future," he said.

# Retirement industry 'must adapt to change'

**Belinda Beresford** (300)

DEMOGRAPHIC and political changes in SA would make it necessary for the retirement industry to adapt to a new legislative and tax environment, Institute of Retirement Funds president Chris Newell said yesterday.

Addressing the Institute of Life and Pensions Advisers (Ilpa) convention at Sun City, Newell said people would increasingly have to take responsibility for their own retirement plans as there was almost certainly going to be less direct state support in future. The Katz commission and the National Retirement Consultative Forum had indicated a possible reduction in retirement tax incentives.

Retirement planning was moving towards a "cafeteria approach" which allowed consumers to select a range of benefits best suited to their circumstances. Newell said he was uncertain if they fully understood the risks they were attempting to insure against.

He said living annuities were based on an expected life span which, by definition, many clients would exceed.

There was a lack of understanding regarding retirement arrangements, with the effects of inflation on discounted cash flows of particular concern.

An Organisation for Economic Co-operation and Development (OECD) report had indicated that pensions payments had already exceeded contributions in some countries.

To meet net future social security benefits, after deducting the present value of future contributions, Canada would need reserves of about 250% of gross domestic product, he said. Methods of relieving pressure on the state included moves in the US and Japan to extend the pensionable age.

Globalisation meant organised labour and companies were facing increasing competitive pressure, Newell said. Organised labour was unlikely to retain a position of influence, given the numbers of unemployed willing to accept low wages.

But unions were likely to maintain some control over funds, backed by members who supported this view and were calling for greater transparency and equity in pension provisions, Newell said.

BD 16/4/97

# CAF pensioners band together

(300) CJ (BR) 2/5/97

NANCY MYBURGH
FINANCIAL SERVICES EDITOR

Johannesburg — Pensioners of the CAF Pension Fund have formed a committee to try to protect themselves from losses, according to documents uncovered by Business Report this week.

The pension fund was placed under curatorship early last month when it emerged that nearly R30 million in unsecured, interest-free loans had been made from the fund's assets to companies owned by the family of the fund's chairman.

The chairman of the fund was Laurie Korsten, a former managing director of Corbank and the head of the 1991 Korsten Committee that investigated privatisation of state pension funds.

His family's two companies that received the loans from the pension fund and a third family company were placed under liquidation and provisional liquidation last month. The two that received loans from the pension fund were AMK Technologies, a photocopying and printing equipment distributor, and investment company Korfinans.

Although Korsten had said the sale of assets of Korfinans and AMK Technologies could likely repay the pension fund's 66 existing pensioners, and possibly the additional 286 contributing members, the curator of the pension fund, attorney Tony Mostert, had said he had "serious reservations as to whether all the (CAF Pension Fund) monies can be recovered".

*'I have serious reservations as to whether the pension fund monies can be recovered'*

One of the three liquidators of AMK Technologies had been unavailable for comment since mid-April while the second declined on Wednesday to give details of the progress of the liquidation without first conferring with the other two next week.

But an official at Canon, the photocopy and printing equipment company, confirmed last week that Canon had bid for assets of AMK. He declined to give details except to say: "I don't think there is going to be much left (in AMK) after the bank has taken its claim."

Employees of AMK Technologies formed a committee earlier this month to protect their interests and had applied to the Office of the Public Protector, alleging that the Registrar of Pension Funds had been "lax" in some of its duties in regulating the administration of the fund.

Korsten said he did not personally authorise the R30 million in loans to companies owned by his family, but that as chairman of the pension fund, "at the end of the day, the buck stops with me".

# Medical aid shock for pensioners

(300)

ARG 3/5/97

BRUCE CAMERON

Thousands of Transnet pensioners have been caught unawares by the government-owned transport corporation's sudden decision to make them pay contributions to their medical aid cover.

The decision has sent shock waves through the retirement market against a background of employers in both the private and public sector seeking to cut costs as medical inflation soars.

Transnet pensioners were under the impression that they were assured of a non-contributory medical scheme in their retirement years.

Adrian Gore, chief executive of Momentum Health, told Personal Finance that he did not believe that moves to increase medical aid contributions or to introduce medical aid contributions for existing pensioners would be enforceable.

He said he believed pensioners had vested rights whether they were contractual or implied. On this basis Transnet's decision or similar decisions taken by other employers could be challenged.

However, the position for future pensioners could be radically different. Future pensioners could find themselves paying more, both before and after retirement.

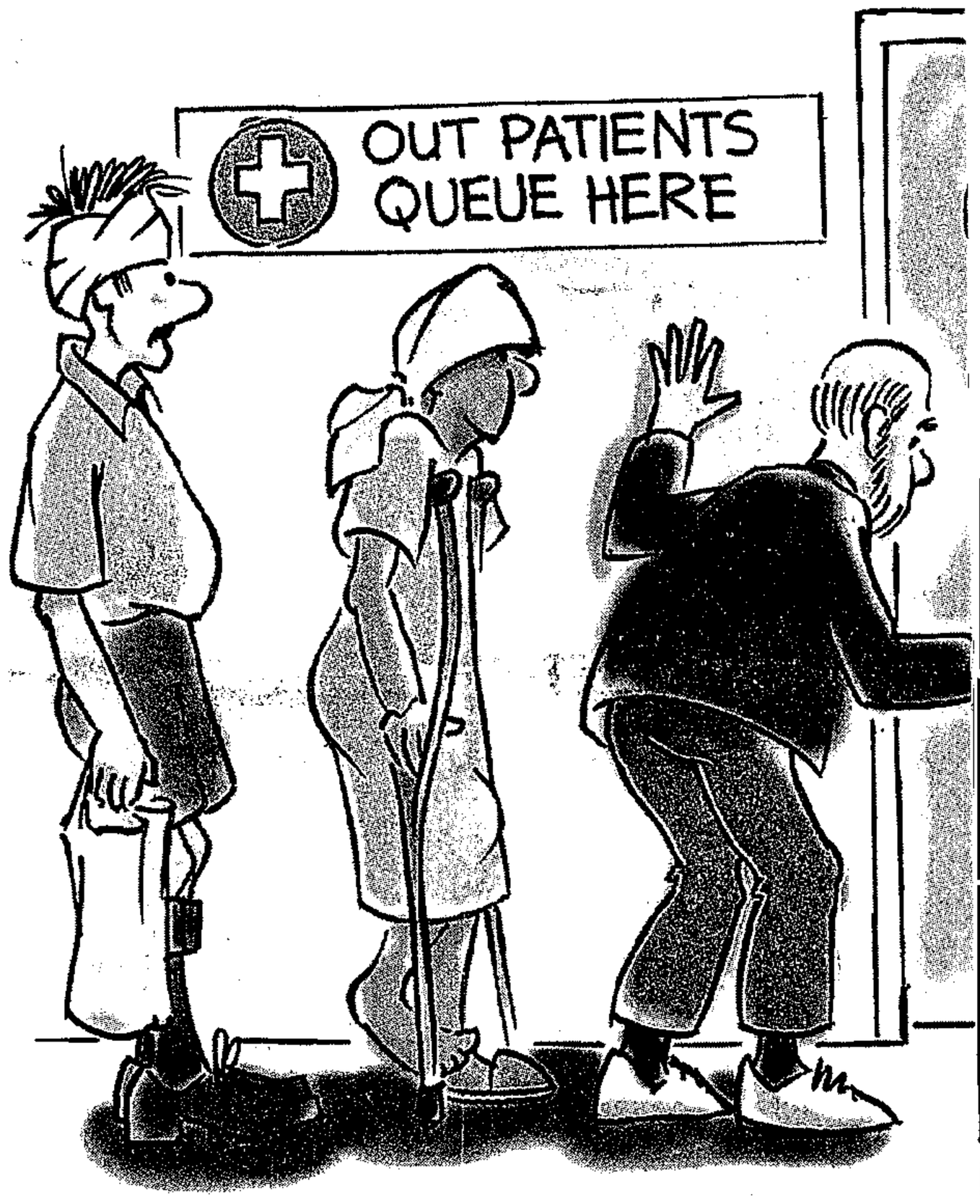
Both Dr Altus van der Merwe, head of Sanlam subsidiary, Sanmed, and Gore warned that the financing of health care for pensioners was becoming critical.

There were three reasons for this:

◆ Soaring medical care costs;

◆ A substantial increase in the number of pensioners as a percentage of membership of schemes. About 20 years ago the average percentage of pensioners of a medical scheme was three or four percent. In many schemes this percentage has risen to 25 percent. Van der Merwe said this exacerbated the problem of costs because medical claims normally soared after the age of 60; and

◆ The move to force companies to declare the actuarial shortfall of medical schemes on the balance sheet. Most medical aid schemes are run on a "pay-as-you-go" basis with current contributions funding current costs. Very few schemes take into account future liabilities.




The increasing number of pensioner members as well as the development of schemes which reduce younger members' subsidisation of older members are rapidly increasing future liabilities for employers.

Gore and Van der Merwe said companies were being forced to take action to reduce the liabilities and costs.

Gore said existing employees must, in their retirement planning, start taking into account the fact that medical costs are likely to be far higher as a

ARG

3/5/97

300




result of employers reducing the obligations to employees.

Van der Merwe said that employers will have to look at other options for cutting costs. These options include the introduction of managed health care as well as pre-funding of future pensioner medical costs.

# Govt asked to pay Transnet pensioners

300

BD 6/5/97

**Wyndham Hartley**

CAPE TOWN — The Stride committee investigation into Transnet's pension-related debt has recommended that the stocks financing it be cancelled and that all Transnet pensioners be taken over by the state to make the parastatal profitable.

Introducing her budget vote in the National Assembly, Public Enterprises Minister Stella Sigcau said the report into the options which government had to resolve the pension deficit problem was before the interministerial cabinet committee. There would be discussion with the parliamentary committee and Transnet on the recommendations.

At an earlier briefing on the public enterprises budget vote, Transnet MD Saki Macozoma said the cost of servicing the R17bn pension fund debt was more than R1,4bn a year. This swallowed the profit from Transnet operations, depriving it of the ability to upgrade or maintain its infrastructure.

He said the Stride committee had recommended that the stock issued to finance the pension fund deficit (the T11 bonds) should be cancelled and all Transnet pensioners be taken over by the state pension fund.

This would allow Transnet to start with a clean slate and a pension fund based on a defined contribution for existing staff, which would be more manageable. The defined benefit pensions system is seen to be at the heart of the huge deficit.

"In the past we have existed simply to service the pension fund and this has created the situation where we have not been able to replace assets."

He said the changes recommended by the committee would turn Transnet's R1,5bn a year loss into profit of up to R1bn a year. The corporation needed more than R1bn a year for the next 10 years in order to restructure, because the infrastructure had not been serviced.

Macozoma said the finance department was considering the tax implications of the recommendations.

The Stride committee in conjunction with the finance department, Transnet and HSBC Bank have been investigating options to lighten the pension and medical aid funds drain on Transnet without harming its assets or the potential attractiveness of parts of Transnet for privatisation.

Crucial among these is SA Airways (SAA) which, in spite of its predicted R300m loss this year, would be "restructured" in 1998, Sigcau said. Because of SAA's importance as a national asset and the highly competitive market in which it operated, "the restructuring of SAA should be considered a priority".

She said government's preferred plan for SAA was to seek a strategic equity partner and this had the support of organised labour.

A strategic equity partner was also envisaged in the restructuring of the Airports Company, for which there was considerable interest from international airport operators. The process would be completed by the end of this year or early next year.

Sigcau said a study of SA's arms manufacturer, Denel, was under way in order to help understand how best to approach its restructuring.

Denel already had important international co-operation agreements and was a site of technological excellence which could earn vast amounts.

**Continued on Page 2**

# Transnet

300

**Continued from Page 1**

BD 6/5/97

During debate the opposition targeted Eskom for praise and Macozoma for criticism. DP MP Kobus Jordaan said while the outgoing chairman of Eskom, Jordan Maree, could be singled out as the man responsible for getting Eskom to the point where it supplied the cheapest electricity in the world, the same could not be said of the Louise Tager/Macozoma team at Transnet. He said staff morale among Transnet's 114 000 employees was at an all-time low and Macozoma had created a "rudderless ship".

National Party MP Dawie de Villiers said Sigcau had to be applauded for her undertaking to privatise eight parastatals this year but warned one third of the year was already past. He accused the African National Congress of advocating bold privatisation overseas but "here at home it appears as if there is not the same conviction".

# State asked to take over Transnet pension payments

CT(BR) 6/5/97

(300)

CHRISTO VOLSCHENK

Cape Town — The Stride committee investigating the restructuring of the Transnet pension fund has proposed that the government start paying pensions to existing Transnet pensioners, Saki Macazoma, the managing director of Transnet, said yesterday.

This would allow Transnet to launch a new defined contribution pension fund to replace the existing defined benefit fund, Macazoma said.

The committee, chaired by Charles Stride, the special adviser to the department of finance, had completed its report, which would be released soon, Macazoma said.

Transnet's pension fund and medical aid were underfunded, and Eugene Kruger, the finance director of Transnet, said R2 billion would have to be channelled to the funds annually for the next nine years to fund them properly.

"The only aspect of the Stride report still to be completed is the question of how Transnet's assessed loss should be used in the restructuring process," Macazoma said.

The main proposal in the Stride report was that government should take responsibility for paying pensions to Transnet's existing pensioners to allow Transnet to repay about R10 billion of T11 bonds issued in the past few years to partly fund the pension fund.

"Repaying the capital market debt will save Transnet about R1,4 billion in interest paid annually to service the debt and leave Transnet with a profit," Macazoma said.

In the previous financial year, Transnet paid R1,4 billion interest on its R10 billion debt — excluding the R200 million paid to reduce the actuarial deficit and R400 million to improve the funding level of its medical aid fund.

Macazoma said Stride would propose that Transnet pay government, as sole shareholder of Transnet, a dividend out of its profits that was big enough to cover government's annual pension responsibility towards Transnet's pensioners.

The extra income should cancel the extra expenditure and also circumvent an increase in government's deficit before borrowing.

**INVESTMENT** *SAEF is targeting R200m from labour funds*

# Unions get new retirement fund

CT(BR) 6/5/97 (300)

ANN CROTTY

Johannesburg — African Heritage Asset Managers, an asset management partnership involving four leading trade unions, the National Empowerment Corporation and Coronation Asset Management, yesterday launched a new investment vehicle for union retirement funds.

The new vehicle, called the South African Empowerment Fund (SAEF), is targeting R200 million from union retirement funds.

In terms of legislation, a retirement fund cannot invest more than 10 percent of its assets in one investment vehicle.

SAEF, whose day-to-day portfolio management will be done by Coronation Asset Management, is seeking a listing on the JSE's investment trusts sector after the fund's settlement date of July 31.

The listing would be done through a private placing.

The fund has already received R58 million in commitments. Once R200 million has been raised no further shares will be issued.

That would ensure that the initial trade union investors receive all the benefits from the growth in the value of the portfolio.

Speaking at the launch of the fund last night, Fred Robertson, the chairman, who is also a director of African Heritage Asset Managers, said the money in SAEF would be used to build up a portfolio of listed investments.

"The fund aims to take advantage of the many investment opportunities currently being offered to black groups. Through SAEF many thousands of black workers will now also be able to participate in economic empowerment investment opportunities." The first investment secured by the fund was a special placement by LA Retail Stores at a discount of 35 percent to market price.

LA Retail was the first black-owned and managed company from the Western Cape to be listed on the JSE. Robertson said other investment deals were being negotiated, but he would not give details.

Analysts said last night that the ownership structure of the new fund dealt effectively with several of the criticisms of much of the trade union-related investment activity to date. Chief of these criticisms was the inability to track the precise beneficiaries of the investment activity.

In many instances it was difficult to see how union members benefited from the investment activity of key union officials ostensibly acting on their members' behalf.

# Pension industry image faulted

BD 7/5/97 (300)

**Belinda Beresford**

THE pension industry had to improve its image in the eyes of the public and government to avoid intensive regulation and the loss of customers to rival products, representatives of the insurance industry were told yesterday.

Speaking at a seminar organised by his company, Time Life MD Bill Haslam said there was an increasing sense that the current complaints-driven regulatory environment was no longer acceptable. There was a strong chance legislation would be changed to become compliance-driven, as in the UK and Australia.

Fedlife MD Morris Bernstein said he was in favour of consumer protection and information, but did not favour commission deregulation. He said regulation was introduced to protect clients and to prevent chaos; scrapping it would risk returning to that situation.

He said the life offices industry was trying to adapt proactively — unlike the UK pensions industry which had been arrogant and half asleep. The UK companies "got taken to the cleaners, and deserved to be" for their arrogance, Bernstein said.

Sage Life MD Bruce Ilsley said he favoured deregulation since it promoted competition, and consumer information. However, SA had commission-capping rules, not commission regulation, so there was no reason companies could not lower commissions. Given this, it was surprising there had been no competition on commission, he said.

Several people in the audience said clients needed to be reminded that life offices' products were an insurance against risk, and not simply an investment.

Bruce Cameron, personal finance editor for various Independent group newspapers, agreed with this. He said life insurance companies should increase their advertising on the risk insurance aspect of their products, rather than just investment returns.

Cameron described the debate about commission payments as a red herring used by the life industry to distract from the greater issue of total costs.

He said all costs needed to be disclosed or people would increasingly turn to unit trusts for financial planning.

Whether or not commissions were regulated, there had to be full disclosure, otherwise regulation would become a farce.

MISERY IN OLD-AGE HOMES

# Millions of elderly people get raw deal from state

CT 13/5/97 (300)



**"THE SITUATION** of the elderly is getting desperate ... people are struggling and starving out there," says a spokesman for the South African Council for the Aged. **LISA TEMPLETON** reports.

EVERY day Mr Naphtala Mabanza sits quietly in the corner of his room in a Guguletu old-age home in his felt hat and overcoat, as if he is waiting for someone to fetch him.

He says he wants to go home, he misses his family. But his children are working, they cannot look after him.

Mabanza is one of South Africa's 4,4 million people, 10% of the population, over 60 who are getting a very raw deal from the state, which has slashed subsidies for residents of old-age homes, and from society, where the elderly are often neglected and abused.

"The situation of the elderly is getting desperate," said Mr Sid Eckley of the South African Council for the Aged. "It has deteriorated since last year; people are struggling and starving out there. Some people don't care and leave their elderly to rot in a back room or dump them in an institution."

And life in an institution can be bleak.

Zerilda Steyn Place, an old-age home in Pinelands, is seeped in misery.

The air reeks of urine and disinfectant. The silence is stifling. Grim occupants hover in shadowy bedrooms branching off dark corridors. There are discarded boxes of pads for the incontinent stacked in a corner.

The elderly shuffle along the corridors, some muttering. Others are in wheelchairs.

Pictures by GARTH STEAD



The tea room is musty and smelly. Many of the elderly sit in subdued silence, their backs to the wall, staring into space. They look unkempt and dirty, the will to be groomed long gone. One dribbles down her face, no one wipes it up.

There are about 20 people, many in wheelchairs, playing carpet bowls in the room set aside for games. But there is no sound at all, bar the rasping of a man sanding a wooden cross.

Budgies' song bubbles out of one room, the pets of an elderly couple living out their final days in the gloom of Zerilda Steyn.

The home, occupied by about 370 people, is one of many old-age institutions that has been hard-hit by drastic subsidy cuts announced by the Department of Welfare last year.

In the Western Cape alone a whopping R5 million was slashed from the subsidies for residents of old-age homes in an effort to reprioritise the budget, which hugely favoured the white aged, and to squeeze down the percentage of elderly in institutions from 9,5% to 2%.

"An institution should be reserved only for the mentally and physically frail. It should be a last resort, a place to die," Eckley said.

"Old people should not belong to the government but be part of a family and society."

And yet some people have no option.

"Sometimes people don't care, so they dump their elderly here. Some show signs of neglect or physical abuse, sores and stuff," said a staff member at the squeaky clean and airy Ekuphumleni Home in Guguletu. "Sometimes their neighbours bring them in because they drink on their own."

Mrs Noceba Keeikitse, who was sitting on the bright floral duvet in the room she shares with another woman, said she was very happy in the home.

"When my husband died there was no one to look after me. I tried to stay in East London with my brother, but when I got there I found he was dead. My cousin in Cape Town works, so I had to come here."

Mr Piet Marks could not remember his name on arrival at the home. He had worked for a Stellenbosch farmer and was cast out on the streets when he got too old. Workers picked him up and brought him to the home.

Staff at Ekuphumleni Home say they are overworked and struggling because of the subsidy cuts, which mean that only the very frail get the full subsidy of R1 100.

While there are many excellent institutions, the elderly often suffer taunting, rough handling, authoritarian sisters, incorrect and over-medication, theft of possessions and financial irregularities in institutions, says Mrs Marilyn Lilley, spokesperson for Concerned Frail and Aged.

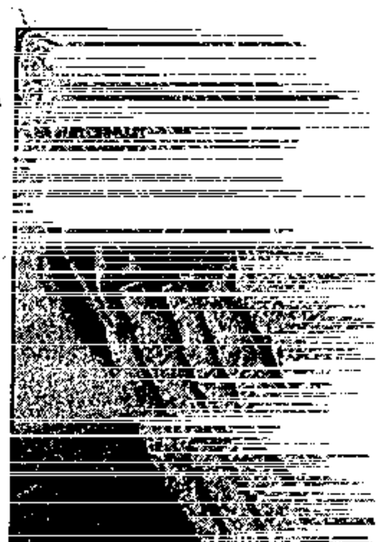
This has been aggravating of subsidies which for staff and services.

There are elderly who can in private residences like Pinelands Place, where pen... R1 800 to live enjoy cooke... ings, a ... piano and ... live on thei...

However companies ... mere 4% of ... plan finan...



**PASSING THE TIME:** ...



**SEEN TOO MUCH:** Life in ... Zerilda Steyn Place in Pi...


CAPE TIMES
FRESH AIR FUND





*New Skills Strategy*

*The Green Paper on skills development strategy has caused much discussion amongst the business community. The issue which*



**THE TIME:** Hendrick Smith, 84, sands a wooden cross in an old-age home while a fellow resident reads.



**SO MUCH:** Life in an institution can be grim. Mrs Doreen Balazeby has lived in Steyn Place in Pinelands since it opened.

...son for Concerned Friends of the ... Aged.

has been aggravated by the slash- ...dies which forced cut-backs in ... services.

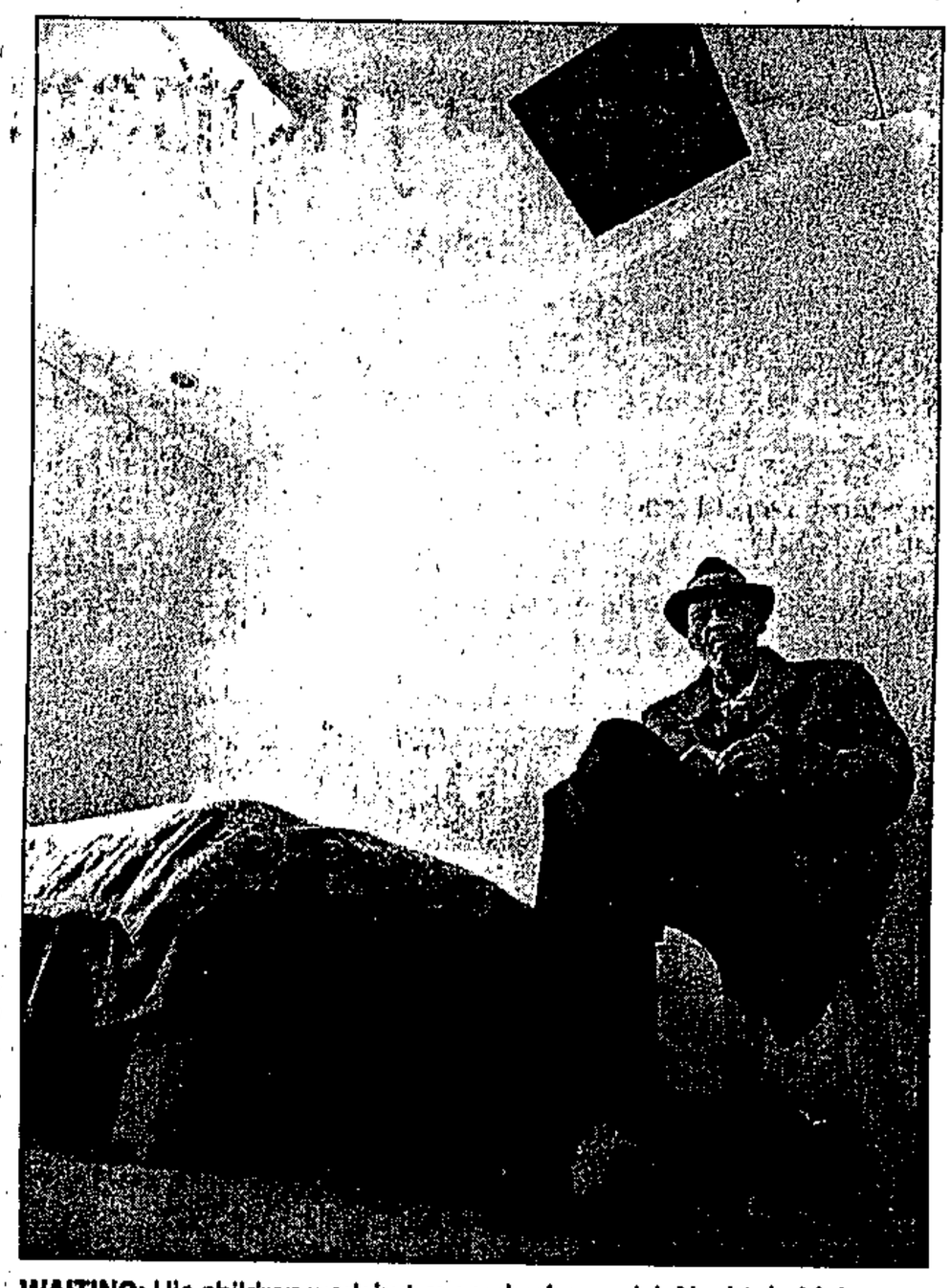
... are elderly who can afford to stay ...te residences like the cheerful ... Place, where pensioners pay about R1 800 to live in a flatlet and enjoy cooked meals, outings, a hairdresser on site, a piano and pool tables. Some live on their own.

However, insurance companies estimate that a mere 4% of South Africans plan financially for their retirement and many others simply can't afford this.

In the meantime, the Welfare Department aims to squeeze all but the very frail out of institutions by 2000 and into the community, Eckley said. Here they should be assisted either by living near an institution, where they could draw on services when required, or by home-care nursing and facilities like Meals on Wheels.

But at present, the plight of many elderly outside institutions is desperate.

"A lot of people live at home without basic care. They are the last in line at clinics, which are filled with pregnant moms and kids under six. Not many can live on their pensions of R430 a month," said Eckley.



**WAITING:** His children work but every day homesick Naphtala Mabanza puts on his hat and coat and sits down as if waiting for someone to come and take him away. He is one of 90 residents in Ekuphumleni Home in Guguletu, one of the few homes for old black people.

tion from 5FM, leading it to ry costs (minutes an hour of conflict of interest," Katz said.

# State must avoid being hung with the Transnet albatross

CT (BR) 13/5/97 (300)

EDWARD OSBORN

Ten years ago, in his En Route to Fairyland, economist Theo Wassenaar wrote of the impending disaster of the state pension funds.

What he had to say of state pension funds applied fully to the parastatal pension funds that were equally defined benefit funds committed to benefits impossibly — actuarially speaking — beyond the capacity of the funds to honour.

*In effect, the organisation exists for the benefit of its pension fund*

It was not simply a matter of their restricted portfolio allocations in that the investment of the funds was confined to public-sector bonds.

Quite clearly there has been a prolonged period of either wilful or, to be charitable, naively innocent swelling of benefits, ultimately in relation to final salaries augmented by buy-back arrangements, with even low-interest loans being made available for the purpose.

Successive ministers of finance failed in their responsibility to ensure the actuarial viability of the funds and, indeed, actuaries were dispensed with.

The worm has begun to turn. A situation has now arisen in the case of Transnet, with its entire operating surplus being devoted to the servicing of the R19 billion stock that was issued to the Transnet Pension Fund to cover the deficit. There has been general upset that there is nothing left for either upgrading or maintaining its infrastructure. In effect, the organisation exists for the benefit of its pension fund.

The Stride committee looking into the matter has recommended that Transnet's pension responsibilities be transferred to the state in order to make the parastatal profitable. Heaven forbid! The transfer would help Transnet but would totally upset the state's finances.

The present fiscal plight of the state lies in the fact that it carries an excessive debt burden of the order of 55 percent of gross domestic product (GDP), which has to be serviced at an average coupon rate of nearly 11,25 percent, resulting in a specific interest bill of 6,2 percent of GDP.

This compares with the Maastricht parameters of a 60 percent debt at an average coupon rate of less than 5 percent, giving an interest bill of less than 3 percent of GDP. Our predicament lies in the regime of high interest rates that has prevailed for many years.

With the government's longer-term fiscal objective being the attainment of a 3 percent budgetary deficit, as set out in the Gear document, there has to be a continuous deflationary primary surplus of revenue over non-interest expenditure as well as the application of whatever privatisation proceeds and other capital revenues that arise to the reduction of the debt. This is apparent from the mathematical identity of the budget deficit ratio being equal to the interest bill ratio less the primary surplus ratio and other capital contributions. Thus the extent of the public debt compels a deflationary fiscal stance.

*The problems should not be compounded by absorbing Transnet's liabilities*

The state pension funds are in serious deficit and it is understood that there is a long-term plan through to 2010 to bring about actuarial balance. Besides a degree of privatisation of the investment of the funds and a diversification into equities, which do not have an impact on the state finances, there are two measures that do.

These are the extraordinarily high ratio of employer-to-employee contribution of 2,74 compared with 1,5 as the norm and exceptionally 2 in the private sector, and specific capital transfers involving the public debt. These have amounted to R12,1 billion, comprising R5,2 billion from the proceeds of market issues and R6,9 billion direct notes to the pension funds at an average coupon rate of 13,5 percent.

Despite these measures, the shortfall in the funds amounted to R54,4 billion in March 1996, the equivalent of nearly 20 percent of the total public debt. As a contingent liability, the shortfall is not included in the public debt.

The actuarial balance to the state pension funds could be established overnight by covering the deficit with an interest-bearing n[illegible]t this would add more than R[illegible] to the state's interest bill and raise this year's deficit from 4 percent of GDP to 5,2 percent. Thus, efforts to improve the balance of the funds run counter to the objectives of fiscal rectitude.

But certainly the problems of the state pension funds should not be compounded by the absorption of Transnet's pension liabilities. The Stride committee will have to think again. The R19 billion stock will have to be cancelled and a longer-term solution fashioned. — Reuter

*Edward Osborn is a consultant to stockbrokerage Edey, Rogers*

# State must avoid being hung with the Transnet albatross

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☐ *Edward Osborn is a consultant to stockbrokerage Edey, Rogers*

MORE FUNDS FOR CHILDREN, FAMILIES

# Welfare shock fc

ET 13/05/97 (300)

**AS CARE** of the elderly takes a budgetary back seat, fears of a 'dark age' of abuse of the aged have surfaced. **MELANIE GOSLING** reports.

THE country's aged are facing a crisis as the government shifts its emphasis in the welfare budget from caring for old people to catering for women and children -- raising fears that thousands of elderly people will be dumped on communities ill-equipped, or reluctant, to care for them.

Care workers feel the situation could revert to what it was in the 1940s and 50s, when old people were rescued from back rooms where they had been neglected or abused.

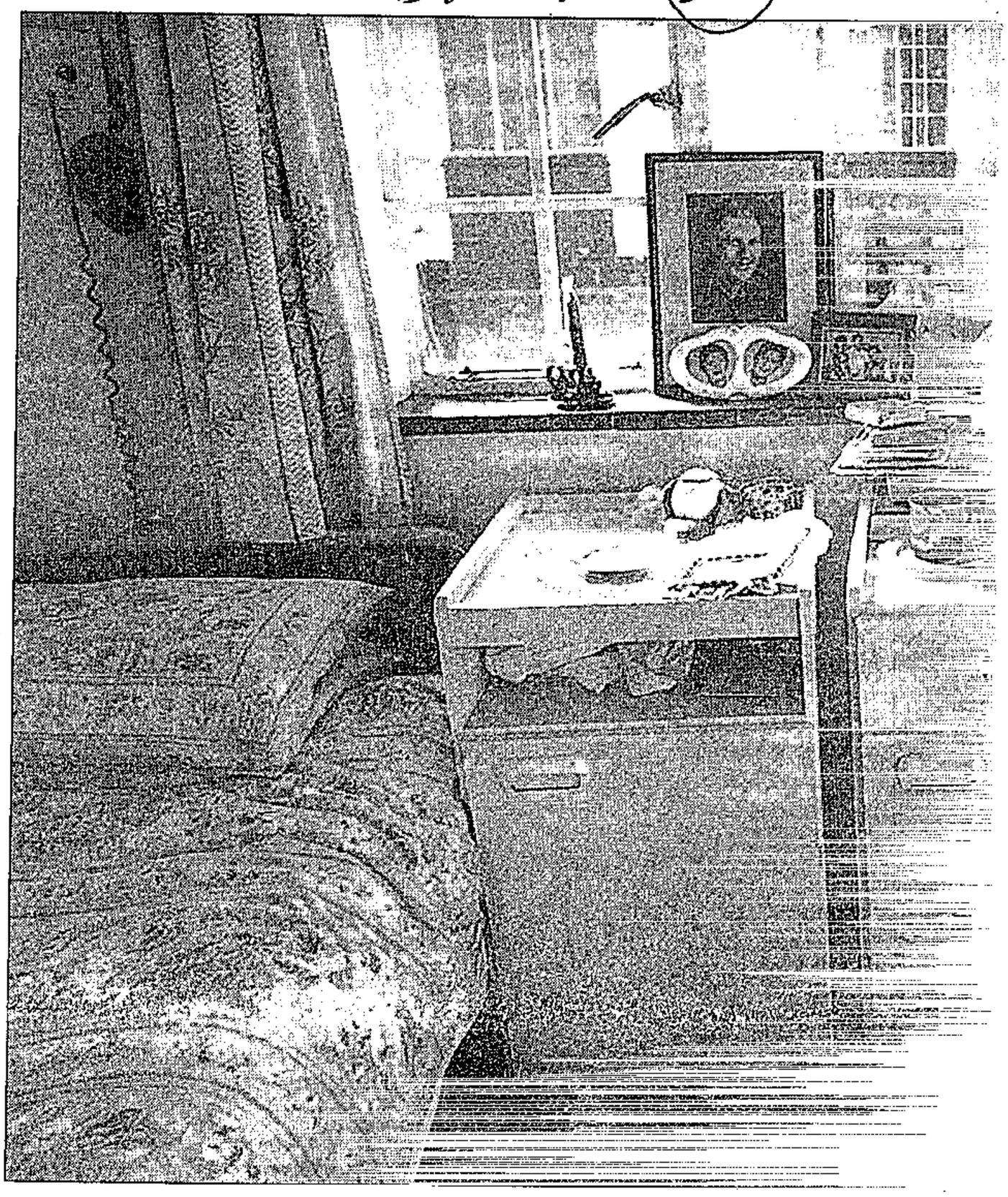
Welfare Minister Ms Geraldine Fraser-Moleketi said in Parliament last week that the government had committed itself to giving preference to the needs of children in allocating resources.

Although the elderly received the largest portion of spending in social security and services (44%), she said, the department was "gradually correcting this imbalance". The thrust in the welfare services budget would be towards developing services for women and children, she said.

The executive director of the South African Council for the Aged, Mr Syd Eckley, said yesterday: "This is the first time that the government has stated that the imbalance between the amount of money spent on the aged will be shifted to spend more on mothers and children. It's a hard-hitting fact that that is where government's priorities lie ...

"There is virtually no strategy to combat abuse of the elderly. If facilities for the aged have to close and people are pushed onto the community, the abuse of the aged will go through the roof ... The completely outdated Aged Persons Act of 1965 makes provision for a maximum fine of only R100 for a conviction of abuse of the aged."

There are 53 000 people in old-age homes in South Africa, about 4,5% of the aged population. Within five years, this is likely to be reduced to 1,5% through government cuts and the application of stricter criteria for entrance into old-age institutions, Eckley said.



**LONELINESS:** Among the pictures at her bedside at Zerilda Steyn Place Irene Moores has one band, taken a day after their engagement. Today she sits alone and smokes.

"Obviously the government will do it responsibly, but the fact is that people are going to have to start looking after their own aged, or provide the money for staying in an institution," Eckley said.

The Western Province had the highest percentage of aged in institutions, of which most (10 500) were whites.

This was a legacy of the apartheid years, when the government had pumped millions into care for the white aged in the 60s and 70s, and almost nothing for other races.

Eckley said his council and the Human Rights Commission were fighting for:

- The scrapping of the outdated Aged Persons Act and its replacement with one which effectively addressed the problem of abuse.
- A police elderly protection unit.
- An ombudsman for the elderly, who would inspect facilities.
- A 24-hour help-line for the aged to report abuse.
- A central register of cases of abuse of the aged.

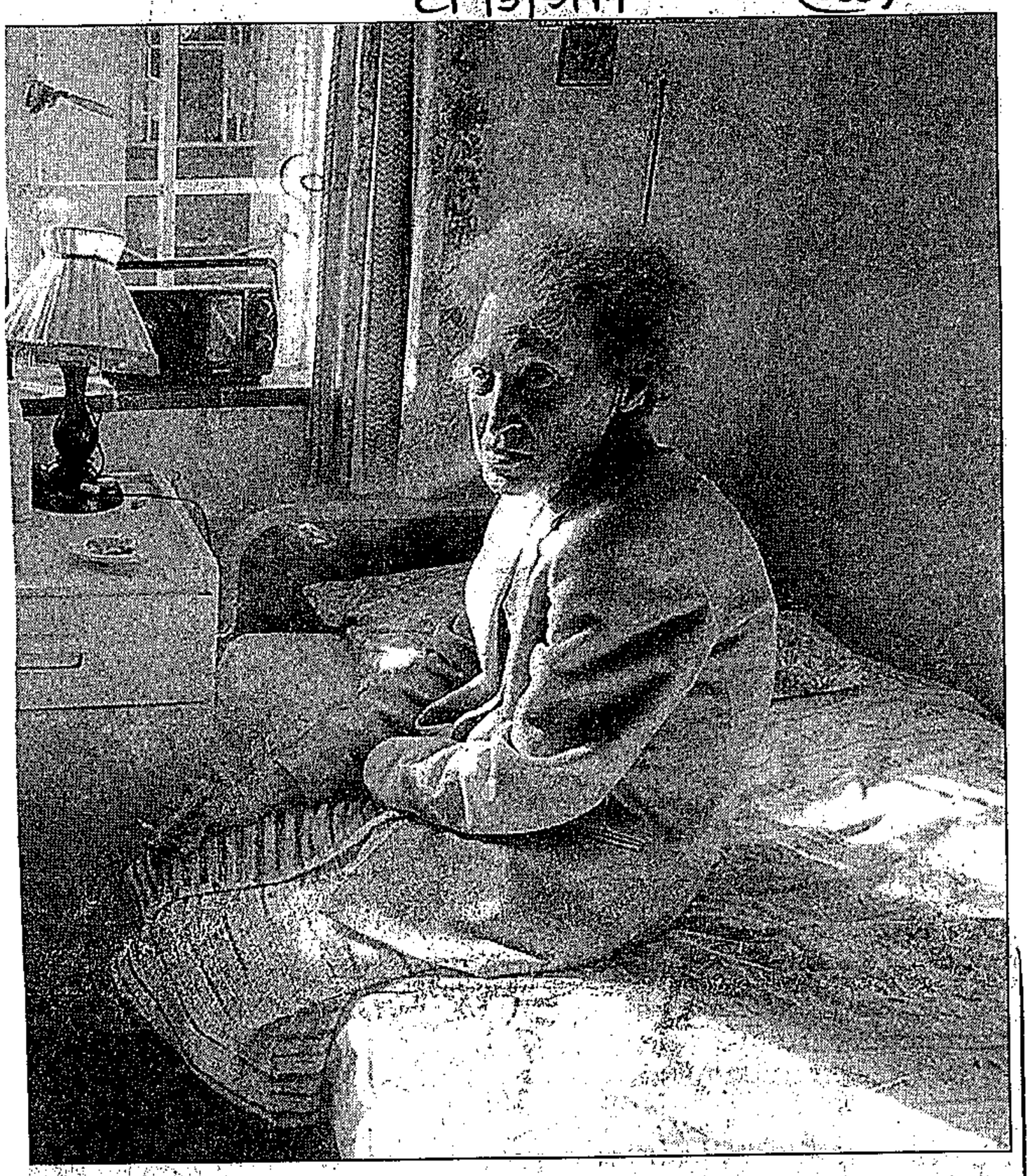
A spokesman for the University of Cape Town's Department of Gerontology said yesterday that abuse of the elderly was probably underreported.

" ... Among whites, there is often a breakdown in the family unit, with grown children living in Canada, Australia and Britain, and there is no one to care for their aged parents.

"Among the black communities, with people moving to the towns, the aged are often

# ...r the aged

CT 13/5/97 (300)



...f herself as a laughing and beautiful young girl leaning on a dashing young man, her future hus-

PICTURE: GARTH STEAD

~~CT 13/5/97~~

left behind unsupported. In other cases, their pension is the only income for an entire family. We have elderly patients coming to hospital severely malnourished."

The problem would become worse, said the spokesman, as people were living longer.

...NS FACE
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...GE TWO

"Once you get a significant proportion of people living to greater ages, one sees a higher incidence of certain diseases which previous generations did not see so much of, for example, heart disease, cancer and dementia. Alzheimer's disease affects between 40 and 50% of people over 85," the spokesman said.

The head of UCT's Gerontology (the study of ageing) Department, Dr Monica Ferreira, said care of the aged had fallen almost entirely to the Department of Welfare.

"Other departments like health and housing seem to have abdicated their responsibilities for the aged. The Department of Health has withdrawn all dedicated services for the aged, so highly-trained geriatric nurses are now immunising children.

"There is an urgent need for a holistic approach to aged care — not just pensions or hand-outs — but a co-ordination of services and trained professionals to deliver the services. There is also an urgent need for community-based services, to enable old people to live independently or to help families deal with them.

"In the past NGOs (non-governmental organisations) got overseas funding, but now the government says this funding must all go to them, to the RDP, where it is lost in the coffers of the central government," Ferreira said.

# Pension fraud is investigated

Linda Ensor (300) BD 16/5/97

CAPE TOWN — More than 170 alleged cases of fraudulent receipt of pension payments in the Western Cape had been handed to the police while hundreds of others were under investigation, provincial social services MEC Ebrahim Rasool told the legislature yesterday.

In his budget vote speech, he said 16 more cases of beneficiary fraud were being finalised by the department's newly established inspectorate division. Another 925 possible cases were under investigation.

"The potential recovery generated from the investigated fraud cases amounts to approximately R1,5m. In addition, approximately R80 000 a month is no longer being paid out due to the cancellation of fraudulent cases. The total saving will therefore be in the region of R2,5m," Rasool said.

The social services department was considering whether to institute a claim for R150m in damages from Denel subsidiary Nisec, which formerly paid out pensions on behalf of the department, for nonperformance of the contract.

Rasool said that R16m would be saved this fiscal year from cancellation of the Nisec contract, with the total amount saved being R70m.

He also said that whereas previously about 50% of children suspected of breaking the law in the province were detained in cells, this had been reduced to 10% with another 10% awaiting trial in safe places. Eighty percent of those awaited trial at home, which also saved the state R648 000 a year.

# 'State should pick up pension deficit'

**Robyn Chalmers and Belinda Beresford**

BD 20/5/97

THE state should be responsible for the huge liability of Transnet's pension fund, as outlined recently in the Stride committee report, Transnet pension fund executive manager Gideon van Zyl said.

Van Zyl said the state should take over responsibility for the liability as government had guaranteed the deficit in the fund at the formation of the company in 1990.

"(If the state takes over the liability) the fund will be in a position to utilise opportunities regarding the needs of employees. We welcome the recommendations (of the report)," he said.

The report recommended that the T011 stocks issued to reduce the R17bn deficit be cancelled and that all Transnet pensions be taken over by the state to make the parastatal profitable. These recommendations still had to go before the interministerial cabinet committee.

Van Zyl said he had not yet seen the report, but the broad principles appeared to be feasible. It was difficult to predict how long it would take to implement the recommendations should they be accepted by government.

A source close to the pension fund said the huge deficit was preventing Transnet divisions from getting strategic equity partners.

He said: "All possible buyers brought in by merchant banks, for example Goldman Sachs, are unwilling to take on open-ended liabilities of the defined benefits arrangements with such poor assets."

The source pointed out that the problem had a detrimental economic effect on SA. "This is the key to the Transnet privatisation, it holds the whole country to ransom. These issues are influencing the cost of transport, which affects our competitiveness," he said.

One way of tackling the pension fund problem was for government to fund the deficit and then change the scheme to a defined contribution scheme from a defined benefit scheme. Proposals to change the pension fund required negotiation with the employer body.

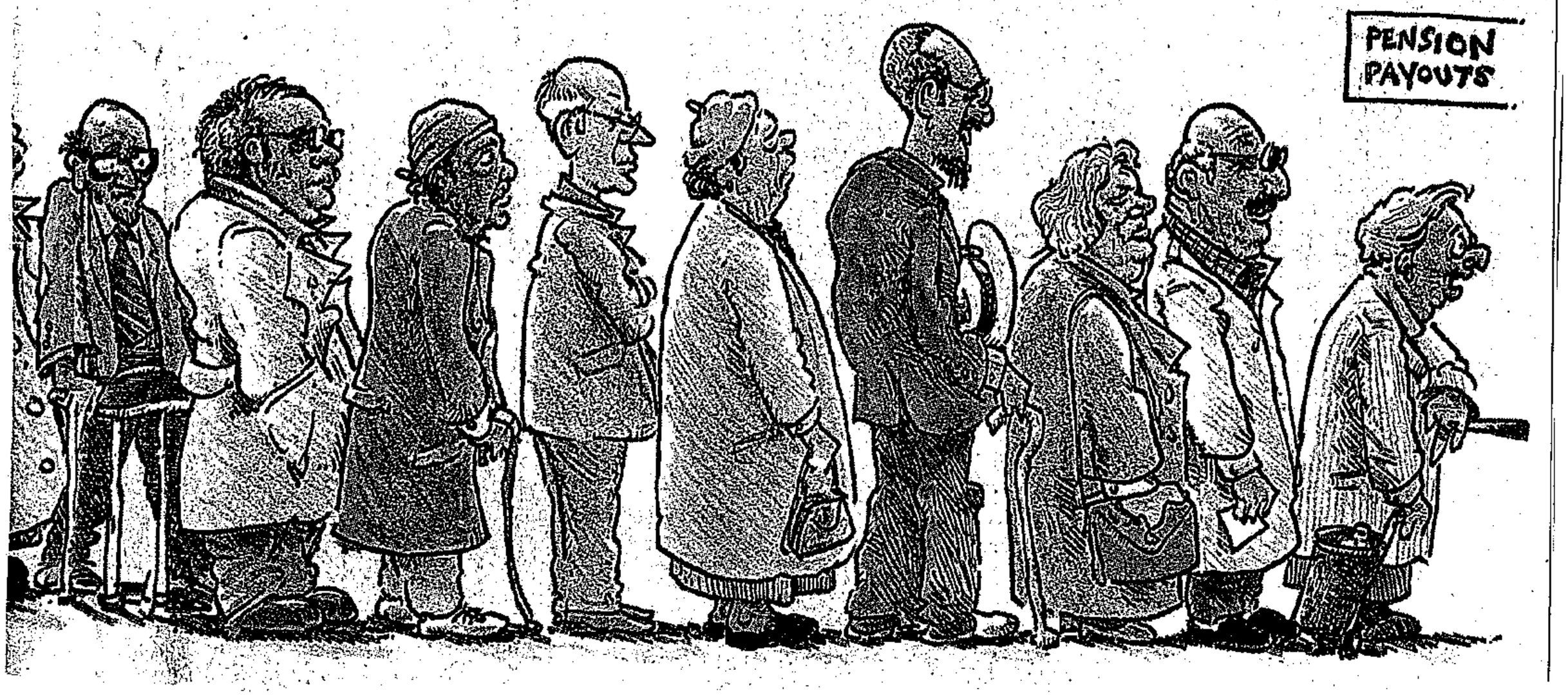
Government could also put up guarantees to fund the scheme but this could be unsatisfactory because government could have limited control over future debts.

He said it appeared government would reschedule the debt. If the government took over the T011 bonds, they would be cancelled, removing Transnet's debt.

There would be a new maturity curve, with payments to pensioners spread over time, rather than a spike in repayments when bonds matured.

# NT FUNDS CONFERENCE

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***PRESIDENT*** *Chris Newell*

undermine employment because of additional costs for small business.

He believed the government should rather opt for a non-compulsory system with incentives to encourage people to join a retirement provision scheme. There should also be incentives to encourage people to stay in a retirement provision scheme. This means there must be strong disincentives for people who want to withdraw.

☐ **PENSION OR LUMP SUM:** Newell believes that incentives should also be provided to encourage a reasonable level of pension before a lump sum payment is allowed. He says there are a number of supplementary problems in the debate over lump sums versus a pension income.

For example, what was the appropriate retirement living needs. Also, many people went back to rural areas where there was no distribution system for monthly pensions. Many people also wanted to buy cattle and a house for their retirement years.

However, he believed these factors will become less important as the population becomes more urbanised.

He said the important thing to remember was that it was difficult for people to insure themselves against longevity. If they died early they could be alright but if they lived too long they could have a significant problem. The risk had to be spread on a group basis

☐ **INCENTIVES:** Newell said that without compulsion there was a need for appropriate incentives to encourage people to make provision for retirement. The question was to what extent should incentives be provided.

"I think the tax incentives should encourage participation in retirement schemes. Ideally incentives should be based on being able to claim a contribution deduction against tax. Most countries have tax deductible contributions up to certain levels. Some have no caps (limits) on the amount that can be claimed against tax."

He said incentives were also required to encourage the preservation of retirement capital.

Newell also warned against a system that would result in a disincentive for high earners and for people who built up large retirement sums in capital. He said if this happened it was possible that managers, because they received no incentive in belonging to a retirement scheme, would not set them up for employees.

With the current Katz commission proposals it did not pay to build up retirement capital of more than R1,3 million. After that point it paid to invest in an after tax equity fund as no tax is levied on role up or end benefit.

However, tax incentives could not be given to "people who don't pay tax. We need another incentive for people who don't pay tax".

This could take the form of a subsidy along the lines proposed in the Smith committee report. For example, people could get an enhanced benefit if they took their retirement benefits in the form of a pension rather than a lump sum.This would encourage people to take a pension.

"Something more needs to be done at a lower income level than at a higher level where people are better able to ensure they will not run out of money."

☐ **EQUITY BETWEEN PRIVATE SECTOR AND PUBLIC SECTOR FUNDS:** Newell said apart from the general acceptance that differences between the treatment of public and private sector funds must be eliminated there was still no clarity on some issues.

For example, while it has been proposed that there will be a phasing out on tax concessions on lump sums over five years for private sector funds, public sector advantages were effectively frozen in terms of service and public servants were still able to benefit from future salary increase impacts.

☐ **TAXATION:** A decision had to be made on the Katz proposal that a single upfront tax be levied against all retirement benefits at the point of retirement and treating the benefits as a lump sum.

Newell said it was a better principle to take the tax on the income as it is received rather than in one capital sum at retirement. This would ensure a more consistent flow of revenue over the lifetime of a pensioner and would better meet the expenses of the state. From an overall perspective the Katz proposals "will probably need some tweaking to get to something that provides the right incentives at all income levels and also provides government with the right cash flow."

Newell said the National Retirement Consultative Forum had given everyone the opportunity to put their ideas into the pot. It was now up to the government to make decisions.

INSTITUTE OF RETIREME

*New tax laws not likely in next year's Budget*

(300)

CT 27/5/97

# Retirement funds should be safe for another year



Any major changes in retirement planning are unlikely to be introduced in next year's budget.

This is the view of Chris Newell, president of the Institute of Retirement Funds (IRF).

However, the National Retirement Fund Consultative Forum, which has held a number of meetings this year, was the most significant event affecting the retirement industry, Newell said in an interview at the annual convention of the IRF in Durban,

He said the next step in the process, which followed the reports of the Katz commission of inquiry into taxation and the Smith committee of inquiry into retirement funding, was the release by government of a green paper before September.

The green paper would distil the information from the last plenary meeting of the National Retirement Consultative Forum.

It would be put out for comment before it could be drafted into a white paper setting out government policy. Legislation would follow this step.

"I would guess government would be looking to have something by next year's Budget, but this is a fairly tight schedule. I have severe doubts whether government will be able to get legislation, dealing with all aspects, in place before next year's Budget.

"It is more likely that there will be an announcement in principle.

However, some changes could come early while others would have to be delayed because systems would first have to be put in place.

Newel said a number of key issues still had to be settled but he was encouraged by the fact that major players in the debate were moving closer together.

For example, it appeared that organised labour was not in dispute about the fact that there should be preservation of retirement funds but it was concerned about people needing cash in a life crisis situation.

"The whole issue of life crisis benefits is getting in the way when one talks about preservation."

Newell said the important issue was to keep the process moving.

"We must not lose focus or momentum."

However, the system that had been developed so far should be preserved. "We don't want to destroy it. We must rather build on it and improve it. The real problem is poverty and the creation of jobs. Whatever we do must not jeopardise this."

Newell said the National Retirement Consultative Forum was geared at consensus from a wide group of interested parties. However, government would ultimately have to call the tune where conflicts remained.

Newell said the underlying driving force for the policy that would finally be settled on was summed up by Gill Marcus, the deputy minister of finance, when she told a plenary session of the consultative forum that "whatever we do has to be seen against the background of poverty and eliminating unemployment".

Newel agreed saying that "this is ultimately the solution to everything."

Issues that still needed to be resolved included:

☐ **SOCIAL OLD AGE PENSIONS (SOAP) AND THE MEANS TEST:** Newell said a decision had to be made whether social pensions were there for poverty relief or as pensions. If they were there for poverty relief then the levels were probably too high.

He said there was acceptance that the means test was not working but the government could not afford to pay everyone a social pension. He said a possible way of dealing with the situation was to allow every pensioner to claim the state pension but have a special tax for people who have an income higher than a certain level which would effectively see the pension reclaimed by the state. This would eliminate many of the problems currently associated with the means test.

☐ **COMPULSORY OR NON-COMPULSORY RETIREMENT PROVISION:**

Newell said there were a number of problems with a compulsory system particularly the fact that it could

**Fraud/corruption: losses incurred**

*35. Mr P C MCKENZIE asked the Minister for Welfare and Population Development:

(1) Whether her Department incurred any losses in the 1996-97 financial year as a result of fraud and corruption; if so, (a)(i) what amount and (ii) what percentage of her Department's budget for that financial year does this amount constitute and (b) what are the reasons for such losses;

(2) whether she or her Department has taken or intends taking any steps with a view to curbing fraud and corruption in her Department; if not, what is the position in this regard; if so, what steps;

(3) whether she will make a statement on the matter? N1141E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) No,

(a)(i) falls away and

(ii) falls away

(b) falls away;

(2) although no losses have occurred during the 1996/97 financial year as a result of fraud and corruption, the following steps were implemented as a result of the fact that five warrant vouchers were irregularly cashed during the previous financial year (1995/96). All payments are now being forwarded per registered mail and some companies also collect their payments directly from the Department of Welfare's Finance Division. Since the implementation of this procedure no fraud in this regard has occurred;

(3) yes, although there was no fraud and corruption in the National Department of Welfare, the Department is nationally responsible for the social security function and it is common knowledge that there is fraud and corruption within the system. The Department has in collaboration with the provincial welfare departments made considerable strides in addressing the situation.

**White paper on pollution**

*36. Mr N J J VAN R KOORNHOF asked the Minister of Environmental Affairs and Tourism:

(1) Whether he has appointed a special task team to draft a white paper on pollution; if not, what is the position in this regard; if so, what are the relevant details;

(2) whether any other teams had previously been appointed to draft such a white paper; if so,

(3) whether such teams completed their task; if not, why not; if so, what are the relevant details? N1142E

The MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM:

(1) A task team has been appointed to draft a white paper on Integrated Pollution Control and Waste Management.

At a stakeholder meeting where all sectors were represented it was decided that a representative task team should be appointed to draft the white paper. The task team consists of one member each of the following sectors: Labour, Business and Industry, Mining, NGOs, CBOs, Local Government and National Government. The task team appointed a consortium of consultants to assist them in the actual drafting of the documents.

(2) The consultants L&W Environmental were initially awarded the contract in 1994 for drafting the white paper. The major products produced by them include:

(1) A Framework document, describing the project strategy;

(2) A Scoping document setting out the scope of the document;



(3) *Towards Integration of Pollution Control* – the first proposals for an integrated system;

(4) Socio-economic issues to be taken into consideration;

(5) Responses to the integration proposals by the workteams for Air, Water, Land/soil and Waste.

(3) Over the contract period all products received were of the expected quality and will form an essential and important part of the continuation of the project which will result in a white paper after additional consultation. The reason for the discontinuation of the work by L&W Environmental was to accommodate a public participation process which will be acceptable to all stakeholders.

**Welfare: focus shifted away from elderly towards women/children**

*37. Mr P C MCKENZIE asked the Minister for Welfare and Population Development:

(1) Whether the focus in the budget for welfare has shifted away from the elderly towards women and children; if not, what is the position in this regard; if so, (a) why and (b) what will be the anticipated effect thereof on care facilities for the elderly;

(2) whether she will make a statement on the matter? N1143E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) Yes,

(a) the process to decrease the spending on services for older people has started already during 1994 with the transformation of services for older people.

The allocation for services cannot be evaluated without taking into account direct transfer of funds by means of old age grants. Old age grants make a meaningful contribution to the promotion of the quality of life of older people.

It is important that the budget allocation for old age grants and services for older people be interpreted within the context of the demographic realities of South Africa. According to the University of Stellenbosch 4,4% of the population is 65 years and older. A significant percentage of the older people are older than 80 years. A large number of the very old people are women in rural communities.

The largest segment of the population (95,6%) are younger than 65 years, this represents 35,2% younger than 15 years and 60,4% between 15 and 54 years.

During the 1995/1996 financial year, 61% of the total welfare budget was spent on services and grants for older people. The implementation of a new subsidisation formula for residential care resulted in a decrease in the expenditure to 45,8% for 1996/97 and 50,4% for 1997/98.

A significant percentage of the budget allocation for services for older people was spent on residential care. Between 1982 to 1992, subsidies for residential care increased with 780%. The spending on residential care resulted in "under-spending" on community-based services. It is important to note that only a small percentage of older, mainly white people, benefit from subsidised services.

Subsidised homes for older people accommodate approximately 42 366 older persons. Subsidised service centres render services to 46 212 older people. Departmental information regarding the number of older people serviced by luncheon clubs is not available. According to a survey done by the SA Council for the Aged, 391 subsidised luncheon clubs are rendering a service to 58 300 older persons. The aforementioned indicate that only 146 878 (less than 10% of the elderly population) are benefitting from subsidised services;

(b) residential care is unaffordable for the majority of older people. Average annual

cost varies between R8 000 to R22 000 per annum (1993 estimation). A breakdown of the costs per resident indicates that between 68% - 75% of the expenditure is for staff, 10% - 14% for meals. Unrealistic high standards contribute to the unaffordability of residential care. The Department is engaged in negotiations with the Department of Health regarding appropriate minimum norms and standards for nursing care. Deregulation of services is regarded as a priority. Priority will be given to develop mechanisms to protect older persons against abuse and neglect.

According to National Information System for Welfare (Niswel) there are 721 homes for older people making provision for 42 366 older persons. Homes are not accessible to people from rural communities.

All stakeholders agreed that the deinstutionalisation of services for older people was a priority. There are strong indications that a significant percentage of people currently residing in homes for older persons (possible up to 20%) can be accommodated in assisted living facilities (accommodation with necessary support services) and appropriate housing. A new assessment instrument for admission to homes for older people is currently being tested nation wide. Only people who are in need of twenty four hour care will in future be accommodated in subsidised homes for older people. From the available information it is clear that residential care is the main contributor to the problem. A more realistic approach to residential care is a prerequisite to address the problem effectively. The process to develop community based care and support programmes should be fast tracked as a matter of urgency. The current expenditure for the care of older persons is sufficient if correctly distributed. The reason for the shortage of community based services is due to the over supply of residential care facilities. It is also important to take cognisance of the fact that it is internationally recognised that residential care is not the solution;

(2) yes, the intention is not to neglect our older persons. The budget has to be reprioritised in order to address all welfare needs in a cost effective manner. The unaffordability and the over supply of residential care facilities in urban areas are the main reasons for the unrealistic budget allocation for older people in the past. The responsibility to care for older people is not only the responsibility of the Government. Realistic norms and standards with regard to residential care and community based care and support models are a prerequisite to care for older people. A bigger budget allocation is not the solution.

**Survey of high-rise buildings in SA**

*38. Mr D DE V GRAAFF asked the Minister of Trade and Industry:†

(1) Whether, with reference to his reply to Question No 22 on 7 May 1997, he or his Department intends conducting a full survey of all high-rise buildings in South Africa; if not why not; if so, when will such survey be completed;

(2) whether he or his Department intends taking any steps to improve the security regulations in respect of high-risk high-rise buildings; if not, what is the position in this regard; if so, what steps;

(3) whether he will make a statement on the matter? N1144E

The MINISTER OF TRADE AND INDUSTRY:

(1) My Department does not intend to conduct, a survey of high-rise buildings in South Africa as this matter falls within the ambit of the Provincial Governments. The provincial authorities or the major town councils should have the information regarding high-rise buildings that the honourable member requires. I would, therefore, suggest that he contact them.



(2) I do not intend taking any steps regarding improved security within high-rise buildings as it is the building owner's or tenant's responsibility to take the necessary steps to regulate entry to his or her own building and to secure it.

(3) I do not intend making any statement on this matter.

**Loss of weapons at 81 Technical Supply Depot**

*39. Mr J A MARAIS asked the Minister of Defence:†

Whether the board of enquiry into the loss of weapons at 81 Technical Supply Depot in Pretoria has made any findings; if so, what were the findings? N1145E

The MINISTER OF DEFENCE:

No. The military Board of Inquiry investigating possible procedural and administrative deviations of prescribed systems at 81 Technical Stores Depot could not be completed on the target date of 9 May 1997, and has been extended to the end of June 1997.

The investigation by the SA Police Service and Military Counter-Intelligence into criminal liability with regard to the theft of the weapons is still in progress and as such is sub judice. Actions already taken by the SA Police Service has resulted in five civilians having appeared in the Pretoria Regional Court on Monday the 26th of May 1997.

Madam Speaker, the release of any more details now will certainly prejudice the investigations of the SA Police Service and Counter-Intelligence. I give the House, and the Honourable Member in particular, my assurance that as soon as the investigations have been completed, all details will be released.

**Disciplinary inquiries completed/criminal action instituted**

*40. Mr P W COETZER asked the Minister for Public Enterprises:

With reference to her reply to Question No 287 on 21 April 1997, (a) when will the disciplinary inquiries be completed, (b) against which persons has criminal action been instituted and (c) what are the further relevant details? N1146E

The MINISTER FOR PUBLIC ENTERPRISES:

*Transnet Limited furnished the following reply to the hon member's question:-*

(a) It is anticipated that the disciplinary enquiries will be completed by 30 June 1997.

(b) and (c) Once the disciplinary enquiries have been finalised, the following relevant details will be made available:

- Names of employees who resigned to avoid disciplinary steps, found guilty of gross misconduct in disciplinary hearings and against whom criminal action has been instituted.
- Value of losses involved.

**Housing: latest annual report**

*41. Mr J A RABIE asked the Minister of Housing:†

On what date did her Department's latest annual report appear? N1147E

The MINISTER OF HOUSING:

My Department's latest annual report appeared on Monday, 5 May 1997.

**Details of persons replacing SANDF members**

*42. Mr J A MARAIS asked the Minister of Defence:†

Whether, with reference to his reply to Question No 61 on 8 May 1997, he will furnish details of the (a) names, (b) qualifications and (c) experience of persons who will replace the members retiring from the South African National Defence force referred to in his reply; if not, what is the position in this regard; if so, what are the relevant details in each case? N1148E

# Nehawu still in a deadlock

Sowetan 27/5/97

**By Abdul Milazi**

THERE is still no end in sight to the one-month-old strike by members of the National Education, Health and Allied Workers Union (Nehawu) at 19 of the Suid Afrikaanse Vroue Federasie old age homes around the country as the two parties fail to reach a settlement over wages.

Nehawu social welfare sector secretary Nomaphelo Maqanda said wage negotiations between the union and the SAVF deadlocked in August 1996 when employers failed to meet workers' minimum wage demand of R1 200.

The union then dropped its demand to R1 000 and subsequently to R859. Employers offered a R120 increase with effect from April 1997, which would have brought the minimum wage to R739 a month.

Maqanda said: "The problem was that employers wanted to offer the increase for 1997, when we were actually dealing with 1996 wage negotiations. This means that workers did not and would not get their 1996 increases."

Nehawu has applied for mediation in the hope of settling the dispute amicably. "Last week employers came up with an offer of a R300 once-off for 1996, which effectively means a R25 a month increase and that workers will only be moved to a R819 minimum wage for the 1997 financial year."

Maqanda said employers have illegally locked out workers in many of the homes.

# Policy recipients 'not traced'

BD 28/5/97

**Nicola Jenvey**

DURBAN — Nearly one-third of life assurance product beneficiaries never received their inheritances as the deaths were not reported or the recipients could not be traced, Wits University actuarial studies director and pensions advisory committee member Anthony Asher said yesterday.

Participating in the panel debate on the future for retirement provision at the annual Institute of Retirement Funds (of Southern Africa) conference, Asher challenged his colleagues to provide evidence of "less abysmal" statistics.

Johnnic director and National Union of Mineworkers services head Irene Charnley believed retirement fund administrators were "not interested" in tracing pension and life assurance product beneficiaries, particularly in the rural areas where people did not have physical addresses.

She challenged the industry to develop mechanisms which dealt with rural pensioners and beneficiaries to ensure people were traced. One advantage of the post office's reconstruction and development programme initiative was that every South African would be guaranteed a postal box number.

One delegate suggested that the short-term costs of tracing beneficiaries be factored into the product. He said finding someone had become "a grey area" as nobody wanted to assume responsibility.

Charnley said the industry should also consider introducing a minimum monthly pension payment equivalent to the state pension. She said this would defer previously employed, but lowly paid people from refusing a private sector pension in preference to the higher government subsidy, and allow capital to be used for the unemployed.

Looking to international investment opportunities following the relaxation of exchange controls, Orbis Mutual Funds chairman Allan Gray said UK pension funds held 25% of total assets overseas, of which 90% was in equities. He said without restrictions SA would be wise to invest about the same amount in the overseas markets.

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# anagers to nvestments

service, which should not be compromised;

☐ The experience, trustworthiness and professionalism of the manager. This should include timeous, frank and fair reporting.

Gray said the question to ask was whether, as an individual, you would feel comfortable entrusting your personal savings to the manager;

☐ The selection of different investment styles which come in a much greater variety offshore. It was important to understand the manager's investment approach and that it be tried and tested in both favourable and unfavourable markets;

☐ The manager should be able to manage currencies, offering an appropriate currency benchmark; and

☐ To ensure an investment manager's interests are the same as those of the fund.

The best performing shares are frequently those companies where management is motivated by performance-related remuneration and stock ownership.

Better funds often had performance-linked investment management fees and their executives had substantial amounts invested in the funds.

*Foreign investment has the advantage of giving exposure to foreign currencies, reducing the risk of a falling rand*

Gray said in selecting a fund manager, retirement funds may find it useful to use specialist fund rating agencies to narrow the field.

An agency should be used which took into account not only quantitative performance track records by also qualitative factors because an investment manager may change or the investment philosophy may change, making a good track record meaningless.

# More disclosure good but beware of costs – Newell

Care should be taken that in improving the governance of retirement funds and increasing disclosure to members costs were not driven to unreasonable levels.

This warning was made in an interview by Chris Newell, president of the Institute of Retirement Funds.

Newell said the issue of retirement fund governance, disclosure and trustee education had been receiving increasing prominence.

On the up side this could only be to the benefit of members but it was driving up costs to retirement funds.

"I think there is a balance between tilting too heavily towards excessive levels of reporting requirements and then diluting the funds that go into savings for retirement as a result. This is particularly the case with smaller funds.

"We ought to be aware these costs are getting bigger. We have to find other ways of keeping costs down while ensuring good governance. Maybe there should be more inspections by the Financial Services Board (FSB) rather than excessive reporting to members.

"No amount of reporting will stop the nefarious. If someone really wants to take the money it is very difficult to stop them in advance."

Newell also warned that employers would also have to take increasing costs into account and become more flexible in their approach to total packages for employees.

He said AIDS in particular would force up premiums for group life and disability cover. Companies would have to consider capping costs now as a risk control measure if they wanted to ensure they would remain competitive in the future.

One way to overcome the problem was to offer employees alternatives on how they wanted to structure their total packages within pre-determined limits. For example, some employees may wish to have a higher level of health cover while others may prefer to take more for retirement provision.

Newell said it was debatable whether most employees were sufficiently financially literate to make these choices.

However, with the much freer labour environment it would allow union members to negotiate with employers for the arrangements that best suited collective needs.

"A union may not want a wide range of choices but a company in a white collar environment with high earners could allow total freedom of choice.

Newell said there was currently "a great deal of flux in retirement provision industry. I can safely say we are living in exciting times".

# Mandela goes'

the ANC would win the next election.

The only threat to the current position lay within the ANC itself.

"There are severe strains over economic policy between the ANC and its allies, the South African Communist Party and trade union federation, Cosatu.

"But this does not translate into a split, certainly not before 1999."

Pakendorf said a deeper threat lay in wait for the ANC – it was "essentially a middle-class party led by people who have a modern, western approach.

"Such a party with a populist base may find that internal strains will increase."

However, Pakendorf said if the ANC can begin to deliver on promises it may hold together for many years.

"If not, look to a rift in its ranks which might open the way to realignment – but even that will not bring political instability or new economic policies."

**SOUTH AFRICAN RETIREMENT FUND MARKET**

| | NO OF FUNDS | NO OF MEMBERS |
|---|---|---|
| Private funds | 1 831 | 3 million |
| Insured funds | 14 164 | 5 million |
| Total funds | 15 995 | 8 million |

Source: Alexander Forbes

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INSTITUTE OF RETIREMENT F

# Employ global m handle offshore i

## Challenging times ahead for industry

The days of soaring returns on the stock market could well be over, one of South Africa's top investment managers, Allan Gray, has warned the retirement industry.

He believed the years ahead "will be vastly more challenging than in the past in terms of your fund's ability to earn a satisfactory return on its investments".

He said the retirement industry currently had 64 percent of its assets in shares – up from 30 percent in 1982.

"This marked shift into shares has been associated with an unparalleled bull market over the past 23 years.

"While sound fundamentals have justified higher share prices, shares have moved from being under-valued in 1974 to being over-valued. After an extended period of well above average returns, a period of below average returns inevitably follows."

Gray said there could either be a sharp decline in prices or an extended period of consolidation.

"Either scenario would mean a negative real return on shares".

Retirement funds would be wise to delegate offshore investing to a professional global investment manager, according to Allan Gray, one of South Africa's top asset managers.

Speaking at the Institute' of Retirement Funds annual conference in Durban, Gray said global asset management was undoubtedly more complex than national asset management.

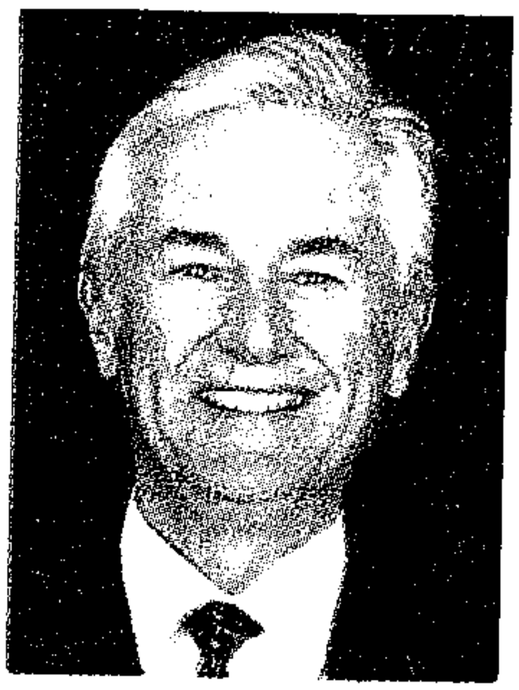
"To start, the choice of shares numbers many thousands as opposed to the 800 on the Johannesburg Stock Exchange (JSE).

"Additional complications include: currency management, asset allocation between national markets, different accounting standards and contrasting cultures on the part of both investors and corporations."

Gray said it was important for retirement funds to invest a portion of assets outside South Africa as this reduced risk.

Risk was reduced because the returns on global assets "are less correlated with a South African portfolio than those of incremental domestic investments".

Foreign markets now also offered a lower risk of loss than the South African market.



**TOP ASSET MANAGER**
*Allan Gray*

"There is a greater variety of investments available globally than domestically, which opens up the prospect of higher returns."

International investment had the added advantage of giving exposure to foreign currencies, reducing the risk of possible rand depreciations.

At the beginning of this ye United Kingdom pension fund had 25 percent of their total as sets invested offshore of which 90 percent was in equities.

Gray said if exchange con trols were lifted it would be ap propriate for retirement funds invest about 25 percent of their assets outside South Africa.

He said care had to be taken i selecting an offshore investme manager. A number of issues h to be taken into consideration These included:

☐ Ensuring that the assets the fund were secure by having reliable custodian independent the investment manager;

☐ Being satisfied that ther "is a reasonable prospect of supe rior investment performance, considering both risk and return, which will justify the fees". It was important to evaluate past performance over the full cycle including the last bear market in 1990.

All too often above average returns in a bull market are found in the subsequent bear market to have been due to assuming excessive risk rather than to skill;

☐ The need for high quality

# 'Your money will still be safe when

Political stability will be maintained after President Nelson Mandela steps down – and so will current government economic policies, political commentator Harald Pakendorf told the Institute of Retirement Funds annual conference.

Pakendorf said the question of whether "your money is safe after Mandela goes" is interesting considering the question of three years ago, namely: "Is your money safe when Mandela comes?"

Pakendorf said note should be taken of the four pillars of the broad framework of African National Congress policy. These were:

☐ A democracy with a constitution, which is a sovereign instrument upheld by a constitutional court;

☐ The adoption of a competitive market approach, even though this went against the will of a section of its supporters;

☐ The belief in national reconciliation; and

☐ A belief in correcting the wrongs of the past through affirmative action, the RDP and black economic empowerment.

Pakendorf said the first three pillars were major achievements which had surprised, not only South Africans, but also the world.

All four pillars would remain when Mandela went because his successor, Thabo Mbeki, was involved in developing all four. In particular he was the architect of the economic policy and his focus would be on economic growth.

Pakendorf said none of the existing political parties could threaten the policy certainties of the ANC.

The major parties, the National Party and the Inkatha Freedom Party "are in fact adrift and losing support".

The Democratic Party, The Freedom Front and the Pan African Congress may hold onto their support but "they are insignificant".

Pakendorf said it was certain

*IRF in process of assessing 'where it is going'*

# Industry body needs to become more representative

(.ET(BR)28/5/97 (300)

The Institute of Retirement Funds (IRF) will have to adapt to make itself more relevant and to ensure it remained the main representative body of the wider retirement fund industry, Chris Newell, president of the IRF, said in an interview.

Newell said the IRF was in the process of assessing "where it is going".

However, he did not see the basic objective of the IRF changing much.

"The IRF is there to draw all interest groups in the retirement industry together; to lobby government on issues seen as important by industry; and to provide support for participants in the retirement provision system."

Newell said it was important for the IRF to gain the credibility "it does not have as yet within the union element of the retirement provision system. The IRF has been seen traditionally as more of an employer support body because it grew up under a trustee system which tended to be employer dominated.

"As the IRF has tried to draw everyone in it has come up against the problem of different views on different issues. It is clear that it is not possible for the IRF to always have one view on everything.

"The IRF must promote all the different arguments and motivations held by its diverse groups of members and make sure they are heard by the right people in the right way so ultimately government can make the right decisions.

"The IRF will play a key role in bringing problems of different elements of the retirement industry to the fore so they can be addressed and taken account of in decisions that are taken."

Newell said the question was how the IRF achieved the position of being the chief co-ordinating body.

"Already the IRF has a wide base of support from many large funds. It is supported by a large section of the industry suppliers and it has some major industry groupings as affiliate members, including the Life Offices Association, the Pension Lawyers Association, the Fund Managers Association and the Institute of Pension Consultants and Advisers."



**PRESIDENT** *Chris Newell*

Recently the IRF had improved the liaison and contact with the Association of Retired Persons and Pensioners, "with whom we still need to do more. They are members of the IRF and represent an important group of people.

"A key aspect is to get more union-based funds to support the initiatives of the IRF. We have not had the success we would have liked so far from the union-based funds.

"We do have some union funds as members but I don't believe we have the full trust of or the involvement of the union funds as yet.

"We have tried a number of things to improve the trust relationship, including running joint workshops which looked at issues of special significance to union funds."

Newell said there was a grouping of union funds forming which was looking to be on a par with the IRF. He welcomed this but felt one representative body ultimately would better suit the industry.

The IRF will quite likely have to adapt its structures to remain relevant. For example, it would have to look at how it is constituted. At the moment its executive had eight members from the broad membership group and six councillors representing industry grouping bodies.

"If the IRF is to be a truly representative body we may need to make sure all our councillors are elected and do away with specifically appointed representatives on council. This is being put forward as a topic for discussion to get views of IRF members."

Newell said for the IRF to remain relevant it also needed to look at what services it provided to members.

Most of the attention of the IRF at present was focused on dealing with the government on retirement fund related issues and legislation.

However, more attention would have to be given to running member services. Already a permanent staff member had been appointed to deal with legal problems encountered by members.

Other services could include such things as an investment protection service which could advise members on how they could be affected by various shareholders' resolutions in the companies in which the funds have minority equity interests as investments.

Newell said generally the IRF was looking to expand its role.

The IRF was also looking at how it handled other issues in the past. For example, it was doing more to highlight the need for proper communication between funds and their members. A communications focus group had proposed a revision of the criteria applied to the annual communications awards of the IRF to ensure the awards were given for the right reasons.

> *Key aspect is to get more union based funds to support initiatives of the IRF*

Another key role of the IRF was to ensure the proper control of funds, particularly the administration of funds.

Newell said in the past the IRF had developed its own examinations. The IRF had now got together with the Institute of Life and Pension Advisers and the Insurance Institute of South Africa to rationalise the examinations being offered in the wider industry.

In future it was likely that the Insurance Institute would do more to set and co-ordinate courses, subject to the guidance of industry bodies.

Newell said there had been suggestions that trustees of funds should be registered with the Financial Services Board (FSB) with registration based on writing and passing some examination.

He said the FSB had strong views supporting this but he believed that this could be detrimental to the expansion of elected trustees on funds in the short term. It could also discourage many potential trustees from wanting to accept the role of a management board member.

He said an "awful lot of training of trustees is being done". Fund administrators were doing a lot to provide definition and give pointers to trustees on how to go about their role.

There was however some scope to define some standards and the IRF would consider this in the year ahead.

"At the end of the day trustees do need to know their responsibilities in terms of the Acts. Education courses of the IRF and ILPA are geared at just that.

"To put an examination in place setting a standard level now may preclude many people taking part as trustees. We don't want to rush ahead to quickly with a registering body where people will have to register and pass a competency test.

"Virtually all trustee boards have done far more than just pay lip service to trustee training. However much still needs to be done. Employers are aware of their responsibility in bringing trustees up to speed with knowledge of retirement legislation. The place for something more formal is down the road.

"It is also another one of these issues where it could end up being a very costly exercise. I think trustee training and development is vital but things should happen in an evolutionary way."

Newell said a major focus of the IRF during the year ahead "will be to make sure we stay very close to the National Retirement Consultative Forum to make sure views of all our members are presented".

# Pension fund taxes to be equalised

BD 29/5/97

**Linda Ensor**

CAPE TOWN — The taxation of lump sum payments by public and private pension funds will be equalised from March next year in terms of the Income Tax Bill submitted to Parliament this week.

The bill gave effect to many of the tax proposals made by Finance Minister Trevor Manuel in his budget speech, including the one that public and private funds be treated equally for tax purposes.

Until now lump sum payments by public sector retirement funds have not been taxable.

In terms of the bill, the vested rights of members of public funds would be protected and only that portion of a lump sum relating to services after March 1 1998 would be taxed.

The bill contains a new formula which can help determine the taxable portion of lump sum payments from public funds.

As a prelude to the relaxation of foreign exchange controls from July 1, the bill widened the ambit of the deeming source provisions for the taxation of investment income. This was defined as any income in the form of annuities, interest, rentals and royalties.

A memorandum to the bill stated "where any investment income is received by or accrued to a resident from a country other than the Republic, such investment income shall be deemed to have been received by or accrued to the resident from a South African source and the resident will accordingly be taxable in SA on such income. The same rule will also apply to a nonresident earning investment income arising from activities carried on by him or her through a permanent establishment" in SA.

(300)

The bill stated that these provisions would not apply to investment income derived from substantive foreign business activities.

As an anti-avoidance measure, the bill proposed certain measures regarding the income of any resident from a controlled foreign entity. It stated that this should include a proportional amount of the investment income received by or accrued to such foreign entity, which was attributable to the resident's participation rights in the entity.

A provision was made for a phasing-in period for the taxation of investment income of immigrants on foreign assets acquired before they first settled in the country.

This income would not be subject to the new tax regime for the first three years of assessment ending on or after February 28 1998.

Negotiable

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# Investment body to close tomorrow

BD 29/5/97 (24) (75) (300)

**Belinda Beresford**

THE Investment Development Unit (IDU), formed to provide large-scale investment by the life insurance and pensions industries to socially responsible projects, will close tomorrow after the board decided market changes made it unnecessary.

MD Errol Benvie said the IDU had always been intended to be transitional, and it had "done itself out of a job".

He said it had provided a forum for dialogue between shareholders and the government and had acted as a merchant bank in finding potential investments and guiding them to market.

However, the normalisation of the merchant banking commercial industry meant there was no longer any need for the IDU, Benvie said.

"The key to transitional organisations is to know when to stop. It was never envisaged as a permanent situation", he said.

He had proposed the closure in March, and received "unanimous acceptance" from the nine board members, he said.

The IDU provided investment funding, not grants or soft loans. Benvie said it had been directly involved in three projects.

The largest was a R1,2bn investment with Eskom in low income housing.

The National Housing Finance Corporation was given R100m and in March R500m was raised for the newly launched Infrastructure Finance Corporation. Benvie said it was ironic that he had recommended closing down the organisation when a number of investment opportunities presented themselves.

The IDU was initially founded by the Life Offices Association (LOA). Both the Institute of Retirement Funds and the Fund Managers Association then became 25% shareholders. This meant the "entire contractual private savings sector was involved", Benvie said.

# Survey cautions on benefits

BD 30/5/97 (300)

**Samantha Sharpe**

CAPE TOWN — Many retirement funds which were shifting from defined benefit to defined contribution schemes did not implement inflation or salary/inflation-linked investment performance benchmarks.

This could result in members' retirement benefits falling dangerously short of expectations, a recent Old Mutual Actuaries & Consultants survey warned.

The survey covered 58 funds with 250 000 members and R26bn in assets under management — about 15% of SA's defined contribution industry.

Old Mutual Actuaries & Consultants senior actuary Erich Potgieter said the survey showed the move in SA to defined contribution retirement funding in the SA was an "overwhelmingly good one".

The industry faced several challenges, with one of the most crucial the fact that few funds used inflation or salary inflation as a benchmark for their investments — an essential tool to help trustees monitor investment performance.

Old Mutual Actuaries & Consultants senior consultant and actuary Steven Gamerov said the company recommended a benchmark of 3% to 3,5% a year relative to salary inflation.

The survey showed the average (median) fund for the one year period achieved a negative real return because of the poor showing of the all share index last year.

For 10 years the average fund showed gross investment returns of 4,6% more than salary inflation. In that period the lower quartile fund achieved a 3,8% return.

"Trustees need to monitor net investment returns against salary inflation, with a view to taking action should returns fall below the benchmark over the long term," Gamerov said.

CT(BR)27/5/97

# (300) endments

nance of a retirement fund will be shown up by these new dispute resolution procedures.

If a decision goes against it, a fund may stay execution of the adjudicator's determination by lodging an appeal but must then be prepared to litigate in the supreme court.

## UNFAIR LABOUR PRACTICES AND THE LABOUR RELATIONS ACT

A similar dispute resolution procedure to the retirement fund procedure has been created in terms of the Labour Relations Act.

A member may refer any dispute or unfair labour practice to the Commission for Conciliation, Mediation and Arbitration (CCMA).

## COST AND PREMIUM INCREASES

Future cost and premium increases could lead to a potential unfair labour practice.

Increases include the funding of the cost of fund administration and the funding of increases in the premiums for death and disability benefits due to AIDS.

In typical balance of cost arrangements, the employer will be compelled to carry all cost increases.

Most employers are rearranging their retirement funds to move away from such an open-ended liability.

This trend understandably raises the concern of most trustees.

The only two remaining alternatives are to either increase member contributions or to reduce the benefits, both of which will require a two-month notification and which, without member consent or prior arrangement, will constitute an unfair labour practice.

## CONSTITUTION

In terms of the new constitution, neither the State nor any person (such as a retirement fund) may "unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth". In terms of Section 9(5) of the Constitution, discrimination on one or more of these grounds is unfair unless it is established that the discrimination is fair.

The most relevant of these rights is the right not to be discriminated against and the right to fair labour practices.

Matters which require the trustees' urgent attention include the eradication of all gender based benefits with the exception (at this stage) of actuarially based risk rates.

## APPROVAL OF ADMINISTRATORS

With effect from April this year, it was a criminal offence for any person not approved by the FSB to undertake any benefit or investment administration in respect of a retirement fund. It is the trustees' fiduciary duty to ensure that the administrators are approved.

## FIDELITY AND PROFESSIONAL INDEMNITY INSURANCE

A joint industry workgroup in which the Institute of Retirement Funds has taken a leading role, announced their recommendations this week.

## THE 17 PERCENT TAX ON RETIREMENT FUNDS

In terms of the new Tax on Retirement Funds Act, retirement funds must calculate and pay the new 17 percent tax on net interest and rental income to South African Revenue Service.

To do this, they must first aggregate all the interest income, the net rental income and the allocations by insurers and then do an apportionment by deducting the income attributable to pensioners.

The 17 percent tax is then calculated on the balance. As the calendar year has been broken up into two tax periods, a fund must make two final payments and four provisional tax payments each year.

To be able to calculate and deduct tax in accordance with this new Act, funds and administrators had to invest a lot of time and energy in developing new systems and procedures.

The implementation of this new tax has been one of the most complex and costly exercises undertaken by the industry over recent years.

The trustees' duties in this regard is ongoing. The compliance procedures should already be in place.

## VALUE ADDED TAX (VAT)

This year, a measure is introduced in terms of which participating employers and retirement funds become "connected persons".

This means that employers will not be able to claim the VAT paid in respect of retirement fund administration as an input credit.

In addition, it will mean that even where an employer provides the fund administration fee free of charge, VAT will have to be paid on the open market value of the services.

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# Focus

## THE 1996 AMENDMENTS

### BENEFIT PAYMENTS AND ARREAR CONTRIBUTIONS

In terms of an amendment any benefit payment may only be reduced by arrear contributions owed by the member. The revised section specifically excludes amounts which are in arrear due to the failure of an employer to pay the member's contribution after deduction from the member's remuneration.

Apart from the need to make a rule change (where appropriate) trustees should make a mental note to the effect that in instances where an employer is in arrears with contributions and on the point of financial demise, it may be in the interests of the members to terminate the fund at the earliest opportunity. If not, the first employees who withdraw may receive full benefits at the cost of the remaining members.

### INSTALMENT PAYMENTS TO MINORS

In terms of a new section, funds may now pay death benefits to minors in instalments. This action may be appropriate in those circumstances where death benefits are payable to orphaned beneficiaries in respect of whom no legal guardian has been appointed. In such circumstances, the most cost-effective thing to do may be to pay a monthly annuity to the family or friends who take care of the minors.

### REVISED DEFINITION OF A DEPENDANT

At the request of the Institute of Retirement Funds and other industry bodies, the definition of dependant was revised to ensure that any child of the deceased is eligible for a benefit, not only those who are dependent on the deceased. This measure was necessary to avoid great injustices being done to a deceased's self-supporting children if he/she neglected to make a beneficiary nomination.

At the same time, amendments to another section (37C) were made to make it abundantly clear that no beneficiary is entitled to any benefit and that the trustees could allocate benefits to only some or all of the dependants of the member.

These measures do place a somewhat greater responsibility on the trustees, i.e. they now have to consider a greater number of "dependants" and allocate benefits, not only on the basis on dependency but on the basis of fairness. In fact, the law on intestate testamentary disposition becomes relevant.

The effect of these new measures is that the data on dependants (to be gathered before and/or after the death of the deceased), becomes critically important and may have to be revised.

### COMPULSORY BOARD OF MANAGEMENT

By December 15 next year every fund shall have a four-member board of management, at least 50 percent of whom the members of the fund shall have the right to elect.

The Act is not prescriptive about the way in which the board of management has to be established. It merely provides that the following matters be set out in the rules of the fund:

- ☐ The constitution of the board;
- ☐ The election procedure of the member representatives on the board;
- ☐ The appointment and terms of office of members;
- ☐ The procedure at meetings;
- ☐ The voting rights of members;

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☐ The quorum for a meeting;
☐ The breaking of deadlocks, and
☐ The powers of the board.

The three most problematic issues appear to be the election procedure of member representatives, deadlock breaking provisions and the powers of the board.

To elect a representative management board may prove to be a very difficult and time consuming undertaking for most funds.

Most, if not all retirement fund rules will require an adjustment to comply with the new provisions.

Although it would be wise to develop these new measures in consultations with members, the amendments can in principle be introduced in terms of the existing provisions of the rules.

## POWERS OF THE BOARD OF MANAGEMENT

An aspect which presents many funds with a dilemma is the powers of the board of management.

The trustees either act in the capacity of custodians, in which event they merely give effect to the rules and have no power to amend the rules without the consent of the parties.

Alternatively, they act as representatives of the parties to the agreement and can therefore amend the rules. (Something akin to a workplace forum.)

If the trustees merely act as custodians, it presupposes the establishment of a forum where the employer and the members can meet to agree to amendments to the rules.

If the trustees are empowered to amend the rules, the danger exists that the board of trustees of a fund will become just another collective bargaining forum which will polarise the trustees and force them to act, not in terms of their fiduciary duties on behalf of the fund as a whole, but rather on behalf of their constituencies.

## DEADLOCK BREAKING MEASURES

A popular method is to allow member representatives and the employer representatives in turn to appoint a revolving chairperson for a period of two to three years with a casting vote.

This arrangement can be implemented with or without the following safety devices. Before the casting vote can be exercised:

☐ The matter must be reconsidered at a special meeting with appropriate opportunity for representation and discussion on the matter;

☐ An opinion by an actuary or pension lawyer must be obtained (depending on the circumstances); and

☐ The matter must first be conciliated by an agreed body or person.

## DISPUTE RESOLUTION

A compulsory dispute resolution procedure was introduced in April. In terms of this arrangement, a complainant may lodge a written complaint with a fund (or the employer) for consideration and reply by the fund within 30 days.

If the complainant is not satisfied, the complaint can be referred to the retirement fund adjudicator, once he/she is appointed.

Members are able to challenge any act or omission by the board of management in a quick, convenient and affordable procedure.

Any cracks in the proper gover-

# STATISTICS OF ALL PENSION FUNDS IN SOUTH AFRICA

| | 1994 | 1993 | 1992 | 1991 | 1990 | 1989 | 1988 | 1987 | 1986 | 1985 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Number of Pension Funds** | 15 185 | 16 024 | 16 201 | 15 325 | 14 610 | 13 906 | 12 973 | 12 022 | 11 994 | 12 035 |
| **Number of Members of Pension Funds** | 11 636 970 | 9 309 339 | 9 495 251 | 9 784 963 | 7 878 555 | 7 560 747 | 6 925 305 | 6 629 131 | 6 519 125 | 7 251 486 |
| | Rm | Rm | Rm | Rm | Rm | Rm | Rm | Rm | Rm | Rm |
| **Benefits Paid by Pension Funds** | 29 608 | 27 975 | 17 233 | 13 833 | 10 092 | 8 685 | 7 424 | 5 937 | 4 386 | 4 004 |
| **Contributions received from Pension Funds** | 26 768 | 23 652 | 21 452 | 23 202 | 16 601 | 13 585 | 11 621 | 9 872 | 7 528 | 7 246 |
| **Aggregate Assets of Pension Funds** | 352 881 | 279 810 | 228 637 | 181 177 | 157 790 | 117 055 | 99 142 | 84 750 | 67 683 | 53 901 |

**NOTES:**

- Reduction of pension funds due to deregistration of underwritten funds that ceased to exist. About 2 000 self-administered funds and 13 185 were underwritten in 1994.
- Some people are members of more than one pension fund and therefore these figures are not a true reflection of the number of people who are members of pension funds. A member includes an active member, deferred member and a pensioner.
- 34 funds had assets in excess of R1 billion in 1994 at balance sheet values.

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27/5/97

CJ (BR)

# The withdrawal of pension fund surpluses will be rigidly controlled

(300) CT (BR) 27/06/97

Amendments to the Pension Funds Act to allow employers to remove excess assets from retirement funds could be promulgated before the end of the year, according to Peter Milburn-Pyle, chief actuary of the Financial Services Board (FSB).

Speaking at the annual conference of the Institute of Retirement Funds Milburn-Pyle however emphasised that employers would not be able to merely raid the retirement funds of their employees.

Rigid controls would be put in place by the legislation to ensure members were not disadvantaged.

The amendment to the legislation "creates a mechanism where employers can withdraw surplus assets under controlled circumstances which will avoid possible abuses." Milburn-Pyle said up until 1994 the option of surplus pension fund assets being paid out to employers was prohibited both by the FSB and the tax authorities.

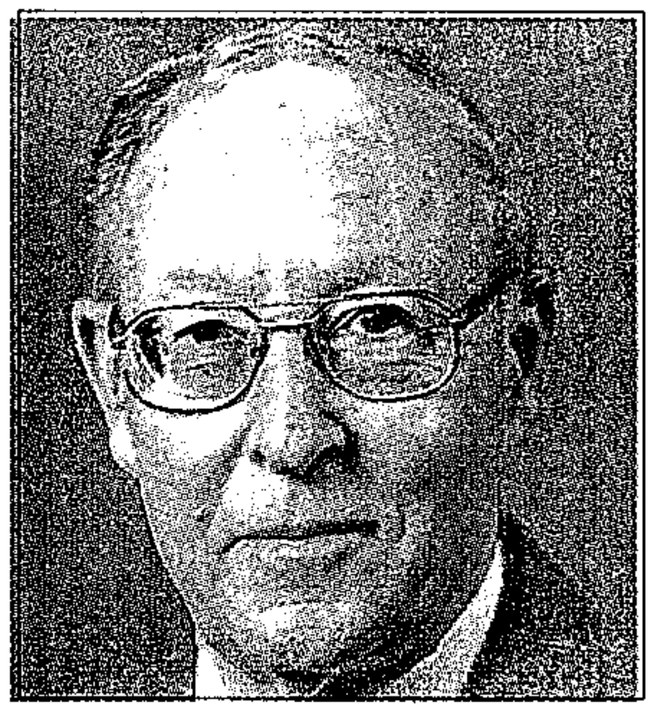
In 1994 the Lintas fund took an FSB decision to refuse employer access to the fund surplus on appeal to the Appeal Board that hears complaints against decisions of the FSB. The Lintas fund won the appeal.

Although Lintas won the appeal, the FSB "did not regard the decision as creating a precedent. The Appeal Board is not competent to make case law."

Nevertheless many people in the private sector and at the FSB pursued the matter.

Milburn-Pyle said the FSB took the issue to the Pension Funds Advisory Committee – a statutory body set up in terms of the Pension Funds Act to advise the Minister of Finance.

The advisory committee appointed a task group made up of representatives of a wide range of interests. The task group's eventual report recommended in favour of permitting employers to remove excess assets.



**CHIEF ACTUARY** *Peter Milburn-Pyle*

Milburn-Pyle, who was the convener of the task group in his capacity as FSB's chief actuary, said that the advisory committee accepted this recommendation and directed the FSB to proceed to draft legislation. Since drafting the legislation opinions had been widely canvassed.

"The principles have come through unscathed. We have however received many valuable suggestions on detail."

Milburn-Pyle hoped to have all comments in by June and to be able to make improvements to the current draft in time to take the legislation to parliament in the third quarter of this year.

He said the amendment would be inserted in the current Act immediately after Section 5 which states all assets of a retirement fund belong to that fund.

"In effect we are introducing an exception to the general principle."

Milburn-Pyle said initially a number of labour organisations on the task group preferred to prohibit employers from claiming any part of the surplus on a fund, but eventually agreed not to oppose the majority view.

Milburn-Pyle said there were a number of reasons for the majority view.

If employers were unable to derive any benefit at all from a surplus they would be tempted to under finance retirement funds, which could lead to a threat to the security of members' benefits.

There was also the argument that if a fund went into deficit the employer would normally be required to pump in additional money. On this basis an employer should be able "to take out money when things went well. it is the quid pro quo."

Milburn-Pyle said the changes "will place a great burden on the trustee bodies to ensure interests of members are fully looked after.

"The quicker funds get to 50 percent employee representation and the quicker they get trustees trained the better. This is an area which requires great capacity by trustees."

Milburn-Pyle said the legislation placed numerous conditions on employers before they could access any part of the surplus. These conditions included:

☐ The only funds that could be paid out were those well and truly in excess of liabilities to fund members. The word excess was used because it was more than a mere surplus;

☐ The fund must have an actuary approved by the Registrar of Pension Funds. This was important because many defined contribution funds did not need to have actuaries. He said many defined contribution funds did in fact have surpluses as a result of defined benefit funds, with substantial surpluses, converting to defined contribution funds. Some of the surplus was given to members but part was often held in a reserve account to be used for a number of purposes, including employer contribution holidays.

☐ Trustees were required to approve rules that would permit an employer withdrawing excess funds so the trustees could ensure the rules were equitable to members;

☐ The introduction of a new concept which will stipulate that there will be a legal obligation on an employer to ensure any future deficit is made good by the employer. At the moment if a fund goes into deficit there is no legal obligation on an employer to put in extra money.

An employer could walk away from the fund if it is in trouble.

Milburn-Pyle said it would be wrong to allow this position to be maintained if an employer was to be given access to the surplus;

☐ There had to be total disclosure to members about what was planned including details of what the employer intended to withdraw:

☐ Approval from fund members. The draft legislation currently recommends that 51 percent of the members who respond must approve the transaction, but Milburn-Pyle said after negotiations with Cosatu, this would "most likely be increased to two-thirds of the members";

☐ After all the processes were completed individual members would still be able to appeal to the FSB if there were serious complaints; and

☐ The FSB, which could call for more information, would give final approval. The FSB would only proceed when it was convinced there was nothing that impacted negatively on members.

Milburn-Pyle said that in most cases where employers had been allowed to make withdrawals fund members had "nearly always received financial sweeteners" in the form of additional benefits.

## Taxing new law on withdrawals

Employers wishing to take advantage of the proposed new legislation that will allow them to withdraw excess assets from retirement funds will also have to contend with the tax authorities.

The Commissioner for Inland Revenue is proposing to amend tax legislation to allow a tax of 35 percent (equal to the company tax rate) to be levied against fund withdrawals.

Peter Milburn-Pyle, chief actuary of the Financial Services Board said the South Africa Revenue Service had been involved from the start of the investigation into employer withdrawals of excess assets from retirement funds.

He said that the tax was being levied because companies had originally claimed the contributions against tax.

There was also no question of off-setting the excess assets against tax losses, he said.

CT (BR) 27/5/97

# National Consultative Forum still has a way to go before it can resolve outstanding retirement issues

A number of retirement issues which have been the subject of scrutiny at the National Retirement Consultative Forum (NRCF) have still to be resolved, Maurice Harding, immediate past president of the Institute of Retirement Funds and a director of consulting company, Alexander Forbes, told the institute's annual conference.

Harding said the consultative forum was set up by the Minister of Finance at the end of 1996 with the objective of obtaining as wide a spread of views as possible so that decisions could be made about the future structure of retirement benefits in South Africa.

The first workshop of the NRCF took place in January this year. The broad objectives of the forum were laid down by Gill Marcus, the Deputy Minister of Finance.

The forum established five theme committees. The subjects were old age assistance; private sector retirement provision; public service retirement provision; retirement provision for local authorities and parastatals; and medical aid with specific reference to the interface with retirement arrangements.

At the first workshop it was proposed that the objective should be to produce a green paper for public comment by mid year, which would then be followed by a white paper, formally laying down government's proposals for retirement benefits. Legislative changes could be introduced in the 1998/1999 Budget.

"A task group was to be formed from the Department of Finance, together with retirement fund experts, to put this green paper together. In practice, due largely I believe to pressure of work in other areas for the Department of Finance, this task group has not as yet, been formed."

Harding said the envisaged changes are "far from simple and require extensive research and debate, before they can be brought to finality".

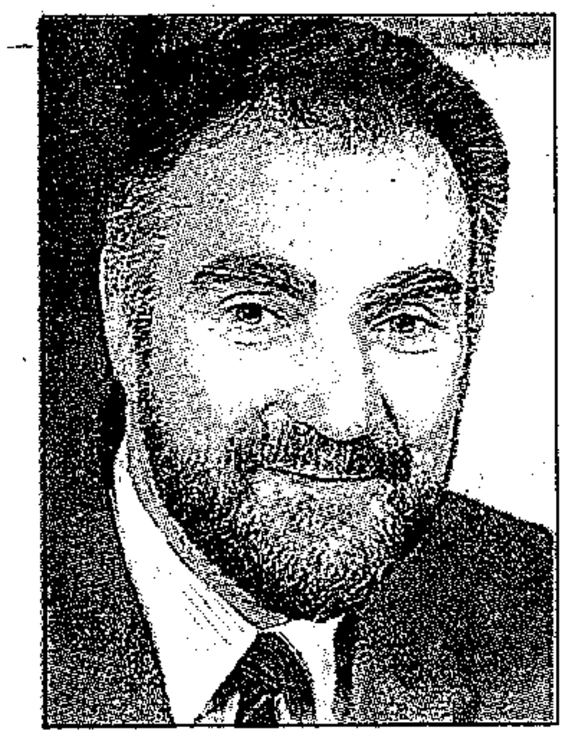
Public sector recommendations were far reaching and needed to be negotiated with employee organisations.

"The basic principle is that the funds that exist in the public sector will conform as far as registration and taxation is concerned, with funds in the private sector."

He said the committee on local authorities and parastatals came to the conclusion that registration and taxation requirements should be on the same basis as the private sector. It also recommended that these funds were fully funded as on a private sector basis.

Harding said one of the important issues was the protection of existing rights. "The problem is what is meant by existing rights."

The medical care theme committee, which was concerned about the dramatic escalation in medical aid costs, agreed it was necessary to create a vehicle to pre-fund the employer's liability for retired people but the choices lay between the existing retirement vehicle or some derivative of the existing vehicle but with a more specific tax inducement.



**PAST PRESIDENT** *Maurice Harding*

"The most significant recommendation came from the committee on the State Old Age Pension. It recommended that the existing means test should be abolished."

Harding said the means test was seen as a disincentive for people at lower income levels to provide for retirement as at a certain level of private income there was an effective 50 percent tax because State Pension is reduced by R1 for every R2 of private income.

It was recommended that the State Old Age Pension should be given to anyone who qualified by residence and age but this could be as much as R3 billion a year.

"What is of concern to me is whilst we are a very young population at present, in 20 years time our population will start to age rapidly. The other issue of concern, is the AIDS epidemic which will have a severe impact on the younger employable population, further reducing the number of contributing taxpayers.

The key question was whether government was providing a state pension or merely providing poverty relief.

Harding said the major issues discussed by the private sector task group included: compulsory provision of benefits; preservation; whether benefits should be paid as a lump sum or a pension; the provision of benefits for people who are in informal employment; and the taxation incentives.

"One underlying theme that kept emerging was that it is essential that the population be educated about retirement provision and that communication to members of funds needs to be stepped up. A simple solution was a compulsory retirement fund membership for all employed people. Apart from retaining the current system where an employer has a retirement fund to which employees had to belong, the task group turned away from making fund membership compulsory."

The reason was that with compulsion there would have to be a minimum benefit if this was not to be ridiculous. The group was also concerned compulsion could be a disincentive to job creation in small and emerging businesses.

"We come to the firm conclusion that with frequent changes in employment, people do not preserve their retirement benefit but take the withdrawal benefit and spend it."

In other cases, historic benefit structures have meant employees have received no share of an employer's contribution on leaving the company's service. It was considered that in future an employer's contribution should be viewed as deferred pay and refundable when a member leaves service.

"It would seem logical that preservation must be introduced without delay."

However, there were practical problems when people lost jobs and their immediate needs during a period of unemployment were greater than their perceived retirement needs many years away.

"It is for this reason that the trade unions believe that the cash option must be retained."

There were other life crisis situations such as unemployment, unexpected illness, and housing and education.

The provision of a cash benefit on withdrawal was also part of negotiations in the setting up of trade union provident funds and any legislative change would be counter to this process.

There was also no agreement on whether a retirement benefit should be paid as a lump sum or a pension.

A proposal was that all members of retirement funds should receive a compulsory pension equal to the State Old Age Pension, after which they will be entitled to commute the balance for a cash lump sum.

Harding said if it was considered that the payment of lump sum benefits was the motivating force for setting up provident funds, the issue would not easily be resolved.

He added there was also the question of how people in the informal sector could be included in a compulsory system.

"Again it is a matter of educating people to provide for their own retirement."

Harding said in many cases in informal employment as well as more formal employment, the greatest concern was the risk of unemployment.

He said there also needed to be an incentive to join a retirement fund. Most people in this category would not necessarily pay tax, so tax relief would not create an incentive.

A suggestion has been made that at retirement, a bonus be paid by government.

# Transnet pension solution proposed

(300)

BD 5/6/97

**Greta Steyn**

FINANCE Minister Trevor Manuel is considering a solution to the Transnet pension fund deficit which would not cost the taxpayer anything and which would pave the way for billions of rands in privatisation.

The huge shortfall in the Transnet pension fund is blocking the way to bringing in private equity partners for some of the parastatal's subsidiaries. It is also the reason why Transnet has been running at a loss, and has been unable to invest in new infrastructure.

A report containing the proposals was written by a committee chaired by consultant Charles Stride and which included representatives from HSBC bank and the finance department.

A source said an important element of Stride's report was that it valued the shortfall at considerably less than early estimates of R17bn, which brought down the cost of reducing it by more than half. It also recommended the unbundling of Transnet as a precursor to getting strategic equity partners for some of the subsidiaries.

Its key recommendation was to use the tax losses of the Transnet group as a means to address the shortfall.

By proposing that the new owners of Transnet subsidiaries pay a contribution to the pension fund — instead of paying tax — Stride had come up with a solution which would not affect the budget, a source said.

There was some misunderstanding about Stride's ideas after Transnet MD Saki Macozoma's disclosure that Stride had proposed that the pension fund liabilities be taken over by the state. While such a move would form part of the overall plan, a source said Stride had never intended that the taxpayer should pick up the tab. "Quite the opposite," he said.

Stride had proposed that the tax losses within the Transnet group be transferred to the entities that were up for partial privatisation, such as Portnet and SA Airways. The move would ensure that the new companies would not pay tax but would make a contribution to the pension fund. A source said if they had paid tax and government used the revenue to address the problem, the budget figures would differ from macroeconomic targets.

There was a R9bn tax loss within the Transnet group which could be shifted to the saleable subsidiaries, the report said. It also recommended the "amorphous" parastatal be unbundled.

The source said Stride's committee had valued the actuarial shortfall in the pension fund in a new way and had based it on a funding target of 89%. The result was that the deficit was estimated at R12,5bn rather than earlier estimates of R17bn, and the annual cost of reducing the shortfall had been reduced to R600m a year. Part of the approach was a change to a defined contribution rather than a defined benefit fund, which resulted in a higher valuation for equities.

Finance sources said opponents of Stride's ideas had raised concerns that the use of tax losses might lead to an erosion of the tax base, and a precedent would be created by shifting tax losses around within a group of companies.

His supporters had pointed out that the bulk of the loss belonged to Spoornet, which would take years to work its way into a tax-paying position, and that it could be put to better use by transferring it. If the tax aspect of Stride's ideas was discarded, government would have to find R600m a year in the budget to deal with the problem.

# Police medical aid asks for R400-m

Cape Town – The corruption-plagued police medical aid scheme, Polmed, has asked the Government for R400-million to make up its shortfall.

Polmed chairman Deputy Commissioner Gert Swart warned in Parliament yesterday that if the Government could not make the funds available, the South African Police Service would have to force its 131 000 principal members, including retired policemen, to start contributing to the fund.

Swart warned that such a move would lead to an exodus of financially pressed members from the force. It would also introduce financial hardships to retired policemen.

It emerged yesterday that of the 556 cases of fraud being investigated against police, doctors and pharmacists, there had been only three convictions.

Swart told Parliament's portfolio committee on safety and security that a new administrator of the medical aid would be announced tomorrow.

He was communicating with the Department of State Expenditure in an effort to secure extra funding from the treasury.

A task team of the police, Business Against Crime and Polmed had been formed to determine short, medium and long-term solutions for the medical aid. – Own Correspondents.

(300) ~~251~~ Star 11/6/97

# Pension fund problems hit development

(300) BD 11/6/97

**Lukanyo Mnyanda**

THE need for government pension funds to liquidate equity assets to meet onerous retrenchment and early retirement packages was contributing to a significant slowdown in commercial property development investment, said the Association of SA Quantity Surveyors.

Spokesman Elizabeth Pienaar said pension funds were inadvertently increasing their fixed property investment as a ratio of total assets, through a substantial reduction in their equity assets.

They also risked running foul of legislation allowing them to hold a maximum 25% of their portfolios in fixed assets like property.

"However, the registrar of pension funds understands that the problem is temporary and, to my knowledge, has not yet taken action against any short-term transgressors. I am sure that some pension fund managers wish fervently that the value of their share portfolios would rise overnight to ease their plight."

Pienaar said other imperatives had led to the cash-flush assurance industry losing interest in further investment in new commercial developments.

The recent relaxation of regulations restricting financial institutions from investing offshore had enabled them to add "attractive" rand hedge components to their investment portfolios. This had taken cash that would previously have been invested in local equities and commercial property. An oversupply of commercial property in most major urban areas had exacerbated the situation, making it difficult even for commercial developments with signed-up blue chip tenants to attract investor interest.

Pienaar said the lack of interest was apparent up to the top end of both the commercial and residential markets in most of the major urban areas.

Although expensive houses were still being built, some developers or owners had been forced to sell other properties, often at depressed prices, to finance projects.

Having access to cash to invest on the stock exchange, where the investment could be realised quickly and returns were better, had become the main priority for potential investors.

Exchange control relaxation also was offering the prospect of attractive options, with buyers choosing to remain liquid, even when offered residential properties which provided good returns through renting.

# Pensioners feel the squeeze as costs soar

THE provision of health care cover is the most significant element of a pensioner's budget — and the least provided for.

Fedsure Health MD Rod Harpur says three issues have affected pensioners:

- Massive increases in medical aid or health insurance premiums in recent years have left premiums taking up 10% to 15% of the employee's monthly salary;
- As a direct result of the weight of these premiums, companies are not able to continue contributing towards their pensioners' medical costs, leaving these members to carry 100% of costs, which could add up to 40% of their post-retirement income;
- Claims pressure on older-style schemes is forcing them to remove pensioner subsidies. The trend towards more progressive schemes that introduce age-related rates that are more closely geared to the cost of risk, is also adding to the cost for pensioners.

## Liability

The first step in recognising the problem has been taken in terms of the SA Institute of Chartered Accountants' AC305 draft accounting proposal requiring company disclosure of pensioner health-care liability, and some companies are starting to consider taking action, says Harpur.

However, more often than not they are still ignoring their responsibilities, he says.

Sometimes the sheer weight of this previously unrecognised obligation is enough to scare companies off. Product flexibility and a phased strategy are therefore often required to help employer groups to a fully funded position over a number of years.

Employers, however, can no longer claim that the exercise requires months of investigation, says Harpur.

Some health-care companies – such as Fedsure Health – are able to provide assistance.

The company provides a choice of plans that allow firms to quantify the problem with actuarially projected valuations of how much a person will need to have accumulated at retirement age to be able to budget for medical aid premiums during retirement.

BD 12/6/97

# Govt pension fund will not rush back into bonds

(300) BD 13/6/97

SA's government pension fund, seeking to diversify its asset base, would not be rushing back into the bond market when it receives hefty coupon payments in August, an official said yesterday.

Instead, it would look to top up its cash reserves while continuing to broaden its exposure to equities.

The Public Investment Commissioners, which manages government's R126bn pension fund, has a 58% weighting in bonds, with about 27% in equities and the rest in cash and money market instruments.

In August, coupons of about R8bn on a variety of government stocks will be paid, mostly on bigger stocks like the R150 and R153.

According to the March Reserve Bank Quarterly Bulletin, the fund management body holds 40% of the R17,11bn outstanding on the 12% R150 and 26% of the R18,627bn outstanding on the 13% R153.

Bond traders said they had been expecting the bulk of the coupon flows to the body to be rolled over back into existing bonds. But an official from the body, who spoke on the condition of anonymity, said its intentions were to top up its cash reserves.

This approach was part of a programme initiated in 1995 aimed at broadening the fund's exposure to equities, the official said. He said the body was "engineering" a shift of about 2-3% a year towards equities. — Reuter.

# Employees should take care if they change pension funds (300)

In our occasional series of guest columns by leading lights in the financial services industry, JILL BOGIE, general manager of investment marketing at Liberty Life, warns members against the dangers of the new defined contribution retirement scheme

ST(BR) 15/6/97



JILL BOGIE

THERE has been a notable trend in South Africa for employees to demand the choice of transferring their retirement funds from the traditional defined benefit schemes to a defined contribution scheme.

The driving force behind this move is the demand for greater transparency and a sense of distrust by some employees who believe they have been exploited by their employers.

A defined contribution scheme is seen simplistically to operate on the basis of "what you put in, you get out".

However, this misses the other part of the equation — namely "what you get out also depends on what happens to what you put in", or "how has your money been invested".

The risk now being borne by the employee is that their retirement will be inadequately funded — a risk that used to be taken by the employer in a defined benefit scheme.

This is an onerous responsibility and it's unlikely that many members understand the future implications.

Employees should be concerned about how their money is invested and managed.

They should ask many questions about investments and demand that trustees look after their best interests. They should also be looking for guarantees and assurances that their funds are being prudently invested.

It is clear this is not happening and there are many fund members whose future retirement provisions may no longer be secure.

This is a serious situation in which both employees and employers need to take accountability.

What should employees be doing and what do they need to know? Here are some questions they should have answers to:

- ☐ How do investments work?
- ☐ How does the equity market work?
- ☐ How and where is my money invested?
- ☐ Who manages the investment?
- ☐ Is my money at risk?
- ☐ What happens if the stock market goes down — do I keep my original sum invested?
- ☐ What income and/or growth do I earn?
- ☐ What guarantees do I have?
- ☐ Are there investment alternatives that are less risky?
- ☐ What choices do I have?

And the list goes on!

Unfortunately, the majority of members know so little about investments that they are unlikely even to raise these type of questions — a sad state of affairs, but one that employers and trustees can set out to rectify.

How can this situation be managed responsibly and effectively with the intention of protecting the interests of employees?

In electing to transfer to a defined contribution scheme, members should be provided with sufficient information about their rights and responsibilities to make a decision.

Communication should occur at various levels and include workshops and interactive discussions to allow employees to ask questions and clarify their needs and expectations.

The trustees should also keep members informed about the fund's investment performance.

This needs to be done in a responsible manner so that employees can understand how the investment impacts on their retirement provision.

Perhaps on considering the onerous responsibilities employers, employees and trustees face with a defined contribution scheme, all parties will be more cautious before they embark upon this enormous change.

Retirement may seem to be a date many years in the future — but it is today that both employees and employers need to take responsibility for addressing the shortfalls in the current process.

# Firms more flexible on retirement plans

BD 19/6/97 (300)

**Business Day Reporter**

COMPANIES are increasingly examining ways to accommodate a variety of individual preferences in the area of retirement planning — as long as employees deliver the right results.

Alexander Forbes director Ian Patrick says the days are over when — as in Japan — there was a clear expectation that employees joining a company out of school would have a job for life.

"Many Japanese corporations are no longer content with the lack of flexibility that implies, and there have been many Japanese firms which have encouraged turnover in recent years.

"That turnover, in itself, requires greater portability of retirement benefits between jobs, and a greater emphasis on shorter term benefits, including employee development. The changes in the implicit employment contract between employers and their employees has led to dramatic changes in employee benefit practices."

Patrick pointed to the US experience where, in days gone by, if an employee worked hard, was loyal to the company, did not question too much, and did as he was told, he could expect a long-term job, steady career progression, fair pay and protective employee benefits, reflecting his seniority — and minimal information on how the business was run.

"Today, there is a new deal. If you, as an employee, solve problems to achieve results, learn new skills as required, and take initiative, then you can expect fair pay that reflects your contribution, a job that changes constantly over time with business requirements, development of skills that will improve your employment potential with this company or another, and to participate in how the business is being run."

These changes were partly driven by globalisation and free trade and the need for companies to compete with the best in the world.

Patrick said: "The rise of technology has also contributed, by shortening business cycles. The net result is a movement away from paternalistic employment toward something that is more of an explicit short-term contract which is to the employer and employee's mutual advantage. The huge increase in temporary, part-time or contract workers in many countries bears witness to this trend."

Patrick said overseas trends did not take long to reach SA. "What we are seeing today is a scenario in which employees can choose exactly what employee benefits they will receive, what their work environment will be and the way in which the financial part of their reward is delivered. Continued employment is now a joint responsibility."

Some of the increased flexibility in employee benefits had been facilitated by the worldwide trend to defined contribution pension arrangements. English speaking countries had all shown increasing moves to defined contributions, which allow employee flexibility in line with individual preferences and circumstances.

In Europe, he said, slow dismantling of cumbersome social security systems had seen an increase in private provision of benefits, often on a defined contribution basis.

pension fund stake is often their largest asset.

The changes being made by most funds involve a move from "defined benefit" to "defined contribution" type funds.

In the former, benefits are fixed in terms of the member's salary and service as defined in the rules of the fund.

These are payable irrespective of how well a fund performs. Employers must ensure that funds have sufficient assets to pay benefits as they fall due.

Benefits payable include those that fall due through retirement, resignation, death or ill health.

Because of pressures on employers and funds — AIDS is an example — fund administrators have been persuading employers to change the nature of the funds.

This is to ensure that the employer does not have an open-ended responsibility to plough endless amounts of money into the fund to provide benefits for pensioners and employees.

Defined contribution funds are those where employers and employees each pay a fixed percentage of the employee's salary into the fund. The money is invested and the individual's pension grows or shrinks according to the performance of the investments. Good returns can be achieved, but the risk is transferred to the employee.

Many employees have been given the option of staying in their present fund or transferring to the new type.

It is a difficult choice for members because there are many variables that cannot be anticipated accurately. These include future interest rates, fund management decisions, the performance of investments, salary increases, how fund assets will be evaluated and the date on which members will leave the fund.

Employers usually try to persuade members to move to the new fund by offering incentives, such as enhancing the value of their benefit in the defined benefit fund.

These enhancements include a percentage of the transfer amount or a retirement reserve that will cushion the changes so members don't suffer at retirement because of the change they have made.

The transfer benefits are affected by each member's length of service, age, gender and salary at the date of transfer.

Evaluation of these transfer amounts is complicated by the many assumptions used by actuaries in their calculations.

Ideally, members need to compare the benefits they would receive from either type of fund, allowing for a variety of circumstances at different dates in the future.

These comparisons need to be made for each of the various ways in which a member can leave the fund — retirement, death, ill health or resignation.

Howard Buck, a director of Old Mutual's Actuaries & Consultants, has put together a set of fictitious members whose circumstances and experiences mirror those of many whom the organisation has moved from one type of fund to the other.

He says members who convert face two big risks that they would not have faced with the older type of fund: how the investment in the fund performs and, secondly, the cost of death and disability benefits and how these are controlled.

Members should be aware of the investment returns of the fund as these directly affect their benefits.

They should also realise that the employer has limited its contributions for death and disability benefits and that any increase in costs may result in lower benefits to or higher contributions by members.

Buck says that for many people pensions are their largest asset. They must insist that the trustees of a fund look after it properly. Trustees can be held personally responsible for not fulfilling their duties.

Although the law insists on it, fund members are not always approached about these conversions. Labour law states that employers must first approach employees to explain why they wish to change the fund and to secure employees' consent. This does not always happen and members are presented with a *fait accompli*.

There are many issues that members face, including:

- ☐ Were they properly consulted?
- ☐ What investments are being made and are advisers capable?
- ☐ How are these investments being evaluated?
- ☐ Is the fund complying with the law? and
- ☐ What is the investment policy of the fund?

ON YOUR SIDE

PAT SIDLEY'S COLUMN FOR THE CONSUMER

# Winds of change for pension funds

(300)

ST(E&CM) 22/6/97

**DEFINED BENEFIT AND DEFINED CONTRIBUTION RETIREMENT VALUES**

| BASIS | A | B | C | D | E | F | G | H | I |
|---|---|---|---|---|---|---|---|---|---|
| Age | 25 | 25 | 40 | 40 | 40 | 60 | 60 | 60 | 60 |
| Age at retirement | 65 | 65 | 65 | 65 | 65 | 65 | 65 | 65 | 65 |
| Salary | 50 000 | 50 000 | 50 000 | 50 000 | 50 000 | 50 000 | 50 000 | 50 000 | 50 000 |
| Salary increases | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% |
| Inflation | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% |
| Investment return | 13% | 16% | 13% | 16% | 13% | 16% | 13% | 16% | 13% |
| Real return | 3% | 6% | 3% | 6% | 3% | 6% | 3% | 6% | 3% |
| Service | 3 | 3 | 20 | 20 | 20 | 25 | 25 | 1 | 1 |
| Enhancement | 25% | 0% | 25% | 25% | 0% | 25% | 0% | 25% | 0% |
| Company X valuation basis | | | | | | | | | |
| DB pension | 44 290 | 44 290 | 45 005 | 45 005 | 45 005 | 29 734 | 29 734 | 6 626 | 6 626 |
| DC pension | 51 482 | 91 557 | 41 792 | 68 667 | 37 990 | 45 375 | 32 856 | 6 006 | 5 118 |
| Difference | 16% | 107% | -7% | 53% | -16% | 53% | 10% | -9% | -23% |
| Company Y valuation basis | | | | | | | | | |
| DB pension | 40 445 | 40 445 | 45 485 | 45 485 | 45 485 | 29 532 | 29 532 | 6 246 | 6 246 |
| DC pension | 47 153 | 81 595 | 61 076 | 106 256 | 53 437 | 41 211 | 29 427 | 5 233 | 4 540 |
| Difference | 17% | 102% | 34 % | 134 % | 17 % | 40% | 0% | -16% | -27% |

Graphic: FIONA KRISCH

Source: OLD MUTUAL ACTUARIES AND CONSULTANTS

**WHAT NOW?** There is a range of options for pension fund members who may be considering changing from defined benefit funds to defined contribution funds. The vertical columns A to I represent different members. Their age on joining a fund, the different investment returns, real returns and length of service are given. The columns also show what happens when an inducement of up to 25 percent of the member's stake in the fund is offered. Companies X and Y were evaluated by different advisers.

## SUNDAY SMILE

**AT Minister of Health Dr Nkosazana Zuma who, in spite of the vast vested interests ranged against her, is determined to provide cheaper drugs for consumers and to pull the pharmaceutical system into line so we can see how prices are determined.**

## SUNDAY SNARL

**AT Koo, which uses the Scout movement in its television advertising, yet has refused to make a small donation of its tinned foods to the 3rd Boksburg Impala Scouts.**

# SIDLEY



MILLIONS of South Africans who belong to pension funds as part of their employment packages are facing huge changes that they may not understand.

Fund administrators, employers and pension fund trustees are doing little to explain the

ST 22/6/97

CM

300

# SAA pilots plan to derail Transnet's pension plan

ROGER MAKINGS

ST 22/6/97

A DECISION by Transnet to end travel concessions for its more than 100 000 pensioners looks set to end in a legal battle.

This week the SAA Pilots' Association, which said it had taken legal advice on Transnet's "unilateral" withdrawal of the rights, vowed to go to court, if need be, to fight on behalf of pensioners.

The union said the rights of its pensioner members to travel benefits were part of a negotiated agreement, and the move was a breach of contractual right.

However, cash-strapped Transnet claims that its 105 168 pensioners are costing it more than R100-million annually, which it can no longer afford.

It is also asking its pensioners to contribute towards their once-free medical aid.

At a meeting of the parastatal's board of directors in February, a resolution was adopted to end all pensioner travel concessions from January 1 next year.

Transnet spokesman Tami Didiza said this week the travel perks were no longer sustainable. Pensioners qualifying for concessions would have to take them before the end of the year.

But De Villiers Steyn, a retired SAA captain who represents retired cockpit crews, said Transnet was trying to renege on a contractual agreement that had been negotiated in 1988.

"Most of this travel is on a standby basis at a percentage of the price of a ticket. Only if there is an empty seat on the aircraft do we get to board, thus generating revenue for SAA," he said.

# Poor pension control contributes to R139m

BD 29/7/97 (300

Loss

**Linda Ensor**

CAPE TOWN — Poor control over pension payments in the Northern Cape had made a major contribution to the unauthorised expenditure of R139m notched up by the province in the 1995/96 financial year, provincial auditor Ben van Niekerk said yesterday.

Van Niekerk's report, which has been tabled in the provincial legislature, highlights the fact that most of the unauthorised expenditure — R138,3m — was incurred by the province's welfare department. He said it was difficult to determine the extent of pension fraud, but suspected it made up a significant part of the unauthorised spending.

He said the matter would be discussed in depth by the provincial public accounts committee. According to the accounting officer for the welfare department, the bulk of its unauthorised expenditure can be attributed to arrear social benefit applications from the Western Cape provincial administration during July 1995. The Western Cape for a time paid these benefits on an agency basis for the Northern Cape.

The accounting officer also explained that there had been an "exceptional" increase in the number of applications for social relief. However, Van Niekerk believed much of the problem lay with the "serious shortcomings" in the system of pension payments.

The absence of internal control and checking measures meant pensions were paid to dead people. There was a risk pensioners were receiving more than one pension and that those who did not qualify were receiving pensions. Files had not been checked and there had been no revision of pensions.

The report also reveals that the public works and housing departments incurred unauthorised expenditure of R410 980 and R372 021 respectively because they did not abide by tender board regulations. It is noted that fraud involving R778 691 of provincial money was perpetrated during the year, while an additional R219 976 was involved in seven cases of alleged cheque fraud.

Deficient control measures could be blamed for officials personally enriching themselves to the tune of R20 124 by means of fictitious purchases and the unauthorised purchase of a video machine. Also, two welfare officials allegedly authorised two staff members to cash in pension allowances worth R758 567 due to beneficiaries who had died or where allowances should have been stopped.

"Although the officials have been suspended until the investigation has been completed, they have jointly received remuneration to the amount of R103 300 to date," Van Niekerk said.

Other examples of unauthorised expenditure related to non-compliance with standard tender board regulations were the erection of a clinic in Galeshewe at R793 119, payment of R250 000 to a firm for the Schmidtsdrif project, and payment of R405 582 for the Masakhane music festival.

Van Niekerk also found it a matter of "grave concern" that the number of special care allowances worth R8,8m could not be readily determined.

means of horizontal placement, post advertising and training.

**Records of human rights violations in other countries**

1015. Mr D K PADIACHEY asked the Minister of Foreign Affairs:

Whether his Department intends keeping records of human rights violations in other countries; if not, why not; if so, what are the relevant details? N1726E

The MINISTER OF FOREIGN AFFAIRS:

The Department of Foreign Affairs keeps records of human rights violations in other countries. The following sources of information are used:

a) Reports from Missions abroad

All South African diplomatic and consular missions have been instructed to report on the human rights situation in their countries of accreditation on a regular basis.

b) Reports and Debates of International Organisations

Such sources include -

(i) reports of fact-finding missions, including the reports of Special Rapporteurs appointed by bodies such as the UN Commission on Human Rights, to investigate human right violations in specific countries;

(ii) reports submitted to treaty-monitoring bodies, by states-parties to various international human rights treaties, as well as the comments of the treaty-monitoring bodies on such reports; and

(iii) debates in various international fora on human rights violations in specific countries.

c) US Congressional Report

The Department of State in the United States produces an annual report to the Committee on International Relations of the US House of Representatives and to the Committee on Foreign Relations of the US Senate, on human rights practices in all foreign countries.

d) NGO Reports

Organisations such as Amnesty International and Human Rights Watch each produce regular and comprehensive reports on human rights abuses throughout the world.

e) Other Sources

Other sources of information include media reports, published articles and papers delivered at conferences.

The information from all these sources is analysed and collated in the Department. It is taken into consideration whenever major policy decisions concerning the country in question are taken.

Hansard



QUESTIONS

† Indicates translated version.

*For written reply:*

**Ludidi Administration Area: electricity**

620. Mr G Q M DOIDGE asked the Minister for Public Enterprises:

(1) Whether Eskom has any plans to provide electricity to the communities in the Ludidi Administration Area; if not, why not; if so, (a) when and (b) what are the further relevant details;

(2) whether Eskom has kept the communities informed about the outcome of their applications; if not, why not; if so, (a) when and (b) how? N1060E

The MINISTER FOR PUBLIC ENTERPRISES:

(1) (a) and (b) The Ludidi Administration Area is situated in the Matatlale magisterial district (between Matatiele and Mount Fletcher). It consists of 14 small villages. This area does not feature in Eskom's electrification plan. The existing network also cannot be extended to accommodate developments in the Area due to capacity constraints.

The above-mentioned factors and the remote location of the area cause it to be regarded as a possible non grid area. Netplan Electrification Engineering Consultants are working on the Distribution Master Plan for the Northern Transkei. Until such time that Eskom receives this plan, a clear answer as to whether or not Eskom can electrify the area cannot be given. However, Eskom's assessment is that the area cannot be electrified in the near future (within the next five years).

(2) (a) and (b) Communication with the communities in the area is done through the Matatiele Electrification Forum which is aware of the problem. All the areas which resort under Matatiele communicate with Eskom through this Forum, and the Forum is aware of capacity constraints. The electrification plan and priority areas are also discussed with the Forum before implementation.

**Shortfalls in pension funds of parastatals** (300)

833. Mr J A JORDAAN asked the Minister for Public Enterprises:

(1) Whether there were shortfalls in the pension funds of any parastatals in any of the latest specified five financial years for which information is available; if so, (a) which parastatals and (b) what was the shortfall in each case;

(2) whether any amounts were allocated by the central government to make up for all or some of these shortfalls; if so, in respect of each parastatal involved, (a) what amount and (b) in respect of which financial year;

(3) whether there are any plans in place to reduce current shortfalls in such pension funds; if not, what is the position in this regard; if so, what plans? N1475E

The MINISTER FOR PUBLIC ENTERPRISES:

(1) (a) and (b) The position regarding the pension funds within the portfolio of the Ministry for Public Enterprises are as follows:

*Alexkor Limited:*

| | | |
|---|---|---|
| 1 April 1992 | = | R 11,08 million(–) |
| 1 April 1993 | = | R 8,227 million (–) |
| 1 April 1994 | = | R 6,771 million(–) |
| 1 April 1995 | = | R 3,096 million (–) |
| 1 April 1996 | = | R988,000 million(+) |

*Aventura Limited:*

There are no shortfalls in the Aventura pension fund.

*Denel (Pty) Ltd:*

There are no shortfalls in the Denel pension fund.

*Eskom:*

There are no shortfalls in the Eskom Pension and Provident Fund.

*Safcol Limited:*

Since the transfer of pension interests from the Government pension fund to the Safcol

retirement fund in terms of the Management of State Forests Act, 1992 (Act 128 of 1992) has not yet been completed and the actuarial evaluation of the company's retirement fund not yet completely determined it is unknown whether or not the pension fund has any shortfalls.

*Transnet Limited:*

The shortfall in the Transnet pension fund is as follows:

| | | |
|---|---|---|
| 1992/93 | : | R6 494,4 million |
| 1993/94 | : | R4 691 million |
| 1994/95 | : | R4 208,9 million |
| 1995/96 | : | R3 247,6 million |
| 1996/97 | : | Not available |

(2) (a) and (b) Alexkor Limited:

The Government did not contribute towards any deficit of the Alexkor group pension fund,

*Aventura Limited:*

No.

*Denel (Pty) Ltd:*

No.

*Eskom:*

No.

*Safcol Limited:*

No.

*Transnet Limited:*

No.

(3) *Alexkor Limited:*

Alexkor contributed additional funds to ensure that the fund is fully paid up.

*Aventura Limited*

No

*Denel (Pty) Ltd:*

No

*Eskom:*

No

*Safcol Limited:*

Yes, in terms of the Management of State Forest Act, the State shall make good any deficit on the pension interests being transferred. This matter is at present receiving attention in consultation with the Department of State Expenditure.

*Transnet Limited:*

Yes, at Company formation on 1 April 1990, the deficit of the Pension Fund amounted to R17 180 million. Since that time the following measures were introduced:

- Transnet issued Bonds to the value of R10 394 million to settle a portion of the deficit.
- Transnet's contribution rate was increased from 11% to 15,525%.
- The Rules of the Fund were amended to make provision for the Fund to invest in growth assets, for example shares and property, compared to exclusively Bonds in the past.
- Strict control and management regarding permanent ill health procedures were introduced.
- Antedating of pensionable service was cancelled.
- Widow benefits were reduced by 10% from 80% to 70% of spouse's pension.
- Pensionable emoluments were reduced from final salary to an average of the last 12 months preceding retirement.
- A moratorium of 5 years was placed on ad hoc increases for first time pensioners since Company formation. Such pensioners only receive the 2% statutory increase. The moratorium has since been reduced to 3 years.

**Ncumbe Location: application for electricity**

900. Mr G Q M DOIDGE asked the Minister for Public Enterprises:

(1) Whether Eskom has received an application from community members of the Ncumbe Location in Region E, also known as EG KEI Region, falling under the jurisdiction of (a) Mount Ayliff and/or (b) Tabankulu in the Eastern Cape, for electricity to be supplied to the said location; if so, what are the relevant details; if not,

(2) whether she, her Department or Eskom intends taking steps to have electricity supplied to the said location; if not, what is the position in this regard; if so, what are the envisaged time-frames in this regard;

(3) whether her Department or Eskom has any plans to supply electricity to the area referred to as Western Tabankulu; if not, what is the position in this regard; if so, (a) when will such electricity be supplied and (b) what are the further relevant details? N1550E



The MINISTER FOR PUBLIC ENTERPRISES:

(1) (a) and (b) No.

(2) The Ncumbe location is dependent on the planned grid expansion in the former Transkei region, which is requiring a huge network for bulk electricity supply. The main source of supply for this area will be by the Mount Frere Substation (phase 1) which is scheduled for completion in May 1998.

(3) The Mount Frere substation will also cater for Kupapana and Mngicpongweni in 1998 as well as Siphetu in 1999, which form part of Western Tabankulu. Due to the massive grid expansion required in the former Transkei region, the electrification of the villages further down in Western Tabankulu is not yet planned. Most of the capital budgeted for in respect of the Eastern Cape region for 1998 and 1999 will be spent on grid expansion before Eskom can electrify a significant number of villages in this region.

**Applications for amnesty**

905. Mr J W MAREE asked the Minister of Justice:†

(1) (a) How many persons had already applied for amnesty up to the latest specified date for which information is available, (b) how many such persons have received amnesty and (c) how many of these applications were turned down;

(2) whether he will make a statement on the matter? N1555E

The MINISTER OF JUSTICE:

I am informed that according to the database of the Amnesty Committee, the information is as follows:

(1) (a) On 22 August 1997 a total of 6 944 amnesty applications have been registered.

| | | |
|---|---|---|
| (b) (i) | Amnesty granted at hearings | 50 |
| (ii) | Amnesty granted in chambers | 23 |
| (c) (i) | Amnesty refused at hearings | 17 |
| (ii) | Amnesty refused in chambers | 43 |
| (iii) | Amnesty refused by Amnesty Committee because - | |
| | * applicant denied guilt | 60 |
| | * act was for personal gain | 221 |
| | * act not associated with political motive | 1 237 |
| | * act falls outside cut off date for amnesty | 130 |

(2) A statement is not necessary.

**Minister: present/absent**

1076. Mr C W EGLIN to ask the Minister for Provincial Affairs and Constitutional Development:

Whether he was present at parliament on each sitting day during the first six months of 1997; if not, (a) on how many days was he absent from Parliament, (b) on how many of these days was he absent (i) on State business, (ii) on leave and (iii) on grounds of ill-health and (c) on how many of the days on which he was absent on State business, was he in (i) Cape Town or (ii) any other specified city? N1829E

The MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT:

No

(a) 11

(b)(i) 11

(ii) 0

QUESTIONS

†Indicates translated version.

*For written reply:*

**Health Donations Fund**

481. Mr K M ANDREW asked the Minister of Health:

(a) (i) What total accumulated funds were held by the Health Donations Fund as at 31 March 1997, (ii) what income was generated by the Fund in the 1996-97 financial year and (iii) what was the source of this income, (b) what specified costs were incurred in connection with the management and auditing of this Fund in respect of the 1996-97 financial year and (c) what is the purpose of the Fund? N819E

The MINISTER OF HEALTH

The following supplied information is as at 31 March 1997:

(a) (i) R15 276,25

(ii) R2 129,04

(iii) Monthly interest accumulated on a daily balance

(b) R1 514,60 – audit costs

(c) The moneys in the fund shall be used –

(i) to undertake or promote studies, surveys and applied research with regard to any matter which, in the opinion of the Minister, is related to the functions of the Department;

(ii) to make grants to any person engaged, in the Republic or elsewhere, in co-operation with the Department, in any studies, surveys and applied research referred to in paragraph (i);

(iii) to foster, whether by the granting of study loans or bursaries or otherwise, the training of persons required to undertake any such studies, surveys and applied research, or of persons receiving education in connection with any science which in the opinion of the Minister, is of material importance in connection with any matter relating to health;

(iv) to establish and control facilities for the collection and dissemination of information of a technical nature in connection with any matter relating to health;

(v) generally, to provide any service which the Minister considers necessary in connection with any matter referred to in paragraph (i), (ii) or (iii).

**Bomvini Location: public servants absent from meetings**

572. Mr G Q M DOIDGE asked the Minister for Welfare and Population Development:

(1) Whether, with reference to a certain letter, a copy of which has been furnished to her Department for the purpose of her reply, any officials of her Department failed to show up for two successive meetings convened on 11 January 1997 and 4 February 1997 in the Bomvini Location for the purpose of obtaining advice and assistance for the aged and disabled in that community from such officials; if not, what is the position in this regard; if so, why;

(2) whether the said officials failed to advise the community of their inability to attend these meetings; if not, what is the position in this regard; if so, why;

(3) whether the said officials have taken or intend taking any action to address the problems experienced by the said community; if not, why not; if so, what action;

(4) whether she or her Department has undertaken an investigation so as to determine what issues the said community intended to bring to the attention of these officials; if not, what is the position in this regard if so, what are the relevant details? N957E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) Yes, the main reason for the non attendance of two meetings by officials of the Department of Welfare in the Eastern Cape Province was basically a problem of transport. There is a severe lack of transport at all levels in this province for use by all categories of staff. Government vehicles are centrally controlled by the Department of Transport at the moment;

(2) yes, the social worker concerned did communicate with the organisers of the meeting and explained why she did not honour the appointment. Furthermore, when this matter was brought to the attention of the Regional Director in charge of that region, he formally wrote a letter of apology to the community and particularly explained the, reason of non attendance of his staff;

(3) yes, arrangements were made between the social workers and the organisers for a meeting to take place; and such a meeting took place on 24 April 1997; and

(4) no, the Regional Director of the Department of Welfare in the Eastern Cape has instructed the region director in that region to investigate the issues experienced by the community and thereafter to Report to the Regional Director. It can be reported that during this Region's campaign of the Care of the Aged in the Community in October 1996, the Umzimkulu District chose the Bomvini Locality as their target community.

*Information obtained from the Department of Welfare: Eastern Cape*

**Justice: advisers employed**

617. Mr J H VAN DER MERWE asked the Minister of Justice:

Whether, in respect of each adviser employed by his Department, he will furnish a schedule for the period 1 July 1994 to 1 March 1997, (a) indicating for each month, the number of business days on which such adviser was (i) present in and (ii) absent from the office in which he or she was based, (b) indicating for each business day whether or not such adviser was in the office in which he or she was based and (c) indicating for each business day on which such adviser was not in his or her office, (i) where he or she was, (ii) the reasons for his or her absence, (iii) whether such adviser was absent on official business or not, (iv) whether he or she had prior permission to be absent, (v) the cost of his or her absence and (vi) the steps that were taken in cases of unauthorised absence to (aa) discipline him or her and (bb) recover the appropriate amounts from his or her salary; if not, why not; if so, what are the relevant details in each case? N1057E



The MINISTER OF JUSTICE:

During the period 1 July 1994 to 1 March 1997 Messrs E Daniels and V P Pikoli were employed as advisers to the Minister of Justice. Both of them were based in either Cape Town or Pretoria depending on where the Minister required their services. Both of them were for longer or shorter periods absent from either Cape Town or Pretoria in the course of their official duties as directed by the Minister. Unauthorised absences did not occur. It is, not possible to indicate for each month, the number of business days on which each of the advisers were either absent from or present at the office where they were based. In reality they performed services not only during normal office hours but after hours as well. They were also often required to render services over weekends

**Ludidi Administration area: paying out of pensions**

678. Mr G Q M DOIDGE asked the Minister for Welfare and Population Development:

(1) What facilities are being employed to facilitate the paying out of pensions in the Ludidi Administration area;

(2) whether such facilities have been found to be adequate and suitable for this purpose; if not, what is the position in this regard; if so, what are the relevant details;

(3) whether any problems are being experienced with the paying out of pensions in the said area; if so, what problems;

(4) on what dates were pensions paid out during the latest specified period of six months for which information is available? N1168E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) The Department makes use of mobile units to facilitate the payment of grants;

(2) no, the current system is slow and as a result beneficiaries have to wait long for their benefits. Accommodation facilities are poor and in some areas there is no electricity. The Department of Health and Welfare in the province decided to outsource the payment function in order to improve the service;

(3) the process is slow, resulting in long queues with inadequate facilities such as shelter and toilet facilities; and

(4) beneficiaries received payment in January, March, May and July.

**Elimination of discrimination against women: report**

687. Ms P GOVENDER asked the Minister for Welfare and Population Development:

With reference to the report being compiled by the Government on the implementation of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), (a) (i) what stage has been reached in compiling the report, (ii) (aa) which departments (aaa) have and (bbb) have not submitted reports and (bb) why have the departments which have not yet submitted reports, not yet done so, (iii) what steps are being taken to ensure that departmental reports are being submitted and (iv) what is the time-frame for the completion of the report being compiled by the Government, (b) in respect of the reports so received, which departments (i) have taken positive steps towards implementing CEDAW and (ii) are behind schedule in respect of the implementation or planning for the implementation of CEDAW and (c) in respect of the processing of the report, (i) when is Parliament going to have the opportunity to consider and make inputs in respect of the report and (ii) when is civil society going to have the opportunity to comment on and make inputs in respect of the report? N1177E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(a) (i) The first draft Report of Government on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is finally completed and comments are being invited from interested parties. It has been made available on the Internet and distributed by the Ministry for Welfare.

The planning process entailed the following steps:

At an intergovernmental meeting on 12 December 1996 departments were informed of the report writing process and their writing obligations, and given clear time-frames. On 20 January 1997 an Editorial/Drafting Committee was agreed upon. On this occasion a list of departmental contact persons (and departmental representatives on the Editorial teams, if they were different persons) was drawn up in order to facilitate communication.

Departmental reports were due for submission on 21 February 1997. On that day only nine departments submitted their reports. A series of extensions had to be granted. Because all reports were still not available by mid-April 1997, the initial drafting cycle had to be adjusted. The Editorial Committee, charged with producing the country report, was totally dependent on departmental reports.

The Editorial Committee comprises a designated person each from Justice, Foreign Affairs and Welfare, and two consultants.

(aa) (ii) By 22 August 1997 only two departmental reports, i.e Finance and Posts,Telecommunications and Broadcasting remained outstanding.



Submission of Reports

| | (aaa) Departments who submitted reports | (bbb) Departments who have not yet submitted reports |
|---|---|---|
| 1 | Agriculture | Finance |
| 2 | Arts, Culture, Science and Technology | Posts, Telecommunications and Broadcasting |
| 3 | Constitutional Development | |
| 4 | Correctional Services | |
| 5 | Defence | |
| 6 | Education | |
| 7 | Environment and Tourism | |
| 8 | Foreign Affairs | |
| 9 | Health | |
| 10 | Home Affairs | |
| 11 | Housing | |
| 12 | Intelligence Services | |
| 13 | Justice | |
| 14 | Labour | |
| 15 | Land Affairs | |
| 16 | Minerals and Energy Affairs | |
| 17 | Public Enterprises | |
| 18 | Public Service and Administration | |
| 19 | Public Works | |
| 20 | Safety and Security | |
| 21 | Sport and Recreation | |
| 22 | Trade and Industry | |
| 23 | Water Affairs and Forestry | |
| 24 | Welfare | |

(bb) The respective Ministers will have to explain why their departments have failed to submit reports. The Secretariat and the Editorial Committee have gone to lengths to support departments, provided all of the necessary information and reasonable dead-lines as well as to accommodate the problems of departments, hence the many extensions. A variety of reasons were forwarded to the Secretariat for the late submission, but we are unable to say what the particular difficulties were or are for the department who are still in default.

(iv) Subsequent to the first due date, a progress report was written to Dr. Pahad, in the office of the Executive Deputy President, requesting their office to write to departments urging them to submit by the extension date 7 March.

Notwithstanding the extension, the slow submission rate prevailed. In April, the Minister for Welfare and Population Development verbally raised the matter in Cabinet and followed this up with written reminders.

The Office of the Minister for Welfare and Population Development was engaged in a continuous telephonic follow-up exercise with departments. In addition, since December this office provided information and assistance whenever departments indicated difficulties.

(v) Projected time-frame for completion of the report. Due to slow submission of input by departments, the initial dates were changed and this amended time frame was followed:

| Activity | Expected date |
|---|---|
| Five members of the Editorial Team were each responsible for writing up a few articles of the Convention. After studying each departmental report they had to compile a national response. One member was assigned the Editor. Submit collated response to editor | 30 May 1997 |
| Drafting Committee met to review and correction of first draft. | 19 June 1997 |
| Second draft distributed to interested parties and role-players | 22 July 1997 |
| A national workshop to review the first draft report | 22 August 1997 |
| The editor incorporates workshop comments to report | 5 September 1997 |
| Draft reports ready for submission to Cabinet. | 11 September 1997 |
| Public hearing by the Ad Hoc Committee on CEDAW | 3rd week of September 1997 |

(b) (i) and (ii) It is not easy to answer this question now because of the process which was followed in getting the responses from departments. Studying the submission, the draft team focused on the information that aimed at addressing questions to be covered by the CEDAW obligations. In answering the

departments and 24 Cuban lecturers are employed at UNITRA.

(b) That is still under discussion.

**Students sent for medical training to Cuba**

*24. Rev K R MESHOE asked the Minister of Health:

(1) Whether ten students were sent for medical training to Cuba; if so,

(2) whether these students were selected according to set criteria; if not, what is the position in this regard; if so, (a) what criteria, (b) who interviewed them and (c) what are the further relevant details?

N2064E

The MINISTER OF HEALTH:

(1) Yes.

(2) Yes.

(a) Refer to question 5 answered on 14 May 1997 which was standing over from 7 May 1997.

(b) and (c) Mpumalanga Departments of Health and of Education conducted the interviews. The Minister and officials of the National Department of Health interviewed the final candidates.

**Department: freedom of religion in countries where people are prosecuted**

*25. Dr B L GELDENHUYS asked the Minister of Foreign Affairs:†

Whether South Africa's foreign service is making any contribution to the advancement of freedom of religion in countries where people are subjected to persecution because of their religious beliefs; if not, what is the position in this regard; if so, what are the relevant details? N2065E

The MINISTER OF FOREIGN AFFAIRS:

Yes. As a member of the United Nations Commission on Human Rights, South Africa supported the following resolutions encompassing the right to freedom of religion and belief, which were adopted at the 53rd session of the Commission on Human Rights in April 1997:

(a) Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights.

(b) Right to freedom of opinion and expression.

(c) Rights of persons belonging to national or ethnic, religious and linguistic minorities.

(d) Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

At the 51st session of the United Nations General Assembly in 1996, and at the July 1997 session of the United Nations Economic and Social Council, South Africa similarly supported resolutions pertaining to, amongst other things, freedom of religion.

South Africa has also supported UN resolutions on the situation of human rights in countries with a poor human rights record, including a record of violating basic freedoms such as freedom of religion.

According to the statement made by the Special Rapporteur on Religious Intolerance during the last session (March 1997) of the UN Commission on Human Rights in Geneva, during 1996, 53 communications containing 47 allegations and six urgent appeals had been addressed to 49 states. These communications highlighted numerous cases of violation of the rights of freedom of religion and belief; the right to dispose of religious goods; the right to life and physical integrity, and the tight to health. He drew particular attention to the urgent appeals regarding such abuses which had been addressed to China, Egypt, the United Arab Emigrates and Iran.

These countries, together with Iraq, Saudi Arabia, Sudan, Eritrea, Libya and Afghanistan are among the many who have been brought before the UN Commission on Human Rights as well as before



the UN General Assembly, for exercising religious intolerance.

Other countries do not readily accept visits by the Special Rapporteur. Vietnam and Turkey had yet to respond to request for visits to be made to investigate possible abuses. However, countries like China, Pakistan, Iran, Greece, Sudan, India and Australia have co-operated with UN by receiving the visit by the Special Rapporteur.

South Africa has supported resolutions against Iran, Iraq and Sudan on the question of religious intolerance.

Once more, it is important to note that, during this year's session of the UN Commission on Human Rights, South Africa co-sponsored, a draft resolution on religious intolerance, which was introduced by the representative of Ireland. The draft resolution was adopted without a vote.

Human rights considerations are an integral part of South Africa's foreign policy and are raised, as and when appropriate, in discussions and negotiations with other governments.

*26. Mr J T ALBERTYN – Housing.† [Question standing over.]

**Pensioners registered** (300)

*27. Mr P C MCKENZIE asked the Minister for Welfare and Population Development:

(1) Whether her Department intends reregistering all pensioners; if so, (a) why and (b) what will be the estimated cost involved;

(2) whether a similar reregistration process was conducted in the past two years; if so, (a) why and (b) what was the cost involved;

(3) whether she will make a statement on the matter? N2067E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) Yes;

(a) the data base of social security beneficiaries must be cleaned up and in this way irregularities, fraud and corruption can be reduced and

(b) the estimated cost involved in this process is R110 000 000;

(2) no, there was no nation wide re-registration process with the present criteria and guidelines for re-registration;

(a) and (b) fall away;

(3) yes, the completion of the amalgamation process at the end of March this year of the 14 different pension departments onto one transverse computer data base involved taking on duplicate records, beneficiaries with invalid identity documents and other types of irregularities. The purpose of the re-registration process is to clean up the social grants data base, and reduce the incidence of fraudulent receipt of grants. There are 3.2 million records on the SOCPEN which need to be re-registered.

**Institute for Policy and Social Research: funds**

*28. Mr J A JORDAAN asked the Minister of Minerals and Energy:

(1) Whether any funds have been allocated by his Department, his Ministry or the Central Energy Fund (CEF) to the Institute for Policy and Social Research or to any employee, member or director of the Institute and/or any funds have been solicited from sources outside the Government for this purpose; if so, (a) what total amount, (b) from which specified sources was such funding obtained and (c) when were these funds provided;

(2) whether the Institute or any of its employees have been employed by his Department, his Ministry or the CEF for consultancy purposes and/or any inputs have been made by the Institute or its employees in this regard; if so, (a) what was the nature of these inputs and (b) what are the names of the employees concerned? N2068E

The MINISTER OF MINERALS AND ENERGY:

(1) No.

(a), (b) and (c) Fall away.

**State pension schemes** (300)

*37. Mrs E J CHAIT asked the Minister of Finance: [Written Question No 989]

(a) How many state pension schemes were there as at the latest specified date for which information is available, (b) what are their names and (c) what was the (i) State's contribution in respect of, and (ii) total value of the assets held by, each of these schemes as at that date? N1696E

The MINISTER OF FINANCE:

The total value of the assets of the three State pension funds for which information is available as at 31 March 1997 is:

| Pension Fund | Total Value | State's Contribution |
|---|---|---|
| Government Employees Pension Fund | 91 004 105 857,11 | 6 546 069 705,22 |
| Temporary Employees Pension Fund | 4 034 679 242,56 | 3 395 741,84 |
| Associated Institutions Pension Fund | 5 282 705 001,13 | 43 615 046,99 |

The term State Pension schemes refers to pension benefits payable out of state revenue. These schemes are non-contributory and therefore no assets are accumulated.

*38. Mr D K PADIACHEY – Safety and Security. [Written Question No 990] [Removed.]

*For written reply:*

**Drivers' licences: budget for reissuing**

1082. Rev K R MESHOE asked the Minister of Transport:

Whether budgetary provision has been made for the reissuing of drivers' licences in 1998; if not, why not; if so, what allocations were made for each of the provinces? N1878E

The MINISTER OF TRANSPORT

No budgetary provision has been made for the conversion either of Driving Licences contained in the RSA identity document, or of paper card type driving licences to the new credit card format driving licence.

The contract for the production of the new credit card format driving licence was awarded by the State Tender Board in September 1996. In accordance with this contract the production is scheduled to commence on 1 March 1998. In line with the Cabinet decision, the driving licence cards will be produced on a full user cost recovery basis, i.e. the fee charged to an applicant driver will cover all costs incurred by the testing centre (including computer equipment) and the rate per card tendered by the card bureau contractor.

The bureau service will be compensated monthly in accordance with the number of cards produced, instead of relying on upfront capital expenditure by the state. The card production bureau will amortise its capital cost and interest over the duration of the contract (5 years) through the volume of the cards produced.

**N2: rest facilities**

1084. Mr G Q M DOIDGE asked the Minister of Transport:

(1) With reference to his reply to Question No 828 on 18 August 1997, (a) what is his Department's policy in this regard, (b) how many rest facilities on the stretch of the N2 between Kokstad and Qumbu has his Department approved, (c) which private sector roleplayers have approached his Department in regard to the provision of such facilities, (d) what procedure is followed in this regard, (e) (i) who are the persons and/or bodies to contact in this regard and (ii) where can they be contacted and (f) what role does his Department play in the process;

(2) whether the roleplayers concerned have to submit lay-out plans in respect of such facilities; if so, what are the relevant details;

(3) whether his Department has determined whether there is an adequate number of bus-stop shelters on the abovementioned route; if not, why not; if so, (a) where are they located, (b) what is the physical description of each and (c) what are the further relevant details? N1880E



The MINISTER OF TRANSPORT:

(1) (a) The Department's policy only applies to proclaimed National Roads. While the road between Kokstad and Brook's Nek (±6kms) is a proclaimed National Road, the stretch between Brook's Nek and Qumbu (±80kms) is not a proclaimed National Road.

The South African Roads Board approved policy guidelines on 30 May 1996 relating to service areas alongside proclaimed National Roads. These guidelines are available to the public. The provision of rest facilities is left to the private sector. Facilities have to conform to certain standard conditions.

(b) None. An application for a site ± 5km outside Kokstad was withdrawn at a very early stage.

(c) No private sector roleplayers have approached this Department.

(d) The procedures to be followed are contained in a manual available at the Regional Offices.

(e) (i) The Regional Engineer: Eastern Region of the Department of Transport National Roads located in Pietermaritzburg, for the section from Kokstad to Brook's Nek and the Department of Public Works in Bisho for the road between Brook's Nek and Qumbu.

(ii) Regional Engineer: Eastern Region
P O Box 431
Pietermaritzburg
3200
Tel (0331) 62271

(iii) Department of Public Works
Private Bag X0022
Bisho
5608

(f) The Department examines each application for safety aspects, level of service of the existing road, access standards, location and services provided to the trucker or motorist.

(2) Role players do have to submit layout plans and have to follow the application procedure as documented in the manual and latest policy of the South African Roads Board. The Manual is available for loan or purchase from the Department.

(3) The number of bus stop shelters is determined by the local authority or T.L.C. of the area. The department will also be reluctant to approve too many bus-stop shelters on a National Route as any structure within a National Road Reserve boundary poses a potential danger to motorists.

(a) No record exists of the location of existing shelters as the Eastern Region have had no application for the approval of any shelters from the local T.L.C. or local authority. It is believed that shelters which were provided were vandalised and motorists are reluctant to stop on this route for security reasons.

(b) The Department has no physical description for bus-stop shelters.

(c) Control over the placing and location of bus-stop shelters should be exercised in order that the facility does not become hazardous to the travelling motorist.

of Needs Survey. Annual information on educators will become available through the National Education Management Information system, which is being constructed from the nine Provincial Education Management Information Systems.

*Business interrupted in terms of Rule 199(3) of the Standing Rules of the National Assembly.*

**Building of prisons: tendering process monitored**

*11. Rev K R MESHOE asked the Minister of Correctional Services:

Whether the awarding of contracts to foreign contractors for the building of prisons is to be monitored as far as the tendering process is concerned; if not, why not; if so, what are the relevant details? N1571E

The MINISTER OF CORRECTIONAL SERVICES:

Yes, the State Tender Board, Department of Public Works, and the Department of Correctional Services will, jointly be monitoring the tendering process.

*13. Dr K RAJOO – Health. [Question standing over.]

**State money spent on Lekkerwater**

*26. Mr W A HOFMEYR asked the Minister of Public Works:

(a) What amount in state money was spent on the house Lekkerwater that was made available for the exclusive personal use of the former State President and (b) on what was such amount spent? N1588E

The MINISTER OF PUBLIC WORKS:

(a) and (b)

The National Department of Public Works has received the following information from the Western Cape Provincial Administration.

The following expenditure was incurred by the Western Cape Provincial Administration during the upgrading of the house at "Lekkerwater" in 1990:

| *Expenditure* | *R* |
|---|---|
| Salaries | 35 588 |
| Travel and subsistence expenses | 9 844 |
| Transport | 1 688 |
| Bore hole and pump | 17 185 |
| Stove (Gas) | 3 485 |
| Freezer (Gas) | 1 155 |
| Refrigerator (Gas) | 1 376 |
| Small stove | 192 |
| Key holder | 10 |
| Transport of furniture | 2 900 |
| Geyser | 2 128 |
| Gas installation | 6 208 |
| Road and site works | 38 503 |
| Helipad | 2 216 |
| Total | R 122 478 |

The following amounts were expended by the Provincial Administration on maintenance of the bore hole and the gas and water installations:

1992 : R10 908-92

1993 : R 9 299-04

1994 : R 2 150-27

1995 : R 6 429-58

*Total : R28 787-81*

An amount of R59 000-00 was budgeted in the 1996/97 financial year, for essential maintenance of the residence, as a result of its exposed location on the coast.

**Lekkerwater for exclusive use of former State President**

*27. Mr W A HOFMEYR asked the Minister of Environmental Affairs and Tourism:

(1) Whether his Department or the relevant provincial department of the former Cape Province ever discussed a proposal that the house Lekkerwater in the De Hoop Nature Reserve should be made available for the exclusive personal use of the former State President; if not, what is the position in this regard; if so, (a) when did such discussions take place and (b) what decisions were taken;



(2) whether any proposals in this regard were made to the Administrator of the former Cape Province or any other organ of government; if so, what are the relevant details;

(3) whether he will make a statement on the matter? N1589E

The MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM:

(1) The Department of Environmental Affairs and Tourism was never involved in any discussions.

(2) A former official of the Cape Provincial Administration advised this Department that the Executive Committee of the Provincial Council discussed the matter and made a submission to the Administrator in the late 1980's.

Lekkerwater was donated by a private individual to serve as a resort for the former State President. The donor stipulated that should the State President not use the facility it should be utilized as an environmental training facility.

(3) No.

*41. Mr J A JORDAAN – Public Works. [Question standing over.]

*Questions standing over (transferred for oral reply in accordance with Rule 202):*

*3. Mr L D CHUENYANE – Public Works [Written Question No 64] [Question standing over.]

**Special pensions: applications received/accepted**

*10. Mr K M ANDREW asked the Minister of Finance: [Written Question No 235] (300)

Whether any applications for special pensions in terms of the Special Pensions Act, 1996 (Act No 69 of 1996), have been received and/or accepted; if so, (a) how many applications in each age category had been (i) received and/or (ii) accepted as at the latest specified date for which information is available, (b) what will be the cost to the state of paying the pensions which have been accepted to date in each year over the next ten years and (c) for how many pensions has provision been made? N376E

The MINISTER OF FINANCE:

(a) Total number of applications for special pensions received as at 4 August 1997.

| | 35 - 49 | 50 -59 | 60 - over | Total |
|---|---|---|---|---|
| Living | 5 021 | 1 528 | 2 145 | 8 694 |
| Deceased | 774 | 252 | 1 438 | 2 464 |
| Total | 5 795 | 1 780 | 3 583 | 11 158 |

(a) (ii) The total number of Special Pensions paid to date are 1 169 persons.

(b) To date R59 million was paid out to the accepted 1 169 persons. Subject to increases that may be granted by the Minister of Finance in terms of Section 12 of the Special Pensions Act the cost will remain the same.

(c) Based on actuarial estimates (demographic and statistical) provision was made for a total of 28 000 potential Special Pensions persons. The projected cost for these are:

| Year | Annual Cost (R'Million) |
|---|---|
| 1 | 270 |
| 2 | 300 |
| 3 | 330 |
| 4 | 360 |
| 5 | 400 |
| 6 | 435 |
| 7 | 480 |
| 8 | 525 |
| 9 | 575 |
| 10 | 625 |

*19. Mr L D CHUENYANE – Public Works [Written Question No 399] [Question standing over.]

**Public works: projects initiated** (3)

*39. Mr J A JORDAAN asked the Minister of Public Works: [Written Question No 631]

The Department is now awaiting the decision of parliament on Community Service.

(2) It will depend on the passing of the Bill.

*New questions transferred:*

**Subsidies for homes for the aged**

*1. Mr P C MCKENZIE asked the Minister for Welfare and Population Development:† [Written Question No 60]

(a) What is the total amount in subsidies that has been paid over or is to be paid over to each of the provinces for homes for the aged in regard to the 1996-97 financial year and (b) what is the percentage increase or decrease in each case? N116E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(a) and (b) The amount in subsidies paid to homes for the aged for the 1996/97 financial year in comparison to the 1995/96 financial year well as the percentage decrease/increase per province is provided in the attached table:

The Welfare Reprioritisation Committee (WRC), appointed by a former Minister for Welfare and Population Development, recommended a new subsidy formula for homes for the aged. The recommendations were approved by MINMEC during March 1996 and were to be phased in by provincial welfare departments as from 1 April 1996. The main recommendations were:

- The system of categorising homes for the aged will be discontinued from 1 April 1996 and subsidies will be calculated according to the actual number of persons in each group.
- The maximum level of income for subsidies will be a gross income of R1300 per person per month.
- Subsidies will be targeted only to persons requiring frail care.
- The means test will be applied throughout.

It is envisaged that the new formula will decrease the subsidies in respect of homes for the aged. According to the provincial welfare departments the implementation of the WRC recommendations resulted in a decrease of subsidies to homes for the aged during 1996/97 in comparison with the 1995/96 financial year.

| *Province* | *Subsidies paid in 1996/97* | *Subsidies paid in 1995/96* | *Decrease or increase* |
|---|---|---|---|
| Mpumalanga | R10 549 171 | R11 970 850 | Decrease: 11,88% |
| Western Cape | R76 726 000 | R82 099 000 | Decrease: 6,5% |
| Northern Province | R5 437 536 (Projection) | R5 437 536 | Envisage a decrease, percentage not available |
| Eastern Cape | R30 378 237 (Projection) | R33 190 455 | Decrease: 8,47% |
| KwaZulu-Natal | R34 572 000 | R38 114 491 | Decrease: 9,29% |
| Gauteng | R92 157 000 | R83 263 850 | Increase: 9,65% |
| North West | R13 328 000 | No amount indicated | Cannot calculate |
| Free State | Voted estimate R17 913 000 | R12 814 000 | Increase: 39,8% |
| Northern Cape | Voted estimate R10 835 000 | R12 180 000 | Decrease: 11% |

**Academic hospitals: bed-occupancy**

*2. Ms K W NQWEMESHA asked the Minister of Health: [Written Question No 62]

What was the bed-occupancy percentage at each academic hospital in the Republic in 1996? N118E

The MINISTER OF HEALTH:

I would like to urge the hon member to table this question in the different Provincial Legislatures.

*3. Mr L D CHUENYANE – Public Works [Written Question No 64] [Question standing over.]

**Provinces: examination anomalies**

*4. Mr R S SCHOEMAN asked the Minister of Education:† [Written Question No 74]

(a) How many cases of examination anomalies occurred in each of the provinces at the end of the previous school year and (b) what steps have been taken in each province in respect of such anomalies? N131E



The MINISTER OF EDUCATION:

(a) The question requires a lot of detail and it is a bit difficult for me to give all the details here. Therefore could I please table the detailed written response for the member's pleasure at a later stage. May I also urge the member to contact my office if he needs a detailed report from the Task Team that was dealing with this matter. I also want to assure the member that from the reports I got from the HEDCOM Sub-Committee on examinations that the measures that were taken were effective.

The nature of the irregularities in the 1996 Senior Certificate Examination, varies from one province to the other. Therefore, this matter will be reported in terms of each of the individual provinces.

1. Western Cape

(a) No. of Verified Irregularities: 4

(b) Nature of the Irregularity and the Steps taken

In three of the cases candidates were in possession of crib notes and one candidate copied from another candidate.

The results of the candidates involved were declared null and void and they were permitted to write the examination at the end of 1997.

2. North West Province

(a) No. of Verified Irregularities: 8

(b) Nature of the Irregularity and the Steps Taken:

- During the writing of the Business Economics, Economics and Biblical Studies papers, a total of six candidates were found to be in possession of crib notes.

  In all six cases the scripts were marked and the candidates attained a fail mark. These candidates were not permitted to write the supplementary examination, but may write the November 1997 examination.

- One candidate asked his brother to write the examination paper for him.

  The candidate was given a zero score in the paper concerned and he was not allowed to write the supplementary examination, but may write the November 1997 examination.

- In another case, a candidate asked his sister who was writing the same examination to assist him after she had completed answering her paper. The sister complied.

  Both the candidates forfeited their marks in the subject concerned and will not be allowed to write the supplementary examination, but may write the November 1997 examination.

3. Northern Province

(a) No. of Verified Irregularities: 174

(b) Nature of the Irregularity and the Steps Taken:

- A total of 167 candidates were identified by the invigilators to be in possession of crib notes during the examination.
  These candidates were advised in writing to seek an interview with the Irregularities Officer. None of them have come forward and this was taken as an admission of guilt. The results of these candidates in the subjects concerned, was nullified.

- A large number of candidates allegedly received assistance from other candidates during the examination. These candidates were also interviewed by the Irregularities Officer, but since there was no evidence to support these allegations, the results of these candidates were released.

- The other instances of cheating related to candidates presenting answer books that were different from the ones provided by the invigilator and in another case, two candidates handed in scripts with the same examination number.

  These cases are still under investigation.

4. Gauteng

(a) No. of Verified Irregularities: 1 413

(b) Nature of the Irregularity and the Steps Taken:

- Poor/Negligent Invigilation at Examination Centres

  A large number of students were copying either from textbooks or crib notes during the examination. This was evident from the

the latest specified date for which information is available and (b) what was the percentage increase or decrease in the incidence of tuberculosis in 1996 as against (i) 1994 and (ii) 1995? N1077E

The MINISTER OF HEALTH:

(a) (i) Provincial distribution of reported TB cases for 1996, as on 3 August 1997

| *Province* | *Number of cases* |
|---|---|
| Eastern Cape | 22 322 |
| Mpumalanga | 2 167 |
| KwaZulu/Natal | 11 995 |
| Northern Cape | 2 834 |
| Northern Province | 3 305 |
| North West | 4 099 |
| Free State | 8 621 |
| Gauteng | 10 326 |
| Western Cape | 17 260 |
| Total | 82 929 |

(ii) Provincial distribution of reported cases for 1997 as on 30 April 1997

| *Province* | *Number of cases reported* |
|---|---|
| Eastern Cape | 3 451 |
| Mpumalanga | 817 |
| KwaZulu/Natal | 2 275 |
| Northern Cape | 126 |
| Northern Province | 443 |
| North West | 1 829 |
| Free State | 2 528 |
| Gauteng | 3 180 |
| Western Cape | 3 419 |
| Total | 18 068 |

(b) Percentage of decrease of TB incidences in South Africa for 1996 as compared to 1994 and 1995

| Year | Number of reported cases | % of variation as compared to 1996 |
|---|---|---|
| 1994 | | |
| 1995 | 73 532 | |
| 1996 | 97 997 | 33% |

Source: Provincial Health Departments, April 1997

**Social pensions not received monthly**

*42. Mr P C MCKENZIE asked the Minister for Welfare and Population Development:† [Written Question No 639]

(1) Whether any persons who are lawfully entitled to social pensions and to whom pensions have indeed already been paid out, are currently not receiving their pensions monthly; if not, what is the position in this regard; if so, (a) how many, (b) what are the reasons therefor and (c) in respect of what date is this information furnished;

(2) whether any steps are envisaged to rectify this situation; if not, why not; if so, (a) what steps and (b) when;

(3) whether any steps are envisaged to help pensioners who for months now have not been receiving any income; if not, why not; if so, what steps? N1079E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT:

(1) Yes,

(a) exact figures are not available, as the reasons for non-payment may vary as explained in paragraph (b),

(b) there are various reasons for a beneficiary not receiving payment. This can range from:

* the beneficiary not collecting his or her grant
* incorrect bank account numbers supplied by beneficiaries
* system functionality
* provincial network problems
* data integrity problems
* the grant lapsed after the beneficiary failed to collect benefits for three consecutive months

The following reports on specific cases were received from the provinces:

In the Eastern Cape the benefits of approximately 32 000 lapsed before the systems of the ex-Transkei and ex-Ciskei could be amalgamated onto the transverse computer system.



In the Northern Cape 78 records were rejected by the system as they did not comply with system requirements and vouchers were not generated in respect of 1 996 cases, because the beneficiaries have either passed away, the grant was cancelled or children in respect of whom a maintenance grant was paid, left school.

In Mpumalanga 583 beneficiaries did not receive payment, because they have not claimed their grants for three months and

(c) for the month of May 1997;

(2) yes,

(a) the Eastern Cape Department Welfare has re-instated 1 300 of these cases and are investigating the rest to determine whether they still qualify for a grant.

The Northern Cape Department of Health and Developmental Social Welfare has been engaged in a process to encourage those beneficiaries who are encountering problems with their payments to contact their respective regional offices.

Mpumalanga is in the process of investigation and reinstating the cases concerned.

The national and provincial welfare departments are continuously testing the computer system in order to improve its functionality. The national Department of Welfare is conducting an investigation to improve network and communication facilities.

A national project has been launched to address data integrity problems. This entails the re-registration of all beneficiaries to eliminate duplicate and invalid records taken on during amalgamation, the enrichment of data and a review of the transverse social grants system and

(b) continuously.

(3) social relief is issued. Some of the provinces employed contract workers to deal with backlogs and other provinces set up central sites where applications are captured and enquiries dealt with.

**Department: foreign advisers**

*43. Mr P I BIKITSHA asked the Minister of Trade and Industry: [Written Question No 643]

(1) Whether any foreign advisers are currently involved in projects for his Department; if so, (a) how many, (b) what are the particulars of these projects and (c) which countries are involved in these projects;

(2) whether any foreign countries have made grants towards these projects; if so, (a) which countries and (b) what is the (i) nature and (ii) extent of such grants;

(3) what is the total cost of these projects to the Government? N1083E

The MINISTER OF TRADE AND INDUSTRY:

(1) (a) 3 foreign advisers

(b) (i) Capacity building for Centre for Small Business Promotion (CSBP) – National Small Business Strategy (USA)

(ii) Khula Enterprise Finance Limited (European Union)

(iii) Computerisation Patents Offices Word (France)

(c) USA
European Union
France

(2) (a) USA
United Nations Development Programme

(b) (i) USA: Assistance to DTI for access and ownership of assets by disadvantaged South Africans.
UNDP: Capacity building in small business

(ii) USA: US$2 500 000 over three years
UNDP: US$760 000 over three years

(3) South Africa has to make an in-kind contribution of US$833 333 and R2 000 000 respectively covering office space, staff time and equipment.

# Pension fund advice approved

BD 15/8/97

300

**Robyn Chalmers**

A CABINET committee has approved the Stride committee recommendations on Transnet's ailing pension fund — with one notable exception — paving the way for speedier restructuring of the entity, sources close to the process said yesterday.

The sources said that the one recommendation rejected by the interministerial cabinet committee was that Transnet subsidiaries should pay a contribution to the pension fund over a period, totalling R4,2bn. It was agreed that the finance ministry would make a new proposal to the committee soon.

The Stride committee's initial recommendation on this score was that Transnet be unbundled and strategic equity partners be secured for some subsidiaries. These new owners would then pay a contribution to the pension fund instead of paying tax, as the committee recommended that the tax losses of the Transnet group be used as a means to address the R10bn pension fund shortfall.

The shortfall — along with Transnet's losses — has been a major stumbling block in the government's attempts to find equity partners for the parastatal's business subsidiaries, and has also limited capital for investment in new infrastructure.

However, it proved impossible this week to get clarity on whether the key recommendation of using tax losses — a solution which would not affect the budget — had been rejected.

The finance ministry declined to comment, referring queries to the public enterprises ministry. But this ministry could not elaborate either, saying the issue was "highly technical" and that Transnet could, perhaps, clarify the situation.

Transnet MD Saki Macozoma said he was unaware that a final decision on the recommendations had been taken. "It depends on how you interpret it. I am meeting (Finance Minister) Trevor Manuel this (yesterday) afternoon and I don't think I should comment further," Macozoma said.

He said the new "master plan" for the restructuring of Transnet would be discussed further at the next cabinet committee meeting. The plan took a holistic view of Transnet's restructuring, an approach which was different from the "cherry picking" that characterised earlier proposals.

Another source said that if the tax aspect of the committee's recommendations had been rejected, it was unclear how the state could implement other recommendations such as cancelling the T011 government stock and taking over all Transnet pensioners without the tax payer ultimately picking up the tab.

The proposal to change the pension fund from a defined benefit fund to a defined contribution fund was believed to have been accepted by the committee.

# Consortium signs agreement to re-engineer government pension fund

**Belinda Beresford**

THE finance ministry signed a partnership agreement with a local and international consortium yesterday to re-engineer the government pensions fund — which has potentially implications for the country's macroeconomic stability, and pays out about R9bn a year.

The Government Employees Pension Fund (GEPF) is the largest in the continent, with about 1,25-million members, and has assets of about R450bn.

The first actuarial valuation of the GEPF in 1985 found it was 32% funded, but changes in management of the fund have decreased the deficit. At the latest valuation in 1994 it was about R113bn.

60% funded with a deficit about R45bn against total assets of about R113bn.

The Masibambane consortium comprises Bain & Co, KMMT Brey, Old Mutual, Actuarial Consultants and Tsukudu & Associates. The technology aspect would be supplied by EDS, and the consortium would provide the international Administration Services, "with benchmarks" the consortium said. "was previously the Australian Administration Services, and the consortium Services "will provide the international Administration Services, and the consortium Services "will provide the international Administration Services, and the consortium Services "will provide the international

# Game's up on pension injustice

(300)

ARG 16/8/97

BRUCE CAMERON

Aggrieved retirement fund members, who have been prejudiced for years by unfair conduct or discriminatory rules on a wide range of issues including poor withdrawal benefits, now have more power to fight back.

Many of the practices employers historically imposed on employees can now be challenged through the fledgling Commission for Conciliation, Mediation and Arbitration (CCMA) or bargaining council established in terms of the Labour Relations Act or through the Pension Funds Adjudicator.

Pensions and labour lawyer Peter Strasheim said at a recent Pension Lawyers Association seminar that the decisions of some retirement fund trustees and employers could be ruled out of order in terms of the Labour Relations Act and Industrial Court decisions.

Strasheim says retirement fund trustees and employers may no longer make unilateral rule changes to your pension fund which affect substantive fund benefits.

Many existing rules and practices need to be re-evaluated to ensure they do not amount to unfair labour practices.

Strasheim says that some trustees or companies may initiate significant rule changes to retirement funds before the end of 1998, when it will be compulsory for all retirement funds to have boards of management (trustees) of at least four members and members will have the right to elect 50 percent of these members.

Before the Labour Relations Act and the new Pension Funds Act amendments, employers had virtual carte blanche to change rules of funds.

Strasheim says that the rules of most funds were drawn up by employer-appointed trustees and are not the result of collective bargaining negotiations. The result is that rules are often heavily biased towards the employer, particularly with regard to the amendment of rules, the appointment of trustees and the setting of withdrawal benefits.

Strasheim says membership of a retirement fund is often a compulsory requirement in a service contract.

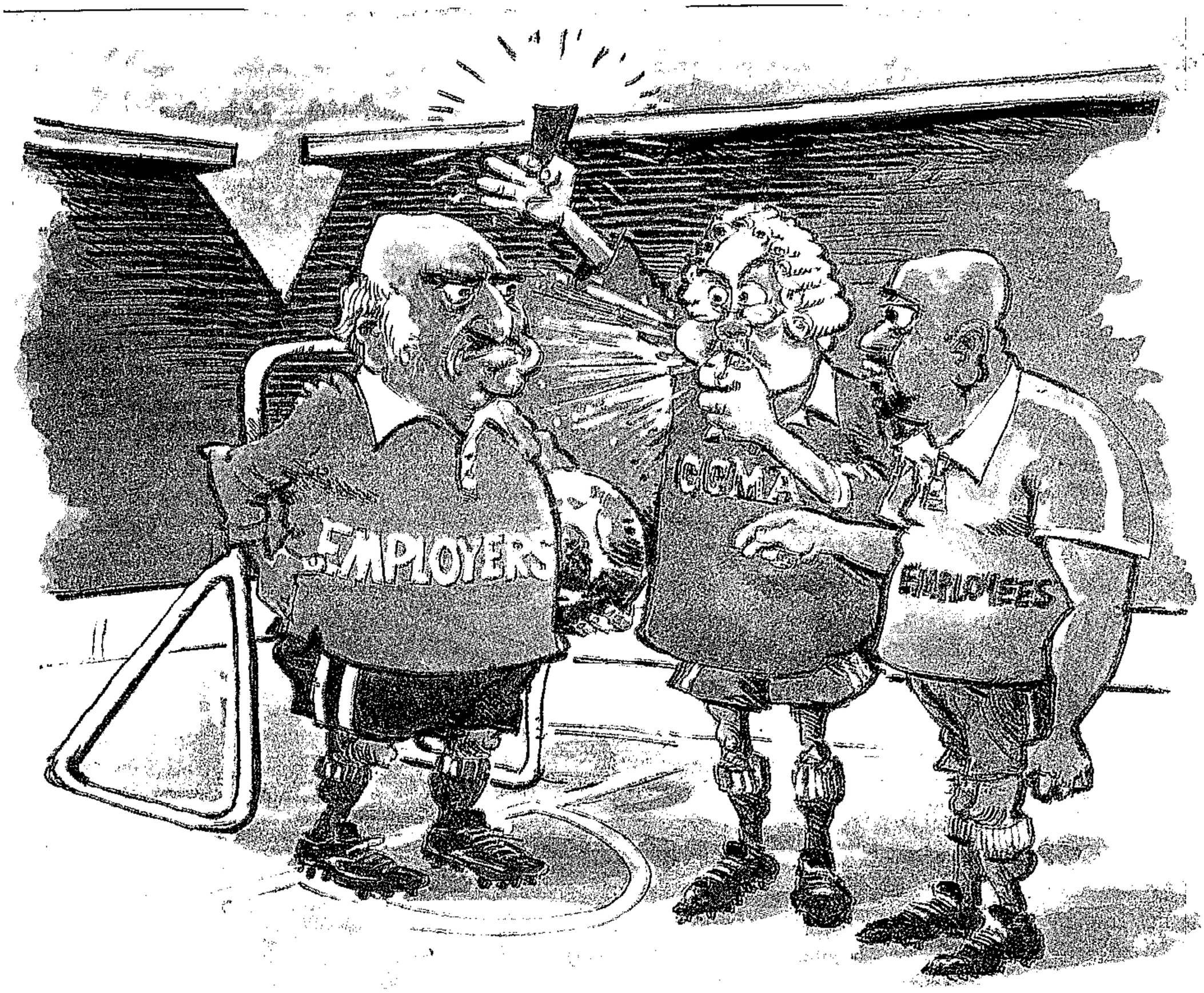
Consequently the courts have ruled that a retirement fund benefit is an element of your terms and conditions of employment.

Industrial Relations Court cases have stated that employers "may not unilaterally change employees' terms and conditions of employment, save for certain exceptional circumstances".

The Labour Relations Act now allows you, as a fund member, to refer a dispute about unilateral rules or procedure changes, which cannot be resolved with the trustees or employer, to the CCMA or a council.

You can ask that a planned change be stopped or that an already implemented change be reversed. The trustee or employer must comply within 48 hours.

Strasheim says changes to benefits and substantive rule changes can only be made after negotiations have taken place between employers and employees/trade unions.




# Tackling the issues of unfair labour practice

(300) ARG 16/8/97

A number of issues could fall under the definition of a residual unfair labour practice relating to retirement funds.

You, as an employee, may be able to tackle your employer on these issues through the Commission for Conciliation, Mediation and Arbitration or through a bargaining council.

Pension and labour lawyer, Peter Strasheim says these practices include:

◆ Withdrawal benefits, when you leave a fund before retirement, that are paid out at below-market interest rates;

◆ Having unfairly discriminatory fund membership qualifications;

◆ Having unequal contribution rates for similar benefits, or unequal benefits for similar contribution rates;

◆ An array of issues relating to ill-health or disability including: making eligibility conditional on a fixed number of years service or age irrespective of the severity of a disability; repudiations of claims caused by "own action, fault or negligence "; non-disclosure of disability claim medical reports; no rules for rehabilitation, disability accommodation, or job modification; provision for increasing contribution levels to accommodate a shorter working life; and rights of appeal to an independent body against the rejection of a disability claim;

◆ Differentials between on and off-duty death benefits;

◆ Gender and age discrimination in fund rules and practices;

◆ Non-recognition of customary law and non-civil "marriages";

◆ Consistent unfair, illogical and unlawful exercise of discretion in awarding benefits, evaluating and condoning claims; and

◆ Poor information disclosure relating to a number of issues including: benefits, funding, investments, minutes of trustee meetings and decisions.

# R400-m pension scam

ARG 19/8/97 (300)

## *State exposes thousands of 'ghosts' and duplicate claims*

POLITICAL STAFF

**The Department of Welfare has exposed a colossal pension fraud which has been costing taxpayers almost R400-million a year in payments to "ghost" pensioners.**

A department spokesman confirmed that in the past 18 months it had detected social pensions were still being paid each month in the names of nearly 76 000 pensioners who had already died.

The fraud includes duplicate pensioners – people who were collecting more than one social pension because of the chaotic apartheid-era financial records.

Projections show that in total "ghosts" and "duplicates" were being paid almost R400-million a year unlawfully.

In the first half of this year, 16 216 "ghosts", and "duplicates" were detected and their names deleted from the newly computerised social pension (Socpen) system, the spokesman said.

This alone had saved an estimated R96-million. Last year 46 000 "ghosts" and "duplicates" were detected, resulting in an estimated saving of R240-million.

Cleaning up the Socpen system is a joint operation by the Department of Welfare and the Department of Home Affairs.

The operation involves tracing deceased beneficiaries on the population register in whose names social grants are still being paid, and pinpointing names of people who have registered more than once.

Officials say amalgamation of the 14 separate pension systems that existed under apartheid, and the establishment of a computerised single system, have helped them expose the fraud.

"Ghost" and "duplicate" pensioners have existed for years and the problem had become chronic by the time the apartheid system was abandoned and a consolidated national register was introduced.

On April 15 this year, 16 216 "ghost" pensioners were expunged from the new system. This meant a saving of R13 945 760 to the end of June, when the value of a monthly grant was R430, and R45 729 120 between July and December, because grants had risen to R470.

On June 30 a further 12 931 records were cancelled, saving R59 674 880.

Last year about 26 000 "duplicates" were picked up, saving a projected R134-million annually.

There are about 3-million recipients of social pensions in South Africa.

# 3-m must reapply for pensions

ARG 21/8/97 (300)

POLITICAL STAFF

**South Africa's 3 million pensioners will have to re-register because of colossal fraud and duplication uncovered in the system.**

The re-registration will include pensioners and recipients of social grants in the Western Cape, who only recently had to re-register, officials confirmed today.

The exercise is expected to cost about R100-million and is to be spread over the next 18 months.

It will include the most rigorous and exhaustive search for "ghost" and "duplicate" pensioners yet undertaken in the country.

Earlier this week the Cape Argus revealed that 76 000 "ghost" and "duplicate" pensioners who had been receiving about R400-million a year illegally had been eliminated from a newly computerised national list of pensioners, after the consolidation of the 14 welfare departments that existed under apartheid.

But an investigation by the Department of Welfare has shown that the fraud inherited from the apartheid era is "vastly greater" than anyone had suspected and that the only way of eliminating it is to launch a completely new national re-registration exercise.

A department spokesman said today the re-registration could save taxpayers about R1-billion a year.

The old records of the 14 apartheid-era welfare systems were so inaccurate and incomplete that virtually every database used in drawing up the single national register of pensioners has proved to be unreliable.

In order to eliminate fraud and duplication, the department will be using new "data-mining" technology, which pinpoints suspect pension claims and continuously explores inconsistencies.

"The re-registration applies to all beneficiaries in the country," a spokesman said today.

"The department will take all the new information and compare it with existing files.

"Once these have been updated they will be checked with files from the Department of Home Affairs and we will then be in a good position to suspend beneficiaries who are not entitled to grants."

The spokesman warned that beneficiaries who do not turn up for re-registration will also be suspended.

The Cape Argus will keep readers informed of re-registration plans for the Western Cape.

# Pension bill details wanted

CT (BR) 27/8/97 (300)

FROM REUTER

Cape Town — Billions of rands in additional tax could be released to the cash-strapped government if it adopts a controversial new scheme to allow employers to tap excess assets in pension funds.

But though the Financial Services Board (FSB) plans to insure that every possible step is taken to prevent employers from plundering pension funds recklessly, the parliamentary finance committee said yesterday it wanted more background detail on the pros and cons of the plan.

Peter Milburn-Pyle, an FSB actuary, told the committee the proposed Pension Funds Amendment Bill would enable employers to withdraw excess assets from pension funds under certain strict conditions.

Milburn-Pyle said the legislation focused on defined benefit pension funds, under which members were promised benefits defined by a formula no matter what happened to the funds, with the employer picking up the tab.

"The big question is, if such a fund is found to have assets surplus to its requirements, what can be done with that surplus?"

To date, surpluses had been used to improve benefits, reduce contributions by employers or have been carried forward to provide security for the fund.

But in countries like Britain, employers had been allowed to withdraw some of the assets. "And that is the gap that we are now seeking to fill," Milburn-Pyle said.

The arguments against this were that members should benefit as well, and that surpluses had been built up by poor payments to members.

Arguments for the change included the fact that employers might have been overcharged in the past and that it made sense to allow them to withdraw funds, especially if their company faced financial difficulties.

A task team eventually decided to allow withdrawals.

An important factor in this decision was that if withdrawals were banned, employers would do everything they could to ensure that the funds did not have surpluses. "The whole security behind members' benefits would be dramatically watered down," Milburn-Pyle said.

This would mean pensions would not be increased to keep pace with inflation and benefits could not be improved.

The trend to move away from defined benefit to defined contribution funds would also be accelerated, thus shifting the risk on to fund members. "At the end of the day it was decided that permitting surpluses to go out was a win-win situation," he said.

But special provisions would be put in place to prevent the abuse of this concession, including close supervision by the FSB and the fact that plans for withdrawal had to be fully backed by the trustees, fully explained to members, and approved by at least two-thirds of members.

# Employers may gain access to pension fund surpluses

(300)
BD 27/8/97

**Linda Ensor**

CAPE TOWN — A proposed amendment to the Pension Funds Act to permit employers to withdraw surplus assets from pension funds will be presented to the cabinet next month.

Parliament's finance committee heard yesterday that such a move could generate billions in tax revenue.

Financial Services Board chief actuary Peter Milburn-Pyle said employers would be taxed at a rate of 35% on withdrawn surpluses. While broadly supporting the principle behind the proposal, committee members raised fears of a repetition of Robert Maxwell's raid of the Mirror Group pension fund and the collapse of UK-based BCCI, which left fund members destitute.

Milburn-Pyle said labour and business had been consulted on the proposal, which would strictly control employers' right to withdraw surpluses, mainly from defined benefit funds. He believed employers had a legitimate claim to the surpluses as they had paid higher contributions than required to pay the stipulated benefits. Surpluses could also help companies under threat of liquidation to stay in business.

In the past surpluses could be run down only by improving benefits or reducing employer contributions. However, such huge surpluses had built up in some funds that it was not possible to reduce them by these means.

Milburn-Pyle said some form of legislative amendment was required as several high court judgments had cast doubt on whether the Pensions Act actually prohibited withdrawals. He argued strongly against enacting a prohibition, saying this would provide a disincentive for employers to build up healthy surpluses, which acted as a cushion against market movements.

Labour federations initially argued against granting employers the right to withdraw on the grounds that pension funds were trust monies which should be paid out only as benefits; surpluses arose through financial ill-treatment of members in terms of miserable withdrawal benefits and meagre pension increases; members also contributed to surpluses; and the employer was not legally liable to rectify a deficit in the fund should one arise.

However, Milburn-Pyle said labour had been persuaded by the argument that barring withdrawals would result in employers undercontributing to prevent surpluses developing, resulting in pensioners not getting increased payouts. It would also accelerate the trend towards defined contribution funds, which placed all risk on employees.

Employers withdrawing surpluses would have to sign legal undertakings to fund any future deficit in their funds. Applications for withdrawals would have to come from fund trustees; actuarial valuations would follow prescribed rules; and fund members would have to approve them.

# Plan to unlock pension funds'

## *Labour backs employers' bid to withdraw surplus assets*

ARG 27/8/97

**Employers could be given the go-ahead to withdraw surplus assets, possibly totalling billions of rands, from their employees' pension funds if changes to legislation proposed by the Financial Services Board (FSB) are accepted.**

The FSB's chief actuary, Peter Milburn-Pyle, said yesterday that the relevant amendments to the Pension Funds Act had the support of a wide range of interest groups, including labour and business.

He said the provisions would especially benefit companies with pension funds which had generated huge cash surpluses that they could not get rid of by conventional means.

The practice so far has been to use surpluses to increase benefits to members, decrease employers' contributions or hold the cash over to provide future security for the pension fund.

Businesses that were "going down the tubes", but had large surpluses, could use these funds to save jobs, Mr Milburn-Pyle said.

He told Parliament's finance committee the legislation would also ensure abuses did not occur and the interests of members were protected.

Arguments for the changes were that the employer had contributed more than necessary to the pension funds in the past and that the changes would benefit the fund's members.

If the distribution of surpluses was prohibited, employers could take steps to ensure that they did not arise, which would be to the members' detriment, Mr Milburn-Pyle said.

Pensioner groups had argued that surpluses should go to members, but labour federations had agreed that employers should be allowed to withdraw surplus assets.

Mr Milburn-Pyle did not know exactly how much could be unlocked from the pension funds, but research undertaken by a University of the Witwatersrand academic indicated it could amount to billions of rands.

For the surpluses to be distributed, the registrar of pension funds would have to be satisfied that details had been disclosed to members of the fund in a way that was complete, precise and understandable. (300)

The members would also have to have reasonable time to approve or disapprove of the application.

For it to go ahead, at least two-thirds of those who responded to the application must approve of it.

Mr Milburn-Pyle promised that defined benefit retirement funds would not be put at risk if the legislation was passed, even in the event of a stock market slump. – Sapa

billions

# Commission panned for racial bias in placing

BD 3/9/97

**Linda Ensor**

CAPE TOWN — The Public Investment Commission, which manages the R130bn state pension fund, has come under attack for its performance in stock selection, alleged racial bias and failure to place funds with black asset managers.

The commission's operations, raised in Parliament's finance standing committee yesterday, are to be investigated by the public accounts committee.

Finance committee chairman Sipho Mpahlwa said he regularly received complaints about the commission's treatment of black applicants, and the fact that it was an untransparent "one man show" which excluded small black asset management companies.

Oasis Asset Management MD Adam Ebrahim complained in a letter to Mpahlwa of the "disappointing" and "shabby" treatment allegedly meted out to the company's executives by commission secretary Badie Badenhorst.

Badenhorst would not comment except to say that the letter was "factually incorrect," appeared to be directed at him personally and would be taken up with the finance committee.

Finance department spokesman Jennifer Wilson noted that a restructuring of the commission was on the cards and would take place within the context of a restructuring of the Government Employees' Pension Fund.

Wilson said the department and ministry were committed to the development of small, emerging companies.

According to Ebrahim's letter, Badenhorst, "without any understanding of where we came from, said the ministry of finance just sends ANC-linked organisations to him to get money, and that they were very presumptuous to do so as he had no time for organisations such as our own".

Ebrahim noted that the commission's entire executive committee consisted of "white males appointed by the former regime".

It appeared there were "no laid down policies for the selection of fund managers" and that selections were "entirely dependent on the commissioner's whims".

"Without mentioning any names, we know that he has allocated large sums of money to players who have little industry experience but were introduced to him by his old connections."

Earlier this year the commission selected Liberty Life, Old Mutual, Rand Merchant Bank, Sanlam and Southern Life asset managers (300) to handle its equity investments.

Each had received a portion of the commission's R5bn equity portfolio and would get a portion of the state pension fund's R4bn cash flow.

Ebrahim slammed Badenhorst's lack of experience in placing public funds in the equity market, saying the commission's portfolio was "highly skewed" in favour of Sasol and Didata, and contained only three stocks that appeared in the all share 40 index.

# Pension fund loans made easier

CT(BR) 3/9/97 (300)

**BRUCE CAMERON**

Employers may soon be able to automatically use funds from their employees' retirement funds to back up their business within predetermined limits.

At the moment employers and companies cannot automatically draw on the retirement funds they sponsor as an extra source of finance without permission of the Registrar of Pension Funds.

The permission, normally within five percent of assets, is currently widely given.

In terms of legislation tabled in Parliament this week the right will be given to retirement funds to invest in the fund's sponsoring company or employer and also to lend money to the employer. Approval will also have to be given by the trustees of the fund.

Funds will not however be able to invest or lend more than a fixed percentage of their assets to an employer. The percentage will be set by regulation.

The legislation also closes a loophole which has enabled employers to hold back pension fund contributions of employees to retirement funds.

In future employers will have to pay the money over within seven days of the end of the month or interest will have to be paid on the outstanding amounts.

The Registrar in future will also set down regulations which will prescribe minimum levels of information that employers will have to provide to employees about the payment of contributions to their retirement fund.

Retirement fund members may also be given additional protection if an employer withdraws from a fund. At the moment stipulations which protect members when a fund is terminated or dissolved do not apply to funds where the employer withdraws from the fund but the fund continues to exist.

The draft legislation will extend the same provisions that apply to funds being terminated or dissolved to funds in which an employer is no longer involved.

# Public service unions want to see pension fund report

Reneê Grawitzky BD 4/9/97 (300)

PUBLIC service unions have called on the finance department to release a copy of the actuarial report on the funding levels of government's pension fund as they fear government might dip into the fund to finance public service wage increases.

Unions, including the Public Servants Association, had put in a request two months ago to finance director-general Maria Ramos for a copy of the report and had still not received a response. Unions believed they were entitled to a copy as their members, like their employers, were "owners" of the fund.

Finance department spokesman Jennifer Wilson said there was no connection between the actuarial report and wage negotiations. The department, she said, was analysing the report and would release it when it was ready to do so.

Public service and administration deputy director-general Neva Seidman-Makgetla said any additional funds required to finance extending the teachers' settlement to all other public servants would not come out of the pension fund.

Union sources believed extending the teachers' wage settlement — a rise of between 8% and 11% — would require additional funding.

It is believed the majority of the funding would come from the reallocation of existing funds, while it was still unclear where an outstanding amount of between R100m and R200m would come from.

Wilson said the department could not respond as it could not be involved in wage negotiations. This was despite the fact that Finance Minister Trevor Manuel sat on the mandate committee.

The actuarial evaluation would show the annual status of the fund in terms of liabilities and funding position. Unions believed that the pension fund was overfunded. If that was the case, government faced the option of considering the negotiation of a reduction in its contribution of 17% of employees' salaries, which could save it billions. This contribution was almost three times the amount paid in the private sector.

PENSION FUND SURPLUSES

# Tight controls will look after members' interests

Employees can have their say whether or not employers get that cash injection FM 5/9/97 (300)

Giving employers access to pension fund surpluses is an emotive issue. A task group appointed last year by the Pension Funds Advisory Committee proposed to the Finance Portfolio Committee last week that employers be allowed this access. And this has caused anxiety among pension fund members.

However, the proposal comes with provisos. If they are accepted, cash withdrawals by employers will be allowed only in limited circumstances and subject to certain requirements.

The convenor of the task group, State Actuary Peter Milburn-Pyle, says "there is a case for payment of surplus assets to employers, under proper controls to prevent abuses and maintain the security of members' rights."

The first requirement is that the request to allow the employer to reap some of the benefit of a surplus would have to come from the pension fund trustees.

A further requirement is that at least 50% of the members of the board of trustees must have been elected by the members of the pension fund.

Third, pension fund members must be polled and a two-thirds majority of those who respond must agree before there is any withdrawal by the company.

The incentive for members to agree, says Milburn-Pyle, is that allowing employers access to surpluses will encourage them to finance their pension funds substantially. This, in turn, "will enhance the security of their benefits and increase the likelihood of improvements."

There is a quid pro quo. The task group also proposed that, for the first time, employers be made legally liable for pension fund deficits — but only if they have previously withdrawn surpluses, and to the extent that they have withdrawn surpluses. The legal obligation will apply for seven years after the withdrawal.

Business and labour, which were represented on the task group along with many other interest groups, still have reservations about the proposals.

Cosatu's Jan Mahlangu says labour's first problem relates to why there is a surplus in the first place.

"It may be because the employer has increased its contribution to avoid paying tax on those funds. And it may be because members have been unfairly dismissed and have therefore not benefited fully from their contributions to the fund."

The second reservation relates to the major switch that is taking place from defined benefits to defined contributions. (See *Open Season* on page 58.) This shifts the risk from the employer to the pension fund member and, therefore, removes the moral ground under the argument that "the surplus belongs to the employer."

Milburn-Pyle agrees and says "the legislation, as proposed, seeks to address these reservations."

Business SA's Barry Shipman says one of BSA's problems with the proposals is that seven years is too long for the obligation to remain in place. "It could hamper the restructuring of companies."

The second problem is the formal ballot requirement. He believes it is too inflexible and that an arrangement with the unions could be equally effective in preventing abuses.

"The proposed legislation is due to be presented to Cabinet for approval in mid-September, after which it will be referred back to the Portfolio Committee on Finance for final detailed examination," says Milburn-Pyle.

Ethel Hazelhurst

HEDGE FUND SYMPOSIUM

## Look before taking quantum leap

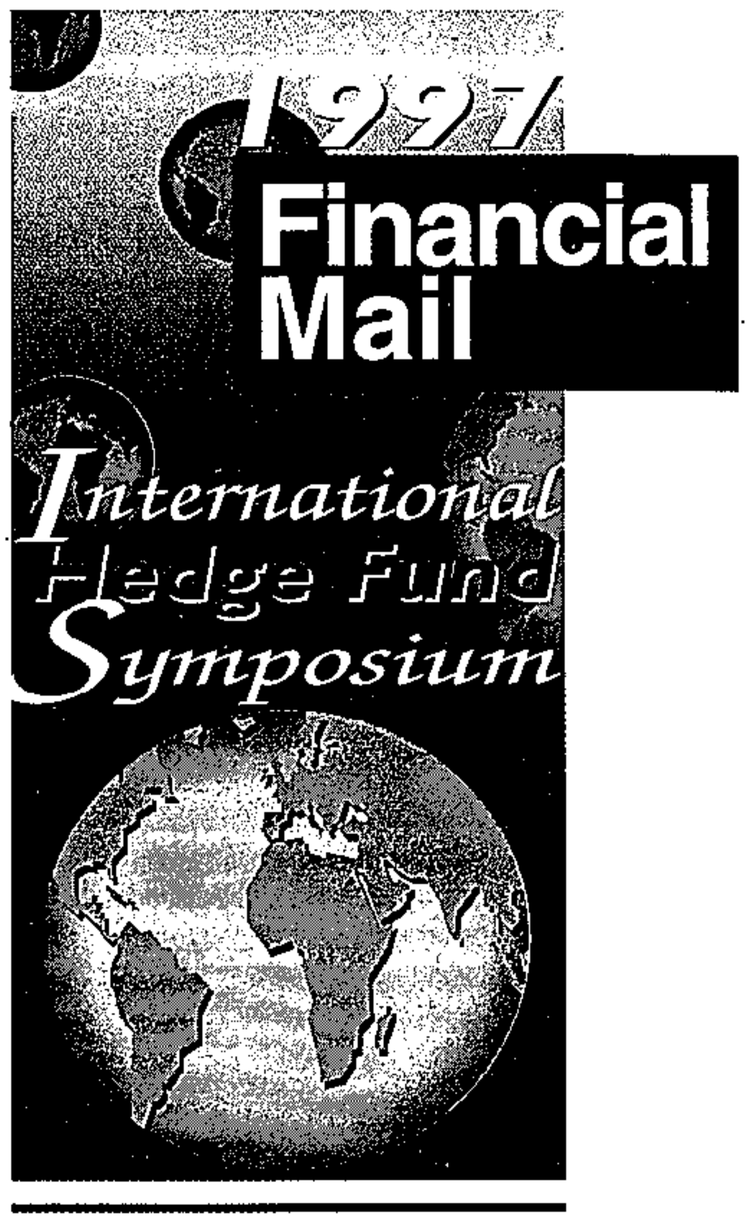
**What are** the tax consequences for high-net-worth South Africans investing in the US as nonresidents? And what happens if they decide later to become residents?

Stanley Joffe, an SA-born tax and estate planning adviser now based in the US, will give the answers at the *FM* International Hedge Fund Symposium on November 19-20.

He will talk on the federal income tax effects of investing in the US and the consequences of passing on investments from one family member to another.

Joffe, a member of the American Bar Association, graduated from Wits University in 1962 with a BCom degree, and later obtained degrees in law and in federal taxation and estate planning. He has specialised in developing international tax structures for South Africans investing in the US, and was involved with new US tax legislation which has made it more difficult for foreigners to create tax-free income there.

The *FM* symposium, at Gallagher Estate, Midrand, has attracted more than 30 international speakers. For bookings and details, call Global Conferences tollfree on 0800-222858, or contact the symposium website on: www.hedgeconference.co.za. ■



PANDE GAS

# At last, some sign of life

Iron and steel plants will create about 1 000 jobs in Maputo

**US energy** giant Enron and the Industrial Development Corp (IDC) have jointly announced that site preparation and construction on Enron's US$400m Pande gas field and pipeline development should start by next July.

The project will be coupled with the IDC's Maputo-based $1,6bn combined iron and steel plant, in which giant Swiss steel trader Duferco has an interest.

Duferco spokesman Klaus Borowski says his group has a "real, definite interest in operating the 3 Mt-3,4 Mt/year slabs and blooms steel plant, downstream from the IDC's iron plant." Duferco trades about 7 Mt of steel and 7 Mt of raw materials globally each year.

While no formal agreement has been signed, Borowski says "we agreed to participate in the feasibility study that will be completed in December." A prefeasibility study on the steel plant has been completed.

The arc furnace steel plant, costing $450m-$500m and using cheap Eskom surplus power from the planned 400 KV lines that will also power Alusaf's new Mozal aluminium plant in Maputo, will export product to the Far East, Europe and the Americas "and should, together with the IDC iron plant, provide about 800-1 000 direct job opportunities."

Raw material costs — iron produced by the IDC plant, using gas from Enron's Pande gas field, some lump iron ore from Sishen and magnetite ore pumped from Phalaborwa via a proposed slurry pipeline — "should be competitive, in principle," says Borowski.

He adds that Duferco's planned Maputo investment and its $130m, 650 000 t/year cold-rolled and galvanised downstream product plant at Saldanha Bay "represent the first major greenfields foreign direct investment projects in the region following the abolition of sanctions."

Enron senior vice-president for Africa Tony Way says "the twin Maputo iron and steel projects will use sufficient volumes of Pande gas over a 20-25 year period to justify the $400m construction of a first-phase pipeline to Maputo."

A second-phase pipeline will be considered at a later stage which will feed directly into the SA market.

Way also confirms that the Heads of Agreement signed between Enron and the Mozambican government in November 1995 was duly extended last February until May 31 1998, "allowing the parties sufficient time to complete detailed feasibility work and ultimately a bankable document to facilitate project financing and implementation."

This statement seems to put paid to uncertainties, following doubts expressed in recent statements by Mozambican Minister of Mineral & Energy Affairs John Kachamila about the feasibility of the $2bn project.

Arnold van Huyssteen



*John Kachamila . . . doubts laid to rest*

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# Coalition proposes restructuring pension fund

BD 6/9/97 (300)

**Kevin O'Grady**

THE SA Nongovernmental Organisation Coalition, which is campaigning for the eradication of "apartheid debt", has proposed restructuring the public pension fund to relieve government of R100bn in debt and save R15bn a year in interest payments.

The coalition, which recently formed the apartheid debt steering committee, made its proposals public yesterday and said they would be presented to Finance Minister Trevor Manuel.

The proposals, commissioned from development consultant Gavin Duffy, suggest half the R200bn increase in government debt since 1989 is accounted for by pension fund assets growth, from R31bn in 1989 to R136bn last year.

The coalition proposed the R100bn invested in government bonds by the public investment commission, which acts as a trustee for the investment of public pension funds, be used to write off debt, freeing up about R15bn a year in interest payments.

Duffy said this would entail converting the pension fund to a "pay as you go" fund, which would not affect the payment of pensions as the commission's investments were being used only to accumulate the capital value of the fund.

The savings on interest and debt repayments could fund important development projects.

Coalition executive director Kumi Naidoo said: "The major problems that confront our society ... require precisely the level of financing that currently goes towards servicing the debt." The coalition and its partners had commissioned research, including that which produced the pension fund restructuring proposals, "to ascertain the structure of apartheid debt and to explore responsible, considered and rational solutions".

Drawing on the international doctrine of "odious debt", the coalition argued debt incurred by the apartheid government "should not leave democratic SA with a moral burden to honour it", Naidoo said. The "relatively small" slice of foreign debt owned by private commercial institutions was receiving attention by the coalition's allies in the former anti-apartheid movements. Moves were afoot in Germany to launch a campaign against banks which gave loans to the apartheid government and which now expected the loans to be serviced.

# FSB sets rules for tapping pensions

**The Financial Services Board has proposed pre-conditions for employers to tap into the excess assets of their pension funds.**

FSB chief actuary Peter Milburn-Pyle told Parliament's finance committee that the pre-conditions would minimise the chances of the funds deteriorating, or being exposed to risk.

The committee had asked the FSB for more information on legislation proposed by the body to allow employers to access the excess assets.

Mr Milburn-Pyle said excess assets available to employers should be limited to those the funds would never need.

Funds would have to have sufficient to cover the actual liabilities of members' benefits, determined on strong technical bases, with built-in safety margins, and an additional 25 percent contingency margin.

If there were still surplus assets, they could be deemed to be "excess".

The employer should also become liable for any future fund deficit, which would provide "all the incentive in the world" for the trustees and the actuary to ensure that the fund's condition did not deteriorate.

The measure would encourage employers to retain defined benefit funds rather than switch to defined contribution funds.

There would also be significant tax implications – "a substantial inflow to the fiscus", which Mr Miburn-Pyle estimated at R2,5-billion – Sapa

# Anger over pensions 'purge'

## 3-m forced to re-register after fraud probe

GAG 17/9/97

(300)

JOSEPH ARANES AND JERMAINE CRAIG
STAFF REPORTER

**Organisations serving the aged have reacted angrily to the Welfare Department's announcement that three million pensioners will have to re-register to purge the system of fraud and duplication.**

Peter Anderson of the East Claremont Congregational Church said while he understood and supported the Government's motives for wanting pensioners to re-register, he hoped they had the expertise to see the process through.

"Presently, it takes almost 20 months for a pensioner to get a payout after registering ... if they have to do it all over again, the Government must ensure that the aged will continue to get their benefits.

"Coming so soon after pensioners in the Western Cape re-registered, one feels apprehensive and questions whether they have the expertise and ability required to make it a success this time."

He said most pensioners accepted that the Government was not trying to inconvenience them but they needed assurances that their income would not be affected in any way. The announcement followed an investigation which showed that the fraud inherited from the apartheid regime's payout system was vastly greater than anyone had expected, and that the only way of eliminating it was to launch a completely new national registering exercise.

Although it is expected to cost about R100-million and take about 18 months, the department believes it will save taxpayers about R1-billion a year.

Pensioners and recipients of social welfare grants will have to re-register.

Chief executive officer of the Cape Peninsula Organisation for the Aged William Rauch said his biggest concern was that pensioners would again have to endure the hardship and pain of long queues when re-applying for pensions.

"Most of these people are frail and weak and to burden them with this process is unacceptable," Mr Rauch said.

A meeting of the Western Cape Pensioners' Forum, comprising pensioners' representatives from all the province's black townships, was held in Langa to discuss the issue. Chairman Bennett Mpofu said pensioners were "angry and not satisfied" with having to re-register.

Pensioners complained they sometimes waited more than a year to get a payout after applying and felt the re-registration would cause more problems.

They were also unhappy that doctors sometimes rejected people applying for disability grants, declaring them fit for work when they were "very, very sick".

His sentiments were echoed by vice chairman Emmanuel Ngxamngxa who said people were unhappy at having to wait so long for their pensions but felt they were helpless to act.

"Some people have applied time and again and every time they are told to come back next month. When they return they are told their pensions are not through and sometimes they are even told their pensions have been cancelled and they are fit to work," Mr Ngxamngxa said.

(300)

# Pension fund money scrutinised

ET(BDR) 17/9/97

**LYNDA LOXTON**

PARLIAMENTARY CORRESPONDENT

Cape Town — Members of parliament's trade and industry committee were yesterday asked for the second time in less than a month to approve legislation that would allow employers to draw money from their employees' pension funds.

Last month, the Financial Services Board (FSB) gave members a briefing on planned legislation to allow employers to tap excess assets in pension funds. Then, the committee was presented with the Pension Funds Amendment Bill yesterday.

Renier Botha, the FSB pension fund manager, said that among other things, the bill would formalise the trend of allowing employers to "invest" a minimum of 5 percent and a maximum of 10 percent of pension fund money in market-related investments.

This would be different from the planned legislation on excess funds in that the investments would provide the fund with a return while the excess funds would be a gift to employers with no return for the fund.

Exemption on the 5 percent investment limit had so far involved cases where the original investment had grown in value to more than 5 percent, and the FSB had thought it best to limit any further investments but not ask the fund to sell that investment.

The investment decisions would be taken by the trustees of the pension fund. Botha said work was at an advanced stage to provide legislation on professional indemnity and fidelity insurance for pension funds.

Committee members said they would discuss the plans before they could agree to legislation.

# Mine pension funds report lower returns

ST (BT) 28/9/97

FALLING FORTUNES

By THABO KOBOKOANE

THE Mine Employees Pension Fund and the Mine Officials Pension Fund both reported reduced returns in individual returns on assets of 13.6% (1996: 29%) and 12.5% (27.9%) respectively for the year ended June.

The MEPF and MOPF, both controlled and managed by the MPF Management Services, are two of SA's largest privately administered pension funds and together manage assets totalling R29.9-billion on behalf of about 75 000 members and 31 000 pensioners.

The funds' portfolios are heavily geared towards the equities market — about 72% of assets are in equities, largely in the industrial and financial sectors — which means that the returns are subject to the ups and downs of the market. In the year to June 1996, both MEPF and MOPF benefited from the market bull run, but the less-than-impressive run of the all-share index, at about 10.5%, has dented returns in the 1997 financial year. For the year, the MEPF and MOPF equity returns both showed drops to 13.2% (32.6%) and 11.3% (31.3%) respectively.

A spokesman for the MPF says both funds are building their assets swop arrangements to the legal threshold of 10% on assets.

A company spokesman says the funds experienced a decrease in retirement benefit claims during the past financial year, but the large number of early retirement leavers "remained a matter of concern". During the year 90% of MEPF members and 85% of MOPF members retired before normal retirement age.

# Pension delay is unexplained

CP 28/9/97 (300)

By ANDILE NOGANTA

WHEN Ntombizanele Nondumo, opted for the Eastern Cape government's severance package scheme in February she had not bargained on having to wait for seven months.

She sold her township house in June hoping to find herself a better place.

But little did she know that down the line she would have to submit two more resignation forms, and still not receive her pension money.

And one of her two children, in her final year of study, has had to abandon university because the money for her education has not materialised.

Nondumo tendered her application for a voluntary leave package, quitting her post as a tutor at the Cecilia Makiwane Hospital after ten years of service.

Two months later her application was approved.

City Press has a copy of the letter of approval, which is the last correspondence received by the 58 year-old mother, from the Department of Health.



***UNAWARE OF NON-PAYMENT*** *... Dr Trudie Thomas, Eastern Cape MEC for Health.*

No-one has told her the reason for the delay. "If only there had been some communication from the department's side."

Spokesperson Khululekile Bata for Dr Trudie Thomas, Eastern Cape MEC for Health, Khululekile Bata said he was not aware that there are health employees who qualified for severance packages who have not got their payouts.

Bata would not be drawn on why Nondumo has had to wait so long to receive her pay-out. He said that she should "find out from the relevant structures in her hospital where she made her application."

City Press investigations revealed that Nondumo's file was audited at the end of July and sent to Sanlam.

Sanlam, which has until now processed about 803 applications, says that it takes two to three weeks to pay out, unless the application has to be returned for query.

Nondumo's last government income was in April and she believes she should get interest on the delayed pay-out.

Chris Dreyer, Project Manager of the Bulembu Airport-based Human Resource Audit Unit that handles all civil service severance package applications blames the bottle-necks in goverment departments for the lengthy delays in the processing of the applications.

"In the majority of cases civil servant's leave records are incomplete. To be precise I would say that happens 66 percent of the time. We first have to reconstruct the person's records and that leads to the delay.

"We have to be 100 percent sure that what we authorise is correct because we are working with taxpayers' money," said Dreyer.

RESIDENTS ALLOWED TO WALLOW IN PAST

# Drug-free care of dementia pays off

CT 3/10/97

**A MOVE AWAY FROM DRUGS** in the treating of senile dementia has resulted in happier residents, a director of a home for the aged says. **CLAUDIA CAVANAGH** reports.

(300)

THE "golden girls" of Highlands House have forgotten what they had for breakfast — but they remember each star on the roof of the Alhambra Theatre and clearly recall paying five shillings for a mixed grill at the old Delmonico Restaurant in 1949.

They and 50 other residents at the Cape Jewish Old Age Home in Vredehoek suffer from various forms of senile dementia.

Although their short-term memory is non-existent, they can remember past events down to the last detail. Which is exactly what a revolutionary new approach just introduced to the home by director Mr Harris Burman capitalises on.

Instead of resorting to psychiatric drugs or restraints, residents of the home's brand new Jack and Ethel Golden special care unit are allowed to wallow in the past.

"I was unhappy about the way the demented residents in our old west wing were treated. When people asked me if I'd send my own parents there, I had to answer no."

They lived across five institution-like floors of the home and spent their days in a starkly decorated room with nurses sitting on one side watching TV and patients on the other. All that has changed after two study trips to America and a substantial donation.

With the help of interior designer Sharon Sager-Cohen, a large area of the home was revamped and plushly decorated to recall the 1940s. Heavy gold curtains drape the windows, ornate chandeliers hang from the ceiling and comfortable art deco furnishings grace the rooms.

The dining room is reminiscent of an old seaside hotel — complete with a retro-type serving hatch.

"This is probably what their homes looked like in the 40s and 50s — an era they remember clearly — so it stands to reason they'll feel at ease here," Burman said.

There are no television sets in sight and the nurses, named "caregivers", blend in with the residents.

Days are spent in "reminiscence sessions" led by social worker Ms Hazel Jungbacke. On the day we visited, weddings were being discussed and one resident enthusiastically recalled every last fold of lace on the wedding dress she wore 60 years before.

Afterwards the group danced and sang favourites from the 40s.

On the previous day, the group had discussed taking the train from Cape Town to Muizenberg.

"They can remember each station along the way in perfect sequence," said Burman.

Burman says there's a tendency to try to make people more manageable by drugging them when they do not conform to our norms.

"In the States, drugging is the last resort. We must learn to live in their reality and not expect them to live in ours."

Dr Stanley Lipshitz, a physician and geriatrician at the Barney Hurwitz Hospital in Johannesburg, agrees: "There's a reliance and overuse of sedative drugs in the treatment of senile dementia in this country. In addition, the drugs are almost universally inappropriately used."

A wide variety — including Valium and other major tranquillisers — are administered to control "abhorrent behaviour" like aggression, lack of patience, restlessness and sexual inappropriateness.

"So problematic behaviour is drugged away instead of managed. For instance, with senile dementia there's commonly a need to wonder around.

"If restrained, they could become aggressive," said Lipshitz.

Highlands House should be commended on its approach which is "miles ahead", he said.

Ms Linda Farrell, psychiatric nursing consultant at the home, says: "Our main aim is to give as little medication as possible. We believe that if we provide residents with stimulation, socialisation and interaction we can improve their functional activity, their quality of life, reduce medication and improve sleeping patterns."

Under the old system, a resident who woke up at midnight saying he wanted to go to work, would be given a pill, undressed and put back to bed.

"A few hours later he'd be up again," said Burman, "and the whole process would be repeated."

"This is where it pays to know a bit about his past. If, for instance, he was involved in the clothing industry, the caregiver will first suggest he sit down and have a cup of tea before going to work.

"Then he'll be given a suitcase of clothes to price, and after awhile go back to bed quite satisfied."

Although the unit has only been in operation for two months, Farrell says the residents are more relaxed and happy.

"People were depressed, withdrawn and stressed. One woman who spent her days with her face in her hands, now takes part in activities," she said.

"People with dementia like routine," said Burman, "So we were prepared to see some deterioration initially — but it never happened. Maybe it's because they were put into comfortable surroundings that reminded them of the way their homes had looked.

"My main concern is to preserve these people's dignity."

Although many are incontinent and need constant care, they are not treated like children or subjected to humiliating treatment. No doors are locked and no-one is restrained.

But the change was not welcomed by everyone at the home.

"There was a lot of controversy as to whether we should make the change and if it would improve the residents' quality of life," he said.



**WATCH ME:** Yetta Sebba, a resident at Highlands House's new Jack and Ethel Golden special care unit, was photographed during a reminiscence session. *PICTURE: GARTH STEAD*

Personal Finance

# New adjudicator for pensions has 'a fresh outlook'

(300)

Star 4/10/97

CHARLOTTE MATHEWS

**Professor John Murphy, appointed pensions adjudicator with effect from January 1, 1998, brings with him years of experience in labour law and no preconceptions about the pensions industry.**

Murphy is currently head of the Department of Public Law at the University of the Western Cape. He is a senior commissioner of the Commission for Conciliation, Mediation and Arbitration (CCMA), which deals with labour disputes, and is an arbitrator for the Independent Mediation Service of SA (IMSSA), which conducts mediation and arbitration.

He has practised as a labour lawyer and constitutional lawyer for the past 15 years.

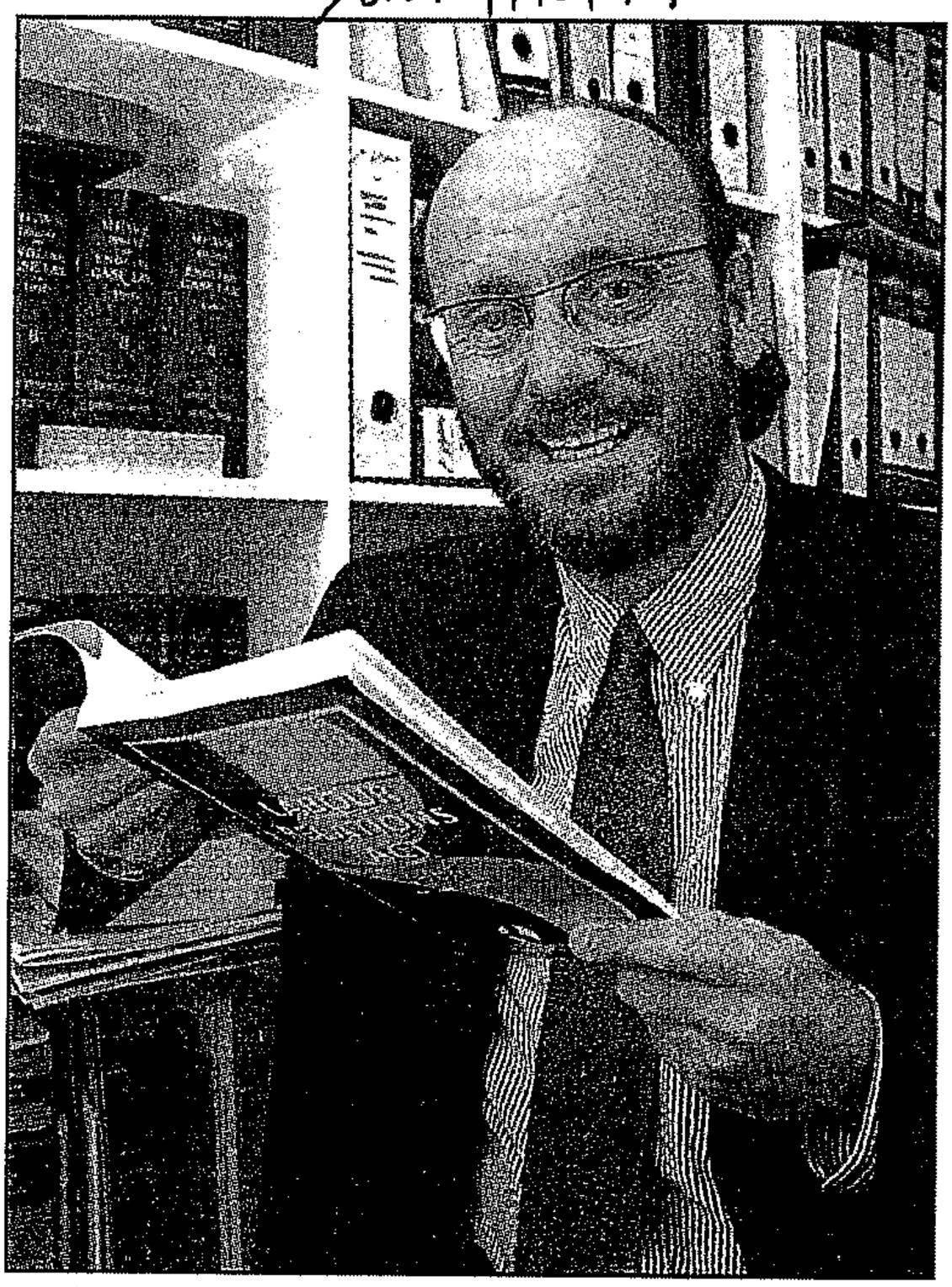
Murphy has no connections with the pensions industry and has not previously been involved in pension fund disputes.

"The intention is to bring in a fresh outlook," he said.

The new office of pensions adjudicator is similar to that of the ombudsmen for the short- and long-term insurance industries. The appointment was made by the Minister of Finance and the post will be funded by a levy on pension funds which will be administered by the Financial Services Board (FSB). However, the pensions adjudicator is independent of the FSB and any other organisation.

His task is to deal with complaints arising from the administration and investment of funds, interpretation of the rules of funds and whether employers have complied with their obligations under the rules of the fund. The question of the extent of his jurisdiction will have to be determined as disputes arise.

His jurisdiction covers about R400 billion of pension funds. This is all funds registered under the Pension Funds Act – both defined benefit and defined contribution funds, pension and provident funds – but excludes bargaining council funds, public sector and certain parastatal retirement funds.



**STAMPING OUT ABUSE:** Professor John Murphy, the newly appointed pensions adjudicator, is getting ready to throw the book at abuses in the pensions industry.

Murphy said he would try to mediate as many complaints as possible in an informal manner. This is similar to the CCMA's method, where "appropriate dispute resolution" is followed.

It will cost nothing to bring a complaint to the attention of the pensions adjudicator, unless one of the parties wishes to employ a legal representative. If so, the permission of the pensions adjudicator will have to be sought and he might rule against this if he considers it is not warranted by the complexity of the matter or the parties do not have the same ability to present their cases.

The powers of the pensions adjudicator are the same as a civil court. If, for example, he rules that a pension fund must pay one of its members a sum of money, the sheriff of the High Court would be empowered to attach property to execute the adjudicator's order. If one of the parties to the dispute is not satisfied, they can appeal the decision in the High Court.

Murphy, who was only appointed about three weeks ago, has not yet moved into his new office or established a post box or telephone number. Personal Finance will publish these when they are available. Although he will only be able to hear and rule on disputes from January 1, he is willing to accept written complaints from the beginning of November.

# Health MEC sues for R150m

## Lawsuit against Denel subsidiary in wake of multi-million rand pension debacle

AYESHA ISMAIL ST(CM) 12/10/97 (300)

WESTERN Cape Health and Social Services MEC Ebrahim Rasool is suing a discredited Denel subsidiary for R150-million in a dramatic sequel to the province's biggest pension debacle.

Rasool told Cape Metro this week that he would be taking Nisec — the company at the centre of the multi-million rand pension row — to the High Court to recover the province's costs.

"I am going to ask the tender board to sue Nisec for R150-million to recover payments to Nisec for running a service based on advanced technology they did not have," Rasool said.

However, Denel communications head George Masoek said Nisec and Denel "remain convinced that they were at all times duly performing in terms of the contract awarded to them and they will defend any action instituted against them in that regard".

The lawsuit follows a year-long investigation into fraud and corruption among welfare officials and beneficiaries of welfare grants. Millions of rands were involved.

Former NP cabinet minister Abe Williams resigned hours after detectives searched his Cape Town home last year in connection with a broader probe into fraud and corruption by the Office for Serious Economic Offences (OSEO).

Williams has been named as a suspect in the inquiry into the alleged irregularities surrounding the awarding of the Nisec contract after OSEO investigators raided millionaire Michau Huisamen's home in Port Elizabeth.

Rasool said he was satisfied with the outcome of the Nisec investigation.

In December last year the Western Cape Tender Board cancelled Nisec's R240-million, five-year contract to administer computerised pension and social welfare payouts.

It was found the company did not have the technology to pay out pensions in a fraud-free way. This had been the basis on which the contract had been awarded.

Fraud and duplication uncovered earlier this year has led to the more than a million welfare and pension recipients having to re-register.

The termination of Nisec's contract was the subject of a High Court action, and in February this year two judges found that Nisec had wilfully misled the provincial authorities by not disclosing that its computer software and "Star-trek" technology could not do the job it was paid to do.

The judges dismissed with costs Nisec's application to annul the tender board's decision to cancel the province's R240-million contract.

At the time, Rasool said it was clear Nisec had misled his department by not being frank about its technological shortcomings.

OSEO head Tommy Prins said this week that the Nisec investigation had been concluded and that a report was in the process of being drawn up to be sent to Attorney-General Frank Kahn and Justice Minister Dullah Omar.

"The investigation into Abe Williams is progressing well and a report should be ready early next year," Prins said.

The Department of Social Services, assisted by the Post Office, has taken over pension payments.

# Fraud probe delays anger Rasool

(300)

AYESHA ISMAIL

ST(CM) 19/10/97

WESTERN Cape Health MEC Ebrahim Rasool is angry over the snail's pace of welfare fraud and corruption investigations.

He complained that suspended welfare officials were still enjoying salaries and service benefits at great expense to the tax-payer.

Six officials have been suspended for alleged corruption and fraud, and all are still receiving full salaries and benefits.

The six officials include five administration clerks suspended since April, 1996 at a total cost to the state of R392 420 and one senior administration officer, charged with fraud involving R2-million, who has been suspended since September, 1995 at a cost of R205 012.

Another official is under investigation for fraud amounting to R24-million.

Rasool said that as the cases were still pending "it would be prejudicial and premature to release the names of the officials".

In a report released this week, Rasool disclosed that more than 200 cases of fraud or corruption among welfare officials had been uncovered in three regions of the Western Cape, and 28 officials had been implicated.

He said that because of the long delays in finalising the cases, the suspended officials were occupying unproductive posts.

"This is all not only unfair to officials working in the department, but it creates unnecessary tension between staff," Rasool said.

# Gauteng pension payouts 'improved'

THERE was a marked improvement in the disbursement of old age and disability pensions in Gauteng, but a great deal more should be done to ensure a more efficient and secure delivery system, the Black Sash said yesterday.

The Black Sash was commissioned by the legislature's standing committee on social welfare to identify problem areas and evaluate the effectiveness of the new pension payout system.

Sash spokesman Sue Sparks said the welfare department's decision to outsource cash payments to a local firm, Cash Paymaster Services, at a cost of more than R1,3m, seemed to be working well.

"Security under them has improved immensely and guards are deployed overall things are better. We are excited and optimistic about the future ... now welfare officials can concentrate on solving queries and, hopefully, refine their application process," Sparks said.

She said at most payout points the team visited in townships and rural areas, amenities, security and service had improved significantly.

The team also recommended decentralisation of the department's offices to ensure a more speedy delivery system.

Those regions which had decentralised were offering a better service, the team said. — Sapa.

(300) BD 22/10/97

# Erwin defends drugs law, suggests WTO intervention

Jacob Dlamini

BD 22/10/97

CAPE TOWN — Trade and Industry Minister Alec Erwin defended controversial new drug laws last night and said government had taken a policy decision to stop drug companies from using their patents to prevent affordable health care.

In an unexpected intervention in the debate on the Medicines and Related Substances Control Bill, Erwin said he had been in close contact with his US colleagues, and if the matter could not be resolved it should be referred to the World Trade Organisation (WTO).

Erwin said SA and the US differed on the interpretation of a WTO agreement on trade-related aspects of intellectual property that was intended to establish uniformity with regard to property rights.

He said SA was seeking to introduce affordable health care while the US sought to ensure the protection of the long-standing policies of its pharmaceutical industry.

Erwin pointed out that parallel importation was specific to drugs manufactured by the same company but available cheaper elsewhere.

He accepted, however, that there could be an argument that the new legislation was discriminatory.

The African National Congress (ANC) later used its majority to approve the bill's second reading.

To become law, the bill needs the support of the National Council of Provinces and the signature of President Nelson Mandela.

The debate followed a day of drama during which a National Party (NP) motion calling for the bill's withdrawal was voted down by the ANC. NP spokesman Cornelius Botha had argued that parallel importation and generic substitution would violate pharmaceutical companies' intellectual property rights and WTO regulations.

ANC spokesman Abe Nkomo accused the pharmaceutical industry of spreading disinformation about government plans to reform legislation governing medicine control.

**Josey Ballenger** reports that Pharmaceutical Manufacturing Association of SA CE Mirryena Deeb said section 15 (c) of the bill would put SA "back internationally in an investment sense".

It would "do nothing to bring about cheaper medicine. The state already has access to the cheapest available drugs, and it is losing 50% to theft". She said the distribution chain, not pharmaceutical companies, was what needed reform.

Ivan Kodze, executive director of the Pharmaceutical Society of SA said he did not expect parallel importation to be common practice.

"Dr Zuma has said if the prices of branded products in other countries compare favourably with local prices, there won't be a need (to parallel import) ... it's a threat for industry to bring their prices down."

# Fourth attempt to find gambling board members

Janet Parker

BD 22/10/97

THE executive council of the Free State is hoping it will be fourth time lucky in finding nine suitable members for the Free State Gambling and Racing Board.

Free State finance and economic affairs deputy director-general Humphrey Kgomongwe said yesterday the council had, for the fourth and "hopefully last" time, reopened nominations for appointments.

The delay has caused the Free State to lag behind the other provinces in the formation of a regulatory environment for gaming.

The council said in newspaper advertisements "... previous failed nominations were as a result of failure of most of the candidates to fulfil specific criteria".

In a bid to ensure that no further unsuitable candidates were nominated, the council set out an exhaustive list of criteria which would deem a candidate eligible.

Kgomongwe said the council hoped to have the Free State Gambling and Racing Board in place by December, and functional by January. The board would have to "double its efforts and move with terrific speed", he said.

# Gauteng pension payouts 'improved'

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(300) BD 22/10/97

# ıalty call'

ommittee had reaffirmed nisation's position on the nalty as being that it was

# 'White survival depends on reconciliation'

BD 22/10/97

CAPE TOWN — The survival of whites in SA depended on their joining the process of healing and reconciliation ... has accused the people of (ANC)

had done nothing to contribute to reconciliation but had spent their time bemoaning the passing of the old dispen-

PERSONAL FINANCE

# Fund surplus is not employer's

BD 24/10/97 (300)

**Pat Sidley**

MEMBERS of pension and provident funds, the funds' trustees, their actuarial advisors and many companies would be advised to take note of a recent judgement, in which a controversial decision was made on who is entitled to the surplus in a pension fund.

The finding will be appealed but has in the meanwhile alerted the industry to the way things may move in future.

The case involved TEK, its pension fund, a provident fund and the trustees, and arose out of the company's move from a pension fund to a provident fund, and the consequences after the firm changed hands. The fallout from the case will reverberate widely through associated groups, like actuarial advisers. Several are already advising clients on how to deal with the possibility that their former employees and other stakeholders may lay claim to surpluses.

The court found that the surplus funds belong to the pension fund — not the employer — and for those trustees who blur lines between the company and its pension fund, it has rung an alarm bell. Directors of companies who are also pension fund trustees lay themselves open to a claim of a conflict of interests, a question referred to in the judgement. An important finding and consistent thread through the judgement is that the trustees failed to give adequate attention to all the issues and would have to start that process over.

Many members of funds who moved from pension funds to provident funds without having access to surplus funds in the pension funds will now, in theory, be able to revisit the move and demand appropriate increases. Throughout the judgement, references are made to TEK's belief that it alone had access to the surplus and the suggestion is made that it would not have sanctioned a move from the pension to the provident fund if it did not have access to the surplus.

The actuaries at the time were Alexander Forbes and reference is made both to the absence of independent actuaries and to the common shareholdings held in both Alexander Forbes and TEK.

Actuaries who advise funds' trustees to move from pension to provident funds without giving appropriate payments to members from any surplus would do well to look at their indemnities and at the basis for their advice. If the case holds good they face an overhaul of some outdated ideas.

Many actuaries have advised employers — who, in turn, have accepted without question — that any surplus in a pension fund belongs to the employer. This has been the basis of a further assumption that in order to gain access to that surplus, employers may simply stop paying their contributions for employees (known in the business as a contributions holiday) into the fund. For many employers, this unquestioned "truth" has meant they have had access to many millions more rands than they otherwise would have. And for many employees this has meant they have had no access to money which could have been used to enhance their benefits.

It has been suggested that TEK had sanctioned a move from pension fund to provident fund for its employees only because it had access to the surplus funds.

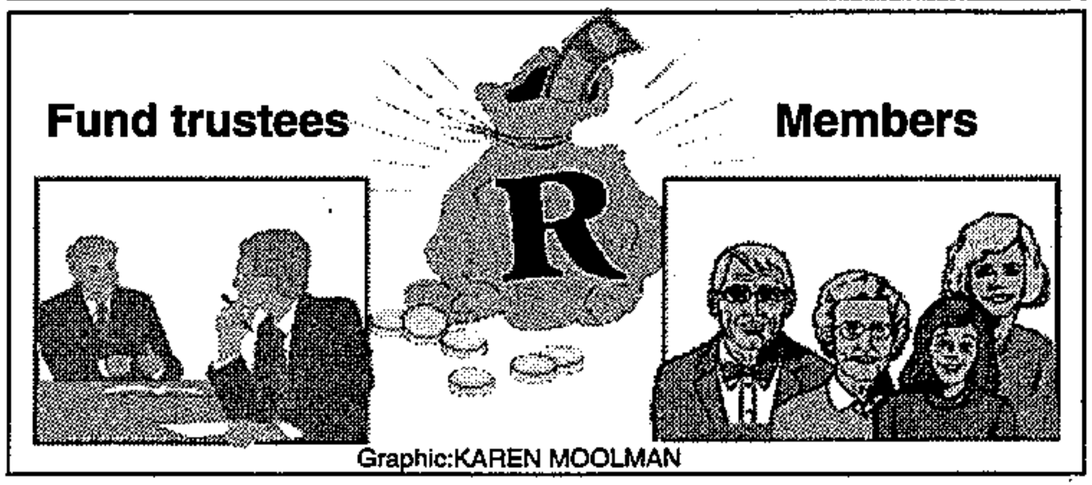
"This intention was never hidden. It was disclosed to the pension fund's trustees from the outset. It was known at the time that the conversion was discussed," the judgment quotes one of the lawyers as saying.

"It is clear from the evidence of Lewis (Leon Lewis from Alexander Forbes), that before addressing the trustees of the pension fund, Alexander Forbes was requested by TEK to consider the question of how the surplus was to be dealt with.

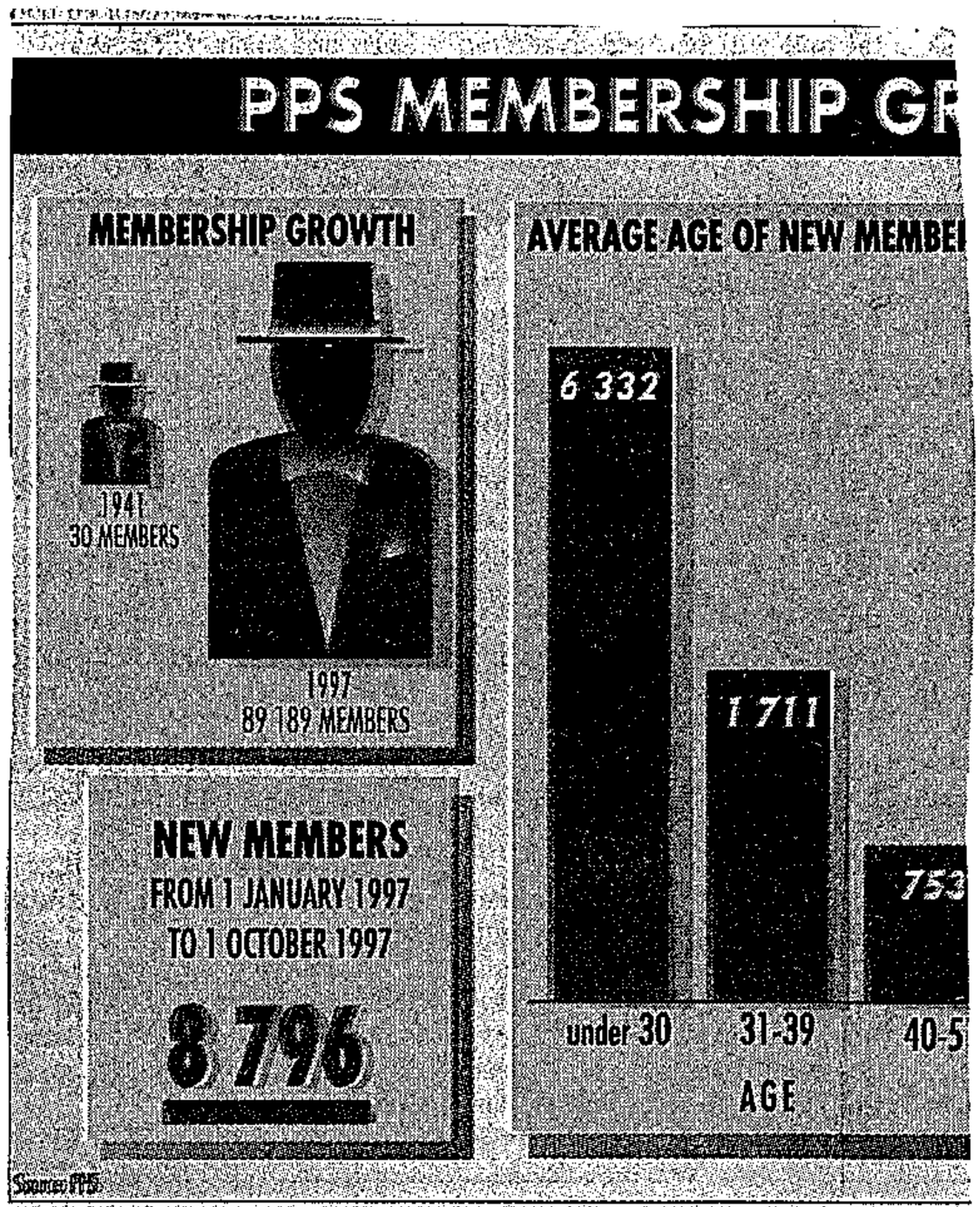
"It is clear that the decision to keep the pension fund co-operative under its new name was made in order for TEK to have access to the surplus therein," the judgement said.

This position and the correctness of the legal position of the surplus was never questioned by the trustees, the judgement said. When a transfer of the actuarial reserves to the provident fund took place, the trustees did not consider transferring any part of the surplus for the benefit of the transferring members. An analysis of the source of the surplus was not done.

**Who gets the surplus cash?**




Graphic:KAREN MOOLMAN




# Retirement fund c line with other be

If there's a controversial egg in the PPS basket, it is the society's retirement annuity pension fund which is underwritten and partially managed by Sanlam.

Andrew Bradley, a director at Fincorp, says the fund is essentially a Sanlam retirement annuity with a PPS wrapper around it. It comes with the normal upfront costs and commissions.

"If one considers that one of the major advantages of PPS is that members don't pay commission, the retirement annuity is an exception."

Bradley says the result is that the selling point of PPS membership is often the retirement annuity, because this is the only area where the broker can earn commission.

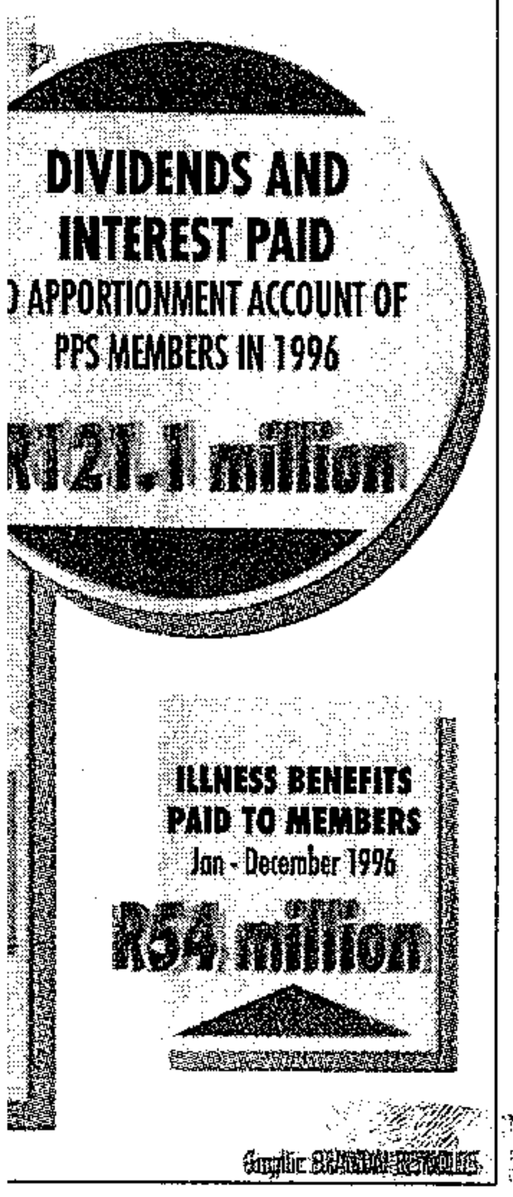
He says the reason why the other PPS products are not more widely sold is that they do not earn commission.

Only Sanlam accredited consultants may sell PPS products. Many of them will say that Sanlam can move the annuity to greener pastures if it does not perform adequately.

CT (BR)
12/11/97

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Graphic SOWETAN REVIEWS

*Only criterion for becoming a PPS member is a four-year university degree*

# Perks for professionals

ET (BR) 12/11/97 ~~200~~ (300)

ESANN DE KOCK

If you thought the Professional Provident Society of South Africa (PPS) was only for doctors, dentists, attorneys and well-to-do professionals who run their own businesses – think again.

PPS membership is not dependent on your profession. The only criterion is a four-year university degree.

Considering the small number of South Africans with four-year university degrees, PPS membership is rather exclusive. This is reflected in the fact that it is over 50 years old and only has about 89 000 members.

If you do qualify for membership you may find that you'll enjoy comparatively low premiums for better-than-average benefits.

Established 56 years ago by a group of dentists who were concerned about their income should they be unable to fulfil their professional duties, PPS is registered as a sickness benefit fund, and not as an insurance company.

It is owned by its members and run by a board of representatives from the various professions. There are no external shareholders which means profit generated from operating surplus and investment income is distributed amongst members. Today the society's benefits also include medical aid, a retirement plan and group life cover.

The membership code is strict. Technikon degrees are not accepted and business people without four-year university degrees do not qualify.

Edwin Letty, PPS CEO, says the society's illness benefit is unique in that it starts paying from the first day of sickness provided the sickness lasts for at least seven consecutive (calendar) days. Hospitalisation is not a prerequisite for payment.

Most other schemes offer illness benefits only after a month and will only start paying out after you've been ill for a month.

PPS group life cover rates compare well in a competitive market. A professional person can, for instance, get cover of over R700 000 for about R90 a month.

When you retire or resign from PPS, you get a tax-free lump sum. If you die, the lump sum is paid to your beneficiaries. The lump sum is built up from annual dividends on your shares and from interest allocated to you. The society generates this money from investment profits and surplus income.

In its membership literature, the society says experience has shown that after about six years the total subscriptions paid by you will be less than the dividends and interest that have been credited to your apportionment account. Thereafter your accumulated funds will continue to exceed your total subscriptions paid.

This means that you'll enjoy free sickness and disability cover while your continued subscription payments will add to the growth of the tax-free lump sum in your account.

PPS also offers a medical aid called ProfMed0 within which a choice of six medical schemes are tailored to meet individual or family needs.

The society's group life cover depends on the number of "shares" or units of benefit held by an individual. This number depends on your gross professional income.

# ut of
# nefits

But Bradley says this is very uch a theoretical statement.

For while Sanlam annuities ave shown average performance, ey certainly have not been the arket leaders or top performers.

The PPS philosophy of maxium benefit to members should so apply to the annuity.

Yet, with the annuity fund ing the only commission-earng product on offer and with the nlam link, it could be argued at members are not reaping aximum benefits with this in-

# Database purged of 76 000 'ghost beneficiaries'

**Kevin O'Grady**

A MASSIVE "clear-up" had resulted in the removal of 76 000 names of dead pension beneficiaries from welfare department databases, with savings of R436m to government, Welfare Minister Geraldine Fraser-Moleketi said yesterday.

Addressing the first of a series of media briefings by African National Congress (ANC) ministers on their achievements since 1994, Fraser-Moleketi said the 14 previously segregated pension systems had been amalgamated on one data base by April this year.

This had enabled the welfare department to begin a data clearing-up exercise, part of which involved checking the records of beneficiaries against the population register.

Last year 46 000 ghost beneficiaries were removed from the system, accounting for an estimated saving of R240m. In the first half of this year, 30 000 ghost beneficiaries had been removed, resulting in a R96m saving up to the end of this year.

Among the important legislative changes was the Welfare Laws Amendment Bill, which was passed in Parliament last week.

The legislation would introduce a new child support grant — of R100 a child a month — from next year, and phase out the former state maintenance grant.

The bill would also amend the Social Assistance Act to provide for uniformity, equality of access and the effective regulation of social security in the various provinces by repealing social pension laws of the formerly independent homelands and self-governing territories.

Fraser-Moleketi said that in a major policy shift from the previous government the ANC-led government could boast of having forged ties with organs of civil society in its fight against poverty.

About 1 400 nongovernmental organisations — which were mainly registered welfare organisations — had received subsidies totalling R1,5bn in 1997/98. This had represented an increase of R300m over the previous year.

The Social Assistance Act had been amended to extend subsidies to nonregistered welfare organisations and the Nonprofit Organisations Bill — which sought to create an enabling environment for nongovernmental organisations by amending the Fund Raising Act to make registration voluntary — was passed by Parliament, Fraser-Moleketi said.

BD 12/11/97

(250) (300)

SMART MONEY

Val Pienaar

# Govt move looks after pension fund members

BD 14/11/97

(300)

PEOPLE who feel ripped off by their retirement funds tend not to be in a position of strength. Typically, established employees assume their employer is looking after them — and it is only when they resign or retire, losing any bargaining power within the organisation, that they are likely to feel disgruntled.

In the past they had nowhere to go with their complaints, but the welcome news is that the finance ministry has appointed a pension funds adjudicator to look after the interests of members of all registered retirement funds.

John Murphy, a senior commissioner to the Council for Conciliation, Mediation & Arbitration and former law department head at the University of the Western Cape, has been appointed in terms of Section 30B of the Pension Funds Act, which was amended after the Mouton Commission.

Life Offices Association deputy director Gerhard Joubert says the fact that this is a statutory appointment will give the adjudicator "real teeth". But Murphy sees his primary task as helping the parties in a complaint reach an amicable solution.

"My role will be to adjudicate complaints with regard to the administration and investment of a fund, and the interpretation and application of its rules."

In accepting this position, Murphy has taken hold of a large hot potato: we hope he's as good a juggler as his role will demand. In the days before transparency became The Word, members showed little inclination to hold the trustees of either pension or provident funds accountable for their decisions. As long as benefits were defined in terms of the member's salary and term of employment, the performance of the fund was of little interest — the employer undertook to pick up any shortfall, and in the sustained bull market of the past 20 years, employers have been more likely to take contribution holidays than pay in.

With the shift to defined contributions, however, members now find themselves with a vested interest in their fund's performance. As they become more aware of investment issues, they will be more likely to demand that trustees account for investment-related decisions which, with all the wisdom of hindsight, prove less than ideal.

Murphy could find himself wading through accusations of trustee incompetence or dishonesty to try to establish whether the choice of fund manager, and the mandate to the fund manager, were made on an acceptable basis.

He also expects a lot of argument about who owns retirement fund surpluses. Over the past two decades these have built up, in some funds, to huge sums. Employers have been known to look for ways to unload fund members — by hiving off departments into separate businesses or laying off employees before they are entitled to certain withdrawal benefits. The membership of a mature retirement fund can be minimal, and these members can choose to close the fund and share the surplus pool.

"At this stage, it is not possible to define the extent of my jurisdiction. I have adjudicative powers, the same as a court of law, but jurisdiction as defined is still open to legal argument. We will have to wait for complaints, and when the issues are complex there will then probably be argument about whether I have the jurisdiction to rule," Murphy says.

Murphy will also decide whether legal representation will be allowed. "I will be more likely to take a decision to protect the individual (against companies)."

□ *Val Pienaar may be contacted at twiglap@global.co.za.*

# Dramatic shake-up in retirement funds, but no Katz yet

STAFF REPORTER

The next 12 months are likely to see dramatic changes in the way retirement funds operate and many pension fund trustees are currently blissfully unaware of their responsibilities.

However, it is unlikely that the Katz Committee recommendations, which could significantly alter the taxation of your retirement funds, will be implemented in 1998, says Graeme Kerrigan, joint managing director of employee benefit consultants Alexander Forbes.

"At this stage it seems that government is in no rush to change the structure of retirement taxation law now that retirement fund income is taxable in the hands of a fund and is generating revenue for the fiscus. It is possible, however, that the tax burden on retirement funds could increase in 1998."

The other legislative issue that is influencing the structure of the retirement funds market is the current and pending legislation on ownership and access to retirement fund surpluses.

Kerrigan says the recent judgment in the High Court in the Tek vs Defy case has put in doubt the ability for a company to continue with "a contribution holiday from surpluses in a retirement fund".

He says amendments to pension fund legislation will make fund trustees increasingly accountable to members and could be liable in their personal capacities for the consequences of their decisions.

"Legislation for the joint management of retirement funds will mean that all funds will have to be jointly managed by member-elected trustees by no later than December 15, 1998. That's in about 12 months' time and many of these trustees have little or no experience of managing a retirement programme.

"They will require extensive training to prepare them for their new role and if a fund is paying pensions, pensioners must also be included in the election process.

"They, too, will need to acquire new skills and knowledge to fulfill their roles adequately."

Other issues affecting the industry which are not necessarily being driven by legislation are the continued move of funds from defined benefit to defined contribution, the trend for defined contribution funds to offer a choice of investment portfolios and the move by funds to outsource their pension liabilities to external assurance company annuities.

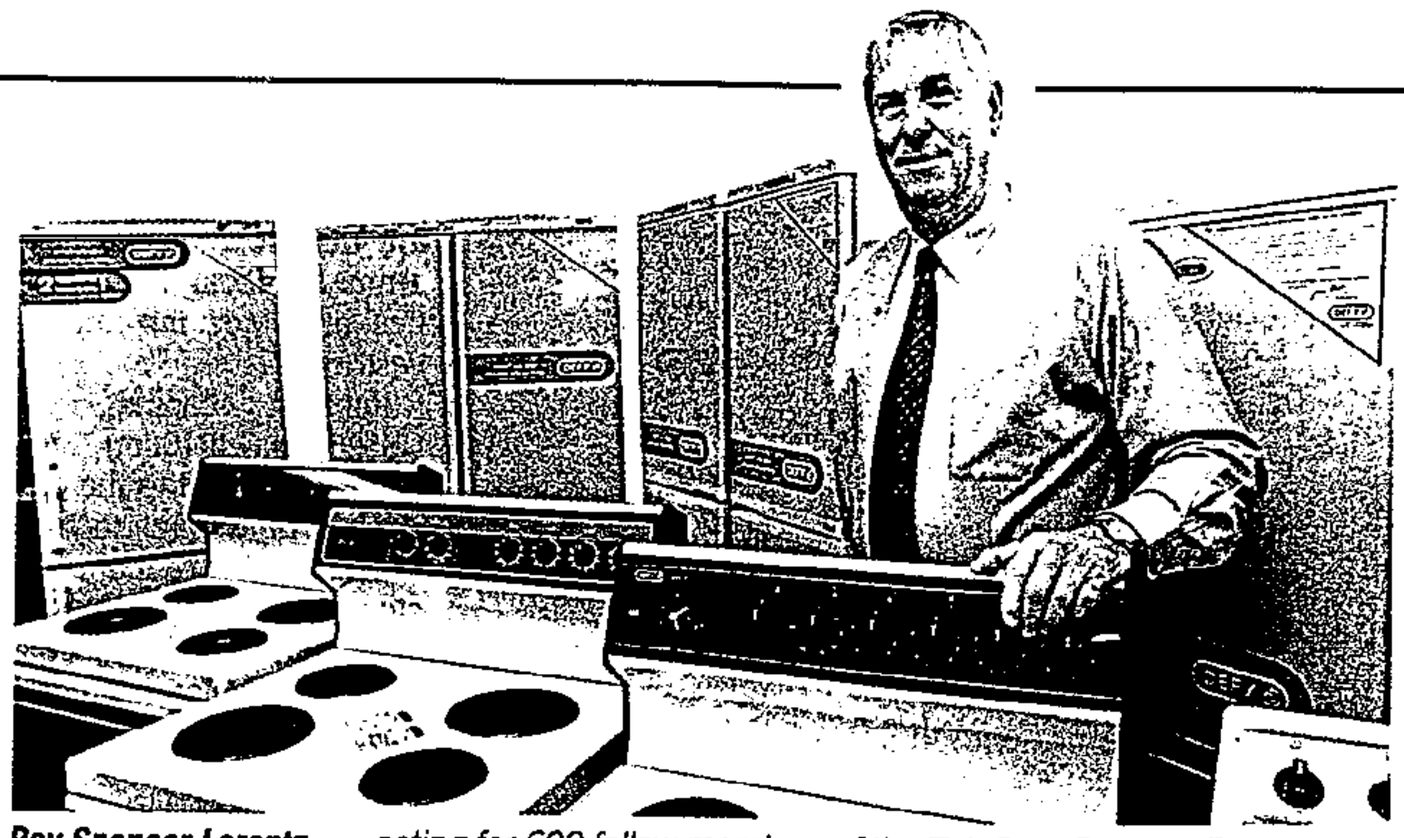
Alexander Forbes' experience is that the move to offer investment choice in defined contribution funds is starting to gather pace.

"However, there are some problems in relation to communicating choice to members, particularly where members have little investment background. It is likely that investment choice will become more commonplace during the next two to three years."

There is also an increasing move to use external assurance companies to administer pensions.

Kerrigan says an assurance company, with a much bigger pensioner and asset base, is able to follow a more appropriate investment strategy and still have sufficient cash flow to meet regular pension payments.

By moving to an external annuity, a pensioner's increase is only based on the investment performance of the underlying assets, not on any subjective assessment of the pensioner's need for an increase."



*Roy Spencer Lorentz . . . acting for 600 fellow members of the Tek Corp Pension Fund*

PENSION FUND SURPLUS

# Judge says pension surplus ownership vests in the fund

FM 19/12/97 (300)

The controversy over who owns a pension fund surplus has taken a new turn with an important High Court judgment

The Witwatersrand High Court ruled recently that the surplus in a company pension fund belongs to the fund and not to the employer.

If the judgment, in the case of *Roy Spencer Lorentz* — acting for 600 fellow members of the Tek Corp Pension Fund — *vs Tek Corporation Fund & others,* is upheld on appeal, it will have important implications for the pension fund industry.

The case arose out of the decision by Tek, in 1993, to close its defined benefit pension fund and convert it to a provident fund. The transfer of the fund's assets took place on June 1 that year and their value, on November 30 1993, was R104m.

Members' actuarial reserves were transferred to the provident fund, but the "surplus" of R17,7m remained in the pension fund. A surplus is not money in the bank but an actuarial calculation of the difference between a fund's assets and liabilities.

At the time of the transfer, Tek was holding company of SA's largest television and domestic appliance manufacturer, Defy, where two-thirds of the transferred members worked.

The row over the surplus started a year later. Tek, which had taken contribution holidays almost since 1991, argued the surplus lay in its control and no part could be claimed by former members.

It claimed that:

- An employer has an entrenched right to demand a contribution holiday and draw the contributions it would have paid from the surplus; and
- The rules of a pension fund constitute a contract and must be interpreted according to Contract Law. If the rules do not provide for a surplus, its lawyers said, then payment could not be forced.

Judge Navsa disagreed.

He said the company's obligation to make good deficits in the fund did not give it the right, unreservedly, to claim the surplus. And, if the decision to take a contribution holiday was based on surplus derived from sources other than company over-contribution, the trustees would be breaching their fiduciary duties in consenting to a contribution holiday.

"The fact that Tek is given the final say does not mean it can act arbitrarily and only in its financial interests," said the judge. "Tek and the trustees, in my view, misconstrued the pension fund rules and misconceived their powers and duties."

He found that the trustees had ignored relevant legislation — and the objects of the pension fund, whose rules recognised using the surplus to fund increased benefits.

The judge ordered the trustees of the Tek Corporation Pension Fund to transfer a "portion" of the surplus to the provident fund. However the size of this portion is left to the discretion of the trustees.

Lorentz's attorney Julian Murdoch says that, though the issue is not final until the appellate division rules on it, "it stands in the meantime and I imagine people with similar problems will be using it."

It could be more than a year before the appeal is heard in Bloemfontein.

Pensions expert James Downie says there is enormous interest in the Navsa judgment. He considers it "substantially correct, in that it's almost impossible for a trustee who's also an employee to be impartial."

Actuarial valuations of pension funds, including assets and the size of the surplus, must be filed every three years with the Financial Services Board.

However, the board's chief actuary Peter Milburn-Pyle says he has received no valuation reports from the Tek fund's actuaries, Alexander Forbes, since his present file started in 1991. "We're following this up to find out what the situation is."

Milburn-Pyle is seeking to push through new legislation by next June that will allow a "fair" distribution of the surplus from pension funds. This will permit employers to seek "reparation" of surplus.

Strong opposition is expected from organised pension groups and unions.

**Jack Lundin**

SAA ADVERTISING ACCOUNT

## A Christmas gift

**SAA** has awarded its huge advertising account, one of the most hotly contested in years, to TBWA Hunt Lascaris.

The business was formerly with Sonnenberg Murphy Leo Burnett, which was invited to pitch early in November against seven other agencies.

Subsequently McCann-Erickson and Saatchi & Saatchi withdrew because they had conflicting business, though in the case of Saatchi the conflict existed only in North America, where it holds the Delta Airlines account. Others in the battle were The Agency, HerdBuoys McCann, Lindsay Smithers-FCB and Gitam International.

SAA put the annual value of its account at R25m, but insiders say the real expenditure could be much higher. The seven competing agencies combined are estimated to have spent about R1m on their presentations. **Tony Koenderman**

# Gauteng welfare department 'improves pensions delivery'

BD 9/12/97 (300)

**Nomavenda Mathiane**

THE Gauteng welfare department was committed to improving the lives of the poor, not by handouts but through a holistic approach focusing on engaging the community in all its projects, MEC Ignatius Jacobs told a news briefing in Johannesburg yesterday.

Jacobs, who took over the welfare portfolio from Sakkie Blanche when the National Party withdrew from the Gauteng executive council in July last year, said during the 525 days he had been an MEC there had been an improvement in the delivery of pensions.

Besides the establishment of a "help desk" to solve pensioners' problems, the improvement in service delivery was largely due to Cash Payment Services — the company which was now responsible for paying out pensions.

Jacobs said public servants who had been responsible for paying pensions, had been given the task of processing pension applications — a move which had seen the period for approval reduced from six months to three. Shops, tea gardens, telephones and banking facilities had also been established near pay points. This would not only benefit pensioners, but would also create jobs for the community, he said.

Jacobs said Gauteng had secured four detention centres catering for juveniles awaiting trial. One of these was the Walter Sisulu Child and Youth Care Centre in Soweto, which was built at a total cost of R90m. The centre is operating as a pilot project involving the community in providing laundry, gardening and maintenance services.

Other projects assisted by the department were the Medunsa Organisation for Disabled Entrepreneurs, where 21 disabled people were assisted with capital to establish a businesses, and Itereleng Clothing Manufacturers, run by Ratanda women who sewed school uniforms.

# Draft legislation to change pension fund rules

BD 12/12/97 (300)

**Pat Sidley**

AFTER several hiccups, draft legislation dealing with the distribution of pension fund surpluses looks set to become law.

This is not a moment too soon — as the recent Tek judgment in the high court has demonstrated, the ownership of pension fund surpluses is an area under contest with billions of rands at stake.

Past practice seems to have prompted employers and their pension fund advisers to presume that employers have access to the surpluses — but the growing objections of employees as well as a recent high court case has put a rapid end to that assumption.

The scope of the draft legislation falls short of stopping contribution holidays taken by employers, for example, to facilitate the prefunding of pensioner health-care needs. But employers can no longer simply dip into surplus funds to bolster their balance sheets, or fund projects which need financing.

Until the draft bill becomes law, according to Old Mutual Employee Benefits legal consulting manager Kobus Hanekom, there is a total ban on employer withdrawals of surpluses from funds.

Applications by employers for access to the funds will have to satisfy the registrar of pensions funds, and several conditions have been set to satisfy him. Suspicions within union ranks that the conditions may not be adequate are among the delays the bill has encountered, and should serve as a signal that unless procedures are closely followed and principals of equity are clearly displayed, unions will never allow excess assets to move from pension funds into employer hands.

The composition of the board of trustees will have to show that the interests of members of the fund are clearly demonstrated. In terms of pension fund legislation, by the end of 1998, all trustee boards will have to reflect 50% of member-elected trustees. The registrar will also question more thoroughly who is who on the board.

Calculations of the excess funds will have to be precise, take the interests of members into account and satisfy the registrar of this.

Crucially, before any decision can be made, members themselves will have to be polled and an application for the removal of funds will not be entertained unless two thirds of members approve it.

Before members vote, they will literally have to be bought off. Their benefits will have to reflect reasonable increases in line with the consumer price index and they may be offered other inducements. Employers too, will have to demonstrate that they are contractually bound to meet any shortfalls in the fund. At present an employer has no legal obligation to prop up its pension fund in times of trouble.



*Roy Spencer Lorentz . . . acting for 600 fellow members of the Tek Corp Pension Fund*

PENSION FUND SURPLUS

# Judge says pension surplus ownership vests in the fund

FM 19/12/1997 p30

The controversy over who owns a pension fund surplus has taken a new turn with an important High Court judgment

The Witwatersrand High Court ruled recently that the surplus in a company pension fund belongs to the fund and not to the employer.

If the judgment, in the case of *Roy Spencer Lorentz* & acting for 600 fellow members of the Tek Corp Pension Fund — *vs Tek Corporation Fund & others,* is upheld on appeal, it will have important implications for the pension fund industry.

The case arose out of the decision by Tek, in 1993, to close its defined benefit pension fund and convert it to a provident fund. The transfer of the fund's assets took place on June 1 that year and their value, on November 30 1993, was R104m.

Members' actuarial reserves were transferred to the provident fund, but the "surplus" of R17,7m remained in the pension fund. A surplus is not money in the bank but an actuarial calculation of the difference between a fund's assets and liabilities.

At the time of the transfer, Tek was holding company of SA's largest television and domestic appliance manufacturer, Defy, where two-thirds of the transferred members worked.

The row over the surplus started a year later. Tek, which had taken contribution holidays almost since 1991, argued the surplus lay in its control and no part could be claimed by former members.

It claimed that:

- An employer has an entrenched right to demand a contribution holiday and draw the contributions it would have paid from the surplus; and
- The rules of a pension fund constitute a contract and must be interpreted according to Contract Law. If the rules do not provide for a surplus, its lawyers said, then payment could not be forced.

Judge Navsa disagreed.

He said the company's obligation to make good deficits in the fund did not give it the right, unreservedly, to claim the surplus. And, if the decision to take a contribution holiday was based on surplus derived from sources other than company over-contribution, the trustees would be breaching their fiduciary duties in consenting to a contribution holiday.

"The fact that Tek is given the final say does not mean it can act arbitrarily and only in its financial interests," said the judge. "Tek and the trustees, in my view, misconstrued the pension fund rules and misconceived their powers and duties."

He found that the trustees had ignored relevant legislation — and the objects of the pension fund, whose rules recognised using the surplus to fund increased benefits.

The judge ordered the trustees of the Tek Corporation Pension Fund to transfer a "portion" of the surplus to the provident fund. However the size of this portion is left to the discretion of the trustees.

Lorentz's attorney Julian Murdoch says that, though the issue is not final until the appellate division rules on it, "it stands in the meantime and I imagine people with similar problems will be using it."

It could be more than a year before the appeal is heard in Bloemfontein.

Pensions expert James Downie says there is enormous interest in the Navsa judgment. He considers it "substantially correct, in that it's almost impossible for a trustee who's also an employee to be impartial."

Actuarial valuations of pension funds, including assets and the size of the surplus, must be filed every three years with the Financial Services Board.

However, the board's chief actuary Peter Milburn-Pyle says he has received no valuation reports from the Tek fund's actuaries, Alexander Forbes, since his present file started in 1991. "We're following this up to find out what the situation is."

Milburn-Pyle is seeking to push through new legislation by next June that will allow a "fair" distribution of the surplus from pension funds. This will permit employers to seek "reparation" of surplus.

Strong opposition is expected from organised pension groups and unions.

**Jack Lundin**

SAA ADVERTISING ACCOUNT

## A Christmas gift

**SAA** has awarded its huge advertising account, one of the most hotly contested in years, to TBWA Hunt Lascaris.

The business was formerly with Sonnenberg Murphy Leo Burnett, which was invited to pitch early in November against seven other agencies.

Subsequently McCann-Erickson and Saatchi & Saatchi withdrew because they had conflicting business, though in the case of Saatchi the conflict existed only in North America, where it holds the Delta Airlines account. Others in the battle were The Agency, HerdBuoys McCann, Lindsay Smithers-FCB and Gitam International.

SAA put the annual value of its account at R25m, but insiders say the real expenditure could be much higher. The seven competing agencies combined are estimated to have spent about R1m on their presentations. **Tony Koenderman**

# KZN pension scam rumbled

(300)

Sowetan

22/12/97

By Mbulelo Baloyi

THE anti-fraud and corruption task team of the KwaZulu-Natal administration has busted a pension scam which had been operating within the provincial social welfare and pensions department.

Police spokesman director Bala Naidoo said at the weekend five government employees, including an assistant director working in the welfare and pensions department in Msinga, were arrested on 112 counts of fraud amounting to R143 971.

## Personal use

Naidoo said the five suspects allegedly intercepted grant payments due to Msinga residents and misappropriated them for their personal use.

All five suspects were arrested earlier this month and appeared in court.

They were granted bail.

The accused are Mr Musa Mathonsi, Ms Bongile Zikhali, Ms Nompumelelo Mazibuko and Ms Thandekile Mzimela (assistant director now stationed at Ulundi).

The fifth suspect is Ms Stella Langa, who is a social worker at the Leeuwkop Prison.

Naidoo said the case was postponed until January 9.

## Latest arrests

The KwaZulu-Natal anti-fraud and corruption campaign was launched in January this year in a bid to stamp out rampant graft within several government departments within the provincial administration.

## Latest arrests

The latest arrests follow the conviction of several clerks in August who were employed in the provincial welfare department.

Social welfare and pension MEC Prince Gideon Zulu earlier this year established a special investigative task team to probe cases of graft in his department.

The police task team consists of seconded detectives from the provincial police commercial and fraud unit.

# Health workers defy stayaway

(300)
Sowetan 23/12/97

## Organisers blame hospital authorities

By Khathu Mamaila

HOSPITALS in the former Venda homeland have been operating as usual despite calls by Daba-lo-rivhuwa Pension Crisis Forum that health workers should join a stayaway which started about two weeks ago.

Chairman of the forum Mr Tshifhiwa Makhale said last week that workers had resolved that the stayaway aimed at forcing the government to surrender the pension fund to its beneficiaries should affect all civil servants, including those rendering essential services.

Makhale had said health workers would be briefed about the decision and added that critically ill patients could be transferred to other hospitals outside the former homeland.

However, *Sowetan* has discovered that hospitals in the area were working as usual.

Makhale confirmed yesterday that things were normal at hospitals.

He said there had been a problem of communication as the department's senior officials had refused forum leaders access to the hospitals.

"Our plan to move from one health institution to another was frustrated by the officials who did not allow us to address the workers.

### Support action

"The workers do not attend our meetings and it is difficult for them to support our action.

"We will continue to search for ways of informing them about our action. The stayaway has been effective, although there are a few people in other departments who are working," said Makhale.

He said the stayaway would continue until the government had responded to the workers' demands.

The government has repeatedly said that workers would not get their pensions as long as they were still employed.

The workers are demanding that they be paid the money that remained in the pension fund when the scheme was privatised in 1992.

Meanwhile, Makhale, who has refused to be transferred from Thohoyandou to Pietersburg, has been served with a letter informing him of his dismissal.

According to Makhale, if he failed to report in Pietersburg on December 15 he would be seen as having absconded.

Makhale did not report in Pietersburg on the day. He argued that the transfer was aimed at weakening the forum. He said he had already briefed his lawyer to challenge the government on the matter.

S. S. — PENSIONS & CARE OF THE AGED

1998

# 632 000 destitute as govt bungles pensions

ET 9/1/98

(300)

JOHANNESBURG: Destitute Eastern Cape pensioners were turned away yesterday from payout points as welfare officials in Pretoria held urgent talks with their treasury colleagues to find money for pensions.

Welfare Minister Ms Geraldine Fraser-Moleketi yesterday warned that KwaZulu-Natal and the Northern Province were also in trouble. Finance Minister Mr Trevor Manuel was on leave and could not be reached for comment.

Fraser-Moleketi said the Eastern Cape's welfare department needed R801 million — R267m a month for the next three months — to meet its pension commitments until the new financial year in April.

She said: "Some of us have not been sleeping. Old-age pensioners are the most vulnerable group. January is a particularly rough month, when children have to go to school. We can't tell people we're unable to assist them."

About 632 000 pensioners have been affected by the provincial welfare department's announcement earlier this week that it was out of funds. The consequences were far greater when the number of dependents was taken into account.

It was compounded in some areas where pensions were paid every two months, not monthly.

Fraser-Moleketi said the government had not budgeted enough for current pensioners, nor had it put funds aside for new pensioners.

Some provinces staggered backlogged payouts to try to avert a crisis, but the Eastern Cape had made lump-sum payments.

She said provinces had not been able to quantify the number of beneficiaries, and had been hamstrung in the past because there were no reliable statistics.

Dr Bukelwa Mbulawa, Democratic Party MP, said: "It is tragic that 1998 should start on such a bitter and unhappy note for thousands of the Eastern Cape's poorest. It is a devastating indictment of national and provincial government."

The failure of the province's welfare department to pay social pension on time "gives the lie to President Nelson Mandela's claim that the ANC wants to create a caring society", Mbulawa said.

She called for the dismissal of the province's welfare MEC, Ms Mandisa Marasha.

The provincial department said earlier this week it hoped to make the payments on January 21. —Sapa

# Bad planning blamed for pensions crisis

(300)

Star 9/1/98

## Over 600 000 affected, but provincial, national governments 'should have anticipated the financial problems'

STAFF REPORTERS AND SAPA

The national and Eastern Cape governments should have anticipated the financial crisis that left more than half a million pensioners empty-handed at pay-points yesterday, according to human rights commissioner Anne Routier.

Legal action might become necessary against the Government which was violating the constitutional rights of pensioners by withholding their pensions, she said.

About 632 000 beneficiaries and their dependants in the Eastern Cape were turned away when the provincial welfare department said it had run out of funds.

Routier added: "There would have been no emergency if proper administrative procedures had been followed."

Claiming Welfare Minister Fraser-Moleketi and the province's welfare MEC Mandisa Magasha should have anticipated the crisis, Routier said she had been in regular contact with Magasha regarding pension problems in the province since last year.

Welfare Department spokesman Brian Sokutu said he had been made to believe that Eastern Cape pensioners "were told that there could be a delay" with payouts.

High-level discussions were currently taking place between Fraser-Moleketi and Finance Minister Trevor Manuel to resolve the issue.

Fraser-Moleketi said some R801-million was needed from central Government over the next three months so that the province could meet its pension commitments until the new financial year.

She warned that KwaZulu Natal and Northern Province were experiencing similar funding problems, but there was no immediate danger that pensioners in these two areas would not receive their dues.

Fraser-Moleketi said that unlike some provinces that were staggering backlogged pension payouts to try to avert a crisis, the Eastern Cape had made lump sum payments.

"This resulted in a situation where four months into the current financial year the provincial department had already spent 50% of its social security budget," she said

She said provinces had not been able to quantify the number of beneficiaries and had been hamstrung in the past because there were no reliable statistics.

The medium-term expenditure framework was the first real attempt to correct the figures, and there was now a more accurate reflection of the number of beneficiaries.

In April last year about 689 000 people were registered, but because of re-registration and the removal of "ghosts" from the system, the figure had dropped to under 632 000.

Democratic Party MP Bukelwa Mbulawa urged the Government to administer on a caretaker basis the pensions of those provinces which had clearly shown they were incapable of doing so.

"It is a devastating indictment against both national and provincial government that they should have allowed it to happen," she said.

Freedom Front provincial leader Willem Botha urged that funds should immediately be made available to prevent further suffering and hunger.

The crisis was symptomatic of the collapse of government systems across the country, United Democratic Movement leader Bantu Holomisa said.

He added that the transformation of the civil service had led to the appointment of unqualified civil servants – often the friends of those making the appointments.

Holomisa urged the appointment of a non-political caretaker administrator in the Eastern Cape and other provinces in a similar predicament until the next election.

# Province faces court action over pensions

BD 9/1/98 (300)

**Jacob Dlamini**

THE Eastern Cape government could face legal action by the SA Human Rights Commission over its failure to pay pensions to about 632 000 pensioners this month.

Thousands of pensioners were turned from paypoints in the cash-strapped province yesterday as officials struggled with a fiscal crisis.

Eastern Cape human rights commissioner Anne Routier said the province's failure to pay pensions was a violation of the pensioners' constitutional rights. She accused provincial welfare MEC Mandisa Marasha of dereliction of duty.

Sapa reports Welfare Minister Geraldine Fraser-Moleketi said R801m was needed from central government over the next three months to bale out the province's welfare department so it could meet its pension commitments until the new financial year.

The provincial welfare department said this week it had run out of funds and was in talks with the finance ministry to raise money.

Department spokesman Cinga Nokwe said pension payouts in the province would begin by January 20, with funds raised within the province.

Routier said Marasha should have anticipated the crisis and planned for the payouts. The commission was weighing options that could include legal action. "Not only have the rights to sufficient food and water, and social security for the aged and the disabled been violated, but the rights of children under ... the Bill of Rights are being infringed," Routier said. Tens of thousands of SA children depended on pensions for survival.



FRASER-MOLEKETI

Routier called for Marasha's dismissal and accused her of showing contempt for a court ruling against her for not paying a pensioner for December. The court found the department had failed to pay the pensioner for a number of months and ruled that she be awarded back pay. Routier said Marasha had ignored the ruling. Nokwe denied this.

Routier also blamed Fraser-Moleketi for the crisis, saying she could not devolve responsibilities such as pension payouts to provinces without ensuring that they had adequate funds.

The welfare ministry estimates that provinces will overspend R1,5bn on welfare in 1997/98, with Eastern Cape accounting for R689m of the deficit. Other provinces facing large welfare deficits are KwaZulu-Natal (R411m) and Northern Province (R436m).

Welfare ministry spokesman Brian Sokutu said discussions with the finance ministry were under way on the budgetary crisis. However, government had not offered possible solutions. There was a strong likelihood that the discussions would focus on a possible cash injection from government to the provinces.

# Tears at pension points in E Cape

(300)

Star 10/1/98

By ADRIENNE CARLISLE

Grahamstown – Old people shed tears as they stared disbelievingly at notices outside post offices and pension payout points across the Eastern Cape informing them there would be no pension payout "until further notice".

Tired, old and desperate Sarah Mannas (72) said she had begged and borrowed the R4,20 to travel from Needs Camp to East London to collect her pension – but her journey was in vain. She did not even have the money for the return fare and had two mentally disabled children waiting for her at home who relied on her for survival.

Mannas is not alone. The old, infirm, disabled and indigent in the Eastern Cape were left out in the cold this week when it was announced at the last minute by the provincial government that grants could not be paid.

The welfare department is officially broke, and while MEC Mandisa Marasha enjoyed a Christmas break, the budgetary crisis which her department was facing at the end of 1997 developed into a full-blown financial collapse this week.

Welfare Minister Geraldine Fraser-Moleketi said R801-million was needed from the central government over the next three months to bail out the province's welfare department so that it could meet its pension commitments until the new financial year.

The Human Rights Commission described the withholding of grant payments as "a total violation" of human rights, and the Black Sash has also condemned what it described as Marasha's "incompetence".

> *'Withholding of pensions both incompetent and a violation of human rights'*

The Black Sash advice office in Grahamstown turned many desperate people away this week because there was nothing it could do for them. Director Rosemary Smith said she had sent them to the city's soup kitchens.

But even the soup kitchens face an uncertain future as many rely for their survival on government subsidies. The Government has failed to pay welfare organisations their subsidies for the past three months while subsidy cuts are discussed, and many are facing closure.

One of the victims of the department's tardiness is East London's Victoria Home for the Aged, which would have celebrated its centenary next year. It is to close at the end of the month because of a R100 000 deficit, and its 39 residents will have to be relocated.

The residents were filled with uncertainty, sadness and fear after being informed of the decision to close.

The institution's oldest resident, Elizabeth Usher (90), said she felt she couldn't take another move.

Another resident, Beauty Ntombela (80), said she wanted to die now rather than face an uncertain future.

But the provincial government continues to fiddle while the disadvantaged suffer.

Marasha yesterday announced a number of minor changes to the top structure of her department as well as some cost-cutting measures she intended implementing. These include centralising the control of telephones with direct-dial lines and better control over the department's vehicles – which might save some pennies.

"The fiscal year saw the department reaching the zero point, an occurrence which must never be allowed to happen again," she said at a press conference.

But while the central and provincial governments try to resolve the crisis, thousands of disadvantaged and helpless people face another bleak month.

# Urgent action taken on pension payout fiasco

BRETT ADKINS

CENTRAL government will this week come to the aid of thousands of Eastern Cape pensioners who did not get their money.

The crisis saw thousands of people in the province turned away from paypoints after funds ran out.

But the issue will be resolved within days, say government sources, as a task team helps the provincial government hammer out a solution.

It was learnt yesterday that an announcement on the payouts will be made at a press conference tomorrow, after urgent discussions between the Minister of Welfare, Geraldine Fraser-Moleketi, and the Minister of Finance, Trevor Manuel.

But the debacle — which triggered widespread accusations of administrative ineptitude in the provincial capital, Bisho — has also flashed warning signals to government over management efficiency nationwide, ANC sources said yesterday.

It is understood that high-ranking officials in Bisho — under pressure from the cabinet — are working furiously around the clock behind closed doors this weekend in order to have a plan ready for tomorrow's announcement.

The province needs more than R800-million over the next two months in order to meet its pension commitments until the start of the new financial year.

The South African Human Rights Commission has warned that the province's failure to pay pensioners is a violation of their constitutional rights and that the government could face legal action as a result.

The Anglican Bishop of Grahamstown, the Right Rev David Russell, said "culpable incompetence" lay behind the debacle.

In an interview with the Sunday Times yesterday, Fraser-Moleketi said Bisho's problems were linked to a history of "consistent underfunding" owing to an absence of accurate statistics and data on the province's beneficiaries.

Lump-sum payouts on a huge backlog of social grants — subsequently halted — had also contributed to the province running out of cash, whereas other provinces had tried to stagger such payments.

Fraser-Moleketi said Bisho's problems were not unique and that the government wanted to send a clear message to all the provinces: "Manage yourselves more efficiently."

# Task team to investigate pension claims on cards

BD 13/11/98 (300)

**Pule Molebeledi**

NORTHERN Province premier Ngoako Ramatlhodi could establish a task team to investigate claims by a group of former Venda public servants that they were owed R800m by the provincial government.

The premier's spokesman, Kenny Mathivha, said yesterday that, if constituted, the task team would investigate the main claims made by the Daba-lo-rivhuwa — a pension crisis committee claiming to represent more than 22 000 public servants from the former Venda bantustan.

The committee is demanding immediate payment of the R800m balance alleged to be outstanding from the initial 1992 Venda pension pay-out.

The money was paid out after the former bantustan's plans to privatise the government service pension funds were resisted by public servants.

The workers feared losing their money, as they alleged they had not been consulted.

Tshifiwa Makhale, leader of the crisis committee, was sacked last week by the provincial government on grounds of misconduct after he defied an order to relocate from Thohoyandou to the headquarters in Pietersburg.

Mathivha said Makhale had not complied with the order handed to him in October last year.

Makhale could not be reached for comment.

The crisis committee has engaged in various protest actions, including stayaways, road blocks and a march to the Union Buildings, with limited success. It was negotiating with department of finance officials, but a decision was taken last November by the provincial legislature that the pension issue be dealt with provincially.

Mathivha has said he recently received death threats from people alleging to be members of Daba-lo-rivhuwa "to silence his big mouth".

A pamphlet containing such threats was circulated in Thohoyandou and only last week, he received another death threat over the phone.

Mathivha said he had not laid a complaint with the police as yet but was attending to the matter.

SOWETAN Monday January 12 1998

# Welfare Minister takes over

## Black Sash and PAC say warnings on pension crisis went unheeded

By Russel Molefe

WELFARE and Population Development Minister Mrs Geraldine Fraser-Moleketi has taken charge of the social security crisis in the Eastern Cape which led to thousands of pensioners going hungry because provincial authorities failed to pay them.

Fraser-Moleketi blamed the crisis on the social security budget deficit. The ineffective budgeting stemmed from the lack of accurate and updated data on social security beneficiaries in all the provinces.

"These problems with the social security database have largely been resolved as the 14 different systems of the old dispensation have been amalgamated into one system," she explained.

She pointed out three aspects which led to the crisis in the Eastern Cape.

These were: the underfunding of the province, the backlog which led to almost 50 percent of the budget being spent in four months of the current financial year and actual expenditure exceeding the allocated budget.

However, Fraser-Moleketi's explanation was not enough for the Pan Africanist Congress (PAC) and the Black Sash who both said that their earlier warnings of the impending crisis in the Eastern Cape fell on deaf ears.

PAC secretary for health and welfare Mr Costa Gazi said there was no excuse for the current crisis.

The PAC called for the dismissal of certain officials when the tendering process for the distribution of pensions started two years ago.

"Nothing was done to those who almost defrauded the department of R140 million. No one who pocketed extra pension money has been charged.

"The pensioners are being made to pay for all this corruption and fraud within the system. There is no excuse for this crisis," Gazi said.

Black Sash's Mrs Rosemary Smith said the crisis in the province did not come as a surprise because their past dealings with welfare authorities had revealed gross incompetence and duplicity.

Their warnings to senior officials also went unheeded, she said.

# Govt pension fund may change formula

(300)

BD 12/11/98

**David Greybe**

CAPE TOWN — Government plans to change the R113bn public servants pension fund from a defined benefit fund to a defined contribution fund along private sector lines.

The proposal is being opposed by the largest public service union, the Public Servants' Association.

Deputy Finance Minister Gill Marcus said a decision in principle on the issue was taken in February last year at the national retirement consultative forum by a conference task team of government and union representatives.

Marcus said a technical team of all stakeholders including the unions would have to be appointed once the cabinet gave the go-ahead for the change to work out the details of what was clearly a complex issue.

Public Servants' Association GM Casper van Rensburg said the purpose of the proposed change was to reduce government expenditure to the detriment of pension provisioning for public servants and to do away with government pension guarantees.

"This proposed move has no intention whatsoever to benefit public servants pensionwise," he said.

Pension administration chief director Peet Maritz said, however, that the "current pension dispensation is very expensive and in light of international trends it makes economic sense to change from a defined benefit fund to a defined contribution fund".

Van Rensburg said the proposed change would not end government's obligation regarding the R44,9bn deficit under the current pension fund because the deficit formed part of the obligation of the fund to pensioners and contributing members guaranteed by government.

The deficit resulted from the fact that the funding level was actuarially determined as 72,3% on May 1 1996. In the latest evaluation, it was estimated that if the existing fund continued to operate as at present, it would be fully funded by 2005.

Van Rensburg said it would therefore be better to wait until the existing defined benefit pension fund was 100% funded before switching to a defined contribution fund.

He warned of a "huge fight ahead" unless government adopted a more open and flexible approach with public service unions on what was a "very complex and sensitive matter".

The government employee pension fund had 958 632 members plus 208 309 pensioners and widows and widowers on May 1 1996.

Van Rensburg said a defined contribution fund would do away with pension benefits in relation to term of service and salaries and reduce benefits for public servants in the case of retrenchments; ill health; death benefits; added periods; and additional added periods of pensionable service for "services members" such as defence, police, correctional services, national intelligence and secret service.

Van Rensburg said public servants would also have to carry the risk on bad investment returns and the effects of inflation, while government guarantees in respect of certain benefits and obligations concerning future pensionable service would fall away.

The short-term benefit of the proposed change would be in the area of cheaper forced retrenchments in the public service as recently proposed by government, Van Rensburg said.

He calculated that if government forcibly retrenched 40 000 public servants it could save R6bn due to the discontinuation of the added period practice and government compensation to the fund for full retirement benefits instead of reduced retirement benefits.

Maritz said if anyone was retrenched based on actuarial interest,

**Continued on Page 2**

## Pensions

(800)

BD 12/11/98

**Continued from Page 1**

they would receive their accrued benefits up until the last day of their employ in terms of the rules of the fund.

This would enable government to fund the shortfall regarding individuals who were retrenched so that they received their full benefits enjoyed under the current pension scheme.

Marcus said she "welcomed" the concerns expressed by the Public Servants' Association, but said it would be the job of the technical team to deal with such concerns.

Van Rensburg said the unions would consider supporting the proposed change only "if provision is made for risks in the case of death, retrenchments, bad investment returns, inflation, etcetera".

Maritz said that in light of the size of the assets of the state pension fund, any move to a defined contribution fund would have to consider carefully the impact at a macroeconomic level. He estimated such a change could be made within a year.

# Pension rescue for Eastern Cape

(300) ET (BE) 13/1/98

**CHRISTO VOLSCHENK**
ECONOMICS EDITOR

Cape Town — Trevor Manuel, the finance minister, and his welfare counterpart, Geraldine Fraser-Moleketi, have found a short-term solution to the cashflow crisis encountered by the Eastern Cape government, but details of the rescue package or the possible implications on the Budget were not released yesterday.

The Eastern Cape's money problems led to the non-payment of pensions to 632 000 pensioners last week.

All outstanding pensions would be paid but no extra money would be allocated to the province from the national government, Fraser-Moleketi said.

Fraser-Moleketi said she would announce tomorrow how the cash crisis would be solved.

She said that "some progress" had been made in negotiations with Manuel to help the provincial government find the R800 million it needed to pay out pensions in the last three months of the current financial year.



**PAYOUT** *Welfare minister Geraldine Fraser-Moleketi*

Budget-watchers speculated that Manuel might have agreed to short-term relief in the form of a guarantee on a bank overdraft.

The welfare ministry estimated that the nine provinces would overspend about R1,5 billion on welfare in the financial year.

In the Eastern Cape alone the over-expenditure on welfare could amount to R690 million, the ministry said, with KwaZulu-Natal estimated to overspend by R411 million and Northern Province by another R436 million.

Manuel reportedly told Fraser-Moleketi and the Eastern Cape welfare MEC Mandisa Marasha that the cash crisis was a problem to be solved by the welfare ministry and the provinces.

He reasoned that provinces decide how they want to spend the lump sums allocated them by the national government.

It is not clear what went wrong with the budgeting process in the Eastern Cape, but a spokesman in the finance ministry said "it was not necessarily an allocation problem", sparking speculation that administrative deficiencies and ghost pensioners might have led to misspending of money.

# Grahamstown to raise cash for pensioners

(300)

## City of Saints lives up to its name as residents unite to help destitute elderly

Herald 13/1/98

ECN
Grahamstown

Citizens of Grahamstown have banded together and vowed to raise R30 000 in 10 days in response to "the human tragedy" resulting from the provincial government's bungling over the non-payment of old-age pensions in the Eastern Cape.

An emergency meeting called yesterday by the director of the centre for social development, Thelma Henderson, drew more than 70 people representing a number of organisations and included concerned citizens who want to help.

The immensity of the problem was brought home starkly by reports of the number of pensioners and their dependants who rely solely on their pensions and who have not yet been paid. There are an estimated 635 000 old-age pensioners in the Eastern Cape.

Disability grants were paid on January 5 and 6 in some towns but no old-age pensions have been paid in Grahamstown this month.

A number of options were suggested, including supplementing present soup kitchens and generating food parcels, but an overwhelming majority of people supported a food voucher system.

Henderson said: "We have only 10 days to raise R30 000 and we are really going to need everybody to contribute as much as possible."

During the meeting, four committees were set up. These cover finance, vouchers and publicity, as well as a committee that was formed to pursue subsidies in the long term for all non-governmental organisations.

### Voucher system established

The task of the voucher committee will be to set up a system allowing a needy pensioner to obtain a voucher to buy groceries at certain local stores.

This is an emergency measure until January 20, by when it is hoped that the pension fiasco will have been resolved.

# Eastern Cape pensions pledge

ET(BR)15/1/98 (300)

CHRISTO VOLSCHENK

Cape Town — National government would give the provincial government of the Eastern Cape an advance of R267 million to allow the cash-strapped province to make a pension pay-out to 564 000 pensioners due since last Thursday, Geraldine Fraser-Moleketi, the welfare minister, said yesterday.

The pension pay-out would be made on Monday, she said.

The advance would take the form of a bigger-than-usual weekly transfer from the national treasury to the province, a spokesman in the ministry of finance said.

Yesterday it was unclear whether the advance would be paid back to national government.

The spokesman said the advance would have to be paid back before the financial year-end and the emergency plan did not amount to an injection of additional money into the province.

However, Fraser-Moleketi said "there was a good chance of the advance being turned into extra money". A task team with a forensic auditor would "strengthen management and administrative systems and improve the statistical base" before approaching Trevor Manuel, the finance minister, with a request to turn the advance into a cash injection.

A commission of inquiry would also be set up to investigate how the province overspent budget for pensions by R801 million in the full financial year, she said.

She speculated that "administrative slip-ups and back-payments of pensions of up to three years" might have contributed to the crisis. She noted that other provinces which also overspent on pensions might now knock on her door for similar relief.

Fraser-Moleketi said the total amount "underbudgeted" by the nine provinces for pensions in the financial year exceeded R1,5 billion. A final figure would be released in due course.

# Pension: Hospersa lays into Govt

Sowetan 15/1/98

## Union feels that disparities between black and white is a serious issue

By Abdul Milazi

THE HOSPITAL Personnel of South Africa (Hospersa), yesterday accused the Government of trying to shift economic risks to workers, in its plans to change the public service pension fund into a provident fund.

The announcement made by Deputy Finance Minister Gill Marcus on Tuesday has angered Hospersa, while the National Education, Health and Allied Workers Union (Nehawu) remained indifferent to the issue.

Nehawu president Vusi Nhlapo said there were more serious issues to be negotiate than arguing over what form the pension fund should take.

"It is immaterial whether the Government calls the fund a defined contribution or a defined benefit."

Nhlapo said the Government needed to address the disparities between black and white workers.

"Black workers had been denied membership of the pension fund until the late 1970s, which is why one finds a worker with 20 years of service, only having ten years of contribution with the fund.

"Whites, however, get hundreds of thousands of rands when they retire," he said.

Hospersa assistant general secretary Albert Wocke said there were a number of trade unions involved in the negotiations for the planned restructuring and it was not certain that they would vote in favour of the move.

"A defined contribution pension fund (provident fund) is not necessarily cheaper than a defined benefit pension fund (a normal pension fund), as the employer may not make contribution holidays in order to redirect funds elsewhere in the budget," said Wocke.

Under a normal pension fund, employees are entitled to a percentage payout plus a monthly payment till death, while a provident fund only offers a once-off payment.

# Pensions crisis: The rot spreads

M+G 16-22/1/98 (300)

**Charlene Smith**

The government is scrambling to stop KwaZulu-Natal and the Northern Province from following the Eastern Cape, where a welfare crash last week deprived hundreds of thousands of pensioners, single parents and disabled of their payouts.

Minister of Welfare and Population Development Geraldine Fraser-Moleketi said this week that R801-million is being advanced to the Eastern Cape from the national Treasury and payments would be made on January 19. But she would not say where the money had come from: "I'm trying to avoid answering [that question]," she frankly admitted. Attempts to get answers from the Ministry of Finance also drew a blank.

The Eastern Cape crash alone has placed a burden of at least R1,5-billion on a fiscus that is already characterised by overspending. The figure does not include R350-million in backlogs owed to almost 100 000 individuals.

The crash has led to the collapse of some welfare organisations in the province as the provincial government has not paid subsidies since December. The province has announced that when it does begin paying again — after the new Budget in April — those grants will be cut by 10%.

Welfare organisations rely on the state for 65% of their funds, and the collapse of these organisations will mean impoverished citizens, hammered by the government's welfare crisis, stand to face a dual blow.

Fraser-Moleketi said the only two provinces faring well are Gauteng and the Western Cape, with the Free State "holding its own".



Knowing this, the government was initially reluctant to intervene as it knew bailing out one province would see a flotilla of sinking provinces asking for lifeboats. Last week, when the crisis broke, it seemed that pensioners, the recipients of maintenance grants and the disabled would receive no payouts until April.

The Eastern Cape department of welfare is bankrupt. Technically, 24% of the Eastern Cape budget has been set aside for welfare services, but it has been swallowed up by social-security grants.

Niresh Ramklass, national co-ordinator of the National Welfare, Social Service and Development Forum which represents 8 000 welfare and civil society organisations, said the Eastern Cape situation confirmed concerns among welfare organisations in that province that a desperate financial crisis is looming and the provincial government is not being transparent.

"The Eastern Cape is a very poor province with one of the largest populations in the country, and very high rates of unemployment and poverty. Welfare services have been the main means of support for hundreds of thousands of families. Welfare organisations in the province are being stretched as they report increasing levels of poverty leading to desperate situations.

"We have issued calls for developmental programmes to generate jobs and opportunities for people in the province. Not enough has happened. At the same time, some welfare organisations have not received subsidies from the province for months, some have closed and others are in danger of collapse. There has to be serious top-level intervention."

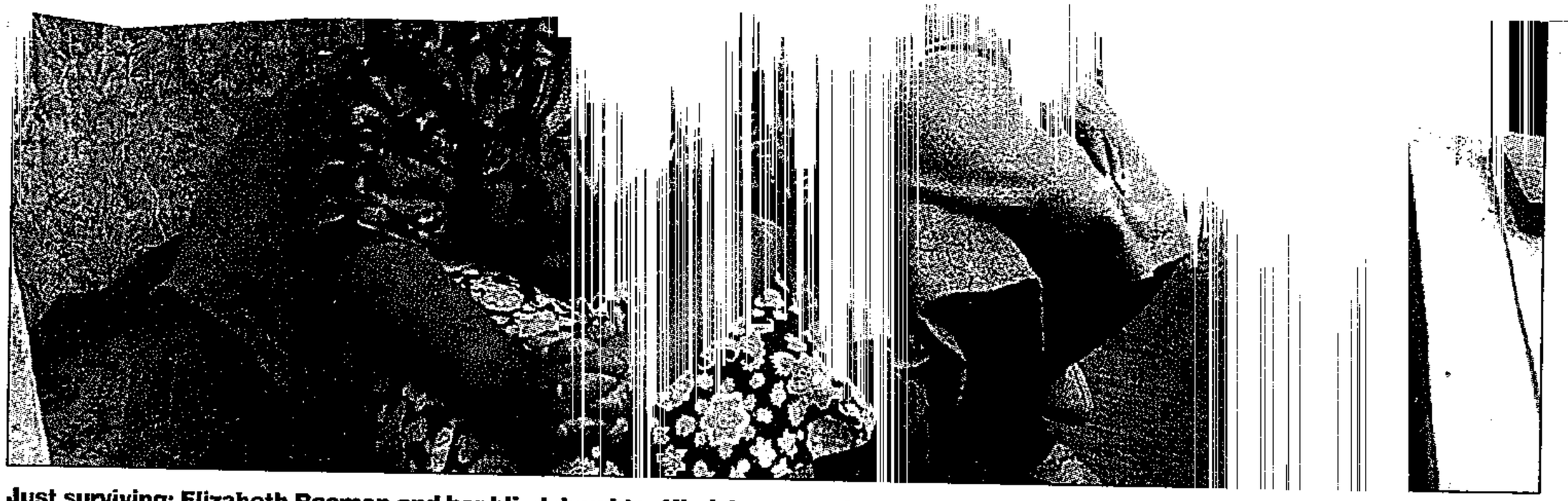
The forum met Fraser-Moleketi last week. Its task team is a critical back-up to the government's crisis-intervention task teams.

Fraser-Moleketi made dramatic strides last year in eliminating fraud and arriving at accurate tallies of how many beneficiaries should be receiving assistance. There were previously no national figures because of "homeland" divisions which skewed budgets.

She has been holding urgent discussions with the Department of Finance on ways to deal with the Eastern Cape crisis, and, after the intervention of Deputy President Thabo Mbeki, funds were released.

Eastern Cape Welfare MEC Mandisa Marasha admitted, in an interview prior to Fraser-Moleketi's announcement of assistance, that she did not know from where she would get the money. "Our problem is not just January — it is to the end of the financial year."

She admitted there is not even money to pro-



Just surviving: Elizabeth Rasmen and her blind daughter Kimish received no pension this month. PHOTOGRAPH: SEAN WOODS

# 'No one seems to care about us at all'

M+G 16_22/1/98

**Craig Bishop**

"My neighbours still believe in it, but the politicians are destroying the spirit of ubuntu."

Arthritic and near-destitute, Sindiswa Frans does not think she will vote African National Congress next year. Many of the estimated 635 000 pensioners in the province who have not received their pension cheques for December and January may be feeling the same way.

Her family is owed more than R2 380 in welfare for the last two months, including her R470 pension grant, a R250 maintenance grant for her three granddaughters and R470 a month disability grant for her 49-year-old epileptic son. Without this money she is unable to feed, clothe or protect her extended family.

She is fed up with empty promises and crocodile tears which she feels camouflage interdepartmental confusion and bureaucratic ineptitude. She has a point.

Dire predictions as early as July last year showing that the Eastern Cape welfare department's social security budget would face a R1,4-billion deficit by December 1997 went unheeded at national and provincial levels.

Back from the Christmas break, Bisho and Pretoria began 1998 by bickering over the exact number of pensioners in the country's Cinderella province. Bisho claimed there were around 632 000. Until this week, Pretoria insisted there were closer to 400 000.

The lack of reliable data and the legacy of an apartheid policy designed to keep the region down were made worse by the failure of Welfare MEC Mandisa Marasha's department to address the crisis.

Plans to draft a Green Paper on provincial social welfare before the end of 1997 never materialised. Mechanisms to improve client services and complaints have failed. To exorcise "ghost" pensioners, the department is planning to wipe many potential pensioners off databases for failing to register in time.

Marasha's department's latest excuse was that it had run out of cheque books. But, according to Oscar Levendal, Minister of Welfare and Population Development Geraldine Fraser-Moleketi's private assistant, most pensioners in the Eastern Cape receive money in cash payments anyway.

Meanwhile, Frans says she cannot trust empty rhetoric any longer.

"I am so frustrated and depressed. What makes it saddest is the fact that people still trust the political promises. I have had no supper for several nights except what my neighbours can afford to let me have."

The right to social security is protected under the new Constitution by the Social Security Act 59 of 1992, and Fraser-Moleketi is quick to admit that she is "committed to meeting her statutory obligations".

But, for struggling pensioners like Frans, these are "paper rights" stained with gravy.

"I am worse off now than before the so-called transformation. There is no direction from Bisho. All I see is politicians driving expensive cars while I cannot even buy a slice of bread."

In Duncan Village, East London, Elizabeth Rasmen and her 25-year-old blind daughter Kimish have been surviving on a disability pension of R470 a month.

But January has been particularly bleak because Kimish Rasmen's R470 pension did not arrive. Elizabeth Rasmen applied for her old-age pension in August, but has not yet heard when she will receive her first payment.

"We manage, but it's very, very hard. No one seems to care about us at all," Rasmen said.

Head of Rhodes University's politics department, Professor Roger Southall says that the pension crisis will have an impact on votes in the province, but that the AN will still "clean up in the province.

"It is a wider reflection of the lack of credible political opposition for the ordinary person, who in the Eastern Cape has always had a historical distrust of other parties."

vide feeding services to pensioners, and payments to private welfare organisations are being staggered. "We would be pleased if welfare organisations could raise more of their own funds and rely less on the government. Although some are threatening to close down, we are trying to sustain them. We need more, not less."

In all, 2 057 welfare programmes rely on subsidies from the provincial government.

In an interview with the *Mail & Guardian*, Fraser-Moleketi said there is a "a consistent underfunding of the social security component of the welfare budget because of an absence of accurate data on groups and types of beneficiaries, and the numbers of beneficiaries.

"When we amalgamated the 14 welfare systems in April 1996, we began trying to redress this. Last year we began working on re-registration [of beneficiaries] to have more accurate data. In the Eastern Cape we had 689 000 beneficiaries registered, and re-registration, which will be completed at the end of this month, has so far cut that figure by 125 000 [people receiving grants who were not entitled to them].

"However, actual monetary benefits to the overall Budget will not be felt until 1999. There is also an annual growth of 2% of new beneficiaries, which budgets have failed to take into account.

"One problem in the Eastern Cape is that people have different identification numbers. Some still use Ciskei and Transkei ID books. Home Affairs is helping us with a pilot scheme to unify ID numbers under South Africa so we can further eliminate fraud."

However, Fraser-Moleketi admitted that there are serious management problems in the Eastern Cape and some other provinces too. She said provinces have been carrying budgetary deficits since 1994, and in the Eastern Cape pension backlogs mainly from former bantustans go back two years. Ciskei and Transkei did not reconcile their books in the past.

The government has paid lip service to poverty alleviation with little co-ordination taking place — although a poverty report due from Mbeki's office in February is expected to address this shortfall.

"The one difficulty we will need to overcome this year is the question of backlogs. We need to look at how we are dealing with the social sector as a whole in the government and emphasise the importance of social grants in terms of poverty alleviation."

# Pensions lifeline 'will hit next year'

BD 16/11/98

300

**Kevin O'Grady**

NATIONAL government's R801m lifeline to the Eastern Cape's cash-strapped welfare department to allow it to pay thousands of overdue pensions would come off the province's 1998/99 budget, Welfare Minister Geraldine Fraser-Moleketi said yesterday.

The lifeline — an advance on funds due to the province this year, in terms of an agreement with Finance Minister Trevor Manuel — would "go down against their budget for the new financial year", Fraser-Moleketi said. "This will put the department in a similar situation next year."

She hoped Manuel and the state expenditure department would become "sensitised" to welfare's underfunding through work done on the medium-term expenditure framework and the work of a task team appointed to manage the Eastern Cape crisis.

ECN reports that officials in the Eastern Cape capital of Bisho were unable to explain yesterday the financial implications of the R801m baleout. They could not furnish facts about the size of the department's overdraft, the amount of money owed to pensioners, or the number of new pensioners who would come on the books when the next financial year began in April.

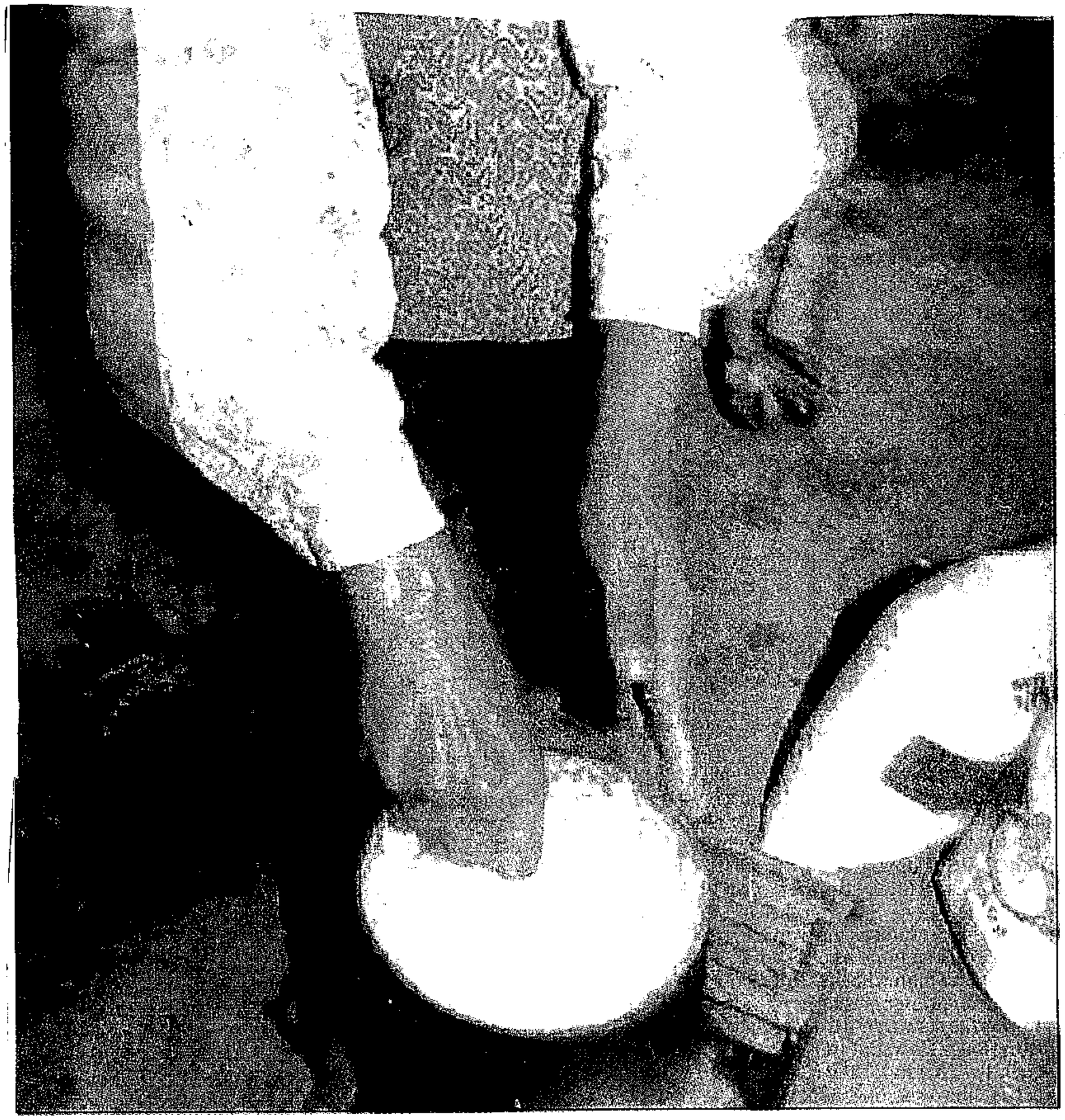
Sources in Bisho said there was a fear that next year's welfare budget would be cut by as much as R1bn and that this year's problems would continue, but with disaster striking earlier.

In April last year, health and welfare MEC Trudy Thomas said the 1997/98 welfare budget fell short by R347m. This means the current deficit exceeds the expected deficit by more than R450m.

Fraser-Moleketi said underfunding of welfare for the past three years was partly to blame for the Eastern Cape's pension crisis and had put KwaZulu-Natal and the Northern Province in a similar predicament. However, it was hoped central government intervention would not be necessary. "We are in touch with them (the KwaZulu-Natal and Northern Province welfare departments) on a daily basis, and we have reason to believe that tighter financial management and adequate forewarning will cope with the situation."

Meanwhile, African Eye News Service reports that almost 4 000 people in Mpumalanga did not receive this month's disability grants as a result of a computer systems error.

The acting provincial director for social pensions, Jack Mbonani, said the 3 777 people who did not receive their disability pensions of R477 each, would be paid out double next month.



**Desperate:** 'I am starving and all I hear is promises,' says 84-year-old Elsie Biko

"Accepting a budget under protest will not happen again."

He said the legislature had the right to reject a budget, and vowed that if the 1998-99 budgets for vital government departments were unrealistic they would be thrown out.

Mr Serache was called to Bisho from his home in Umtata and had to send his children to their aunt in Durban for the holidays.

Ms Nqodi was called down from her family in Krugersdorp.

Along with other legislature members such as house leader Sindisile Maclean, MPL Sam Kwelita and ANC regional vice-secretary, Dumisani Mafu, they had to endure bitter insults and recriminations from desperate and hungry pensioners, the disabled, the ill and those struggling to look after children.

"It was painful but true to hear one woman tell me that we should be working for them like we would work for our own parents," Mr Serache said.

But the way ahead is not easy.

MPLs have also vowed to fight for a change in the 1996 census figures, which drastically cut the province's population. These figures are vital as the central Government uses them to decide on financial allotments for the provinces.

Mr Serache said the census was a "fiasco", as hundreds of thousands of people in remote rural villages had not heard of the census, done in October 1996.

Mr Serache also warned that the government would have to crack down hard on corruption.

Mr Serache said MPLs were even considering calling for crack police investigator Bushy Engelbrecht to look at violence in the province's taxi industry and in Tsolo and Qumbu, and to check out welfare officials. – ECN Weekend Service

AR 6 17/8/98 (388)

# New SA worse than old, say hungry E Cape pensioners

AUG 17 1/01/98

369



# We will not be caught short again, says ANC

SHONA LAWSON

**Bisho – The Eastern Cape legislature will not accept another unrealistic provincial budget, warned ANC member of the provincial legislature, Nat Serache.**

In an interview about the province's welfare finance crisis, Mr Serache said it was perhaps a mistake last year for the legislature to have accepted budgets for education, health and welfare which officials in the province had predicted would be too small.

Mr Serache, another ANC MPL, Sally Nqodi, and other ANC leaders spent Christmas away from their families this year as they counselled and comforted the hundreds of desperate pensioners and welfare beneficiaries who gathered at the legislature to demand their money.

"We need to fight to solve the problems. If the budget is inadequate we cannot take it lying down. We cannot have a repeat of this year," Mr Serache said.

"We are paid by taxpayers' money; we are public representatives and we promise we are going to represent them effectively, regardless of the consequences.

ARG 17/01/95

ARG 17/1/98 (300)

DAVID MACGREGOR

**Grahamstown – Pensioner Elsie Biko, 84, one of more than 600 000 Eastern Cape pensioners, is praying she will still be alive when next week's long-overdue R470 pension is paid to her.**

All she has had so far is a public apology from Eastern Cape Premier Makhenkesi Stofile for the delays in paying the cash-strapped province's pensioners.

The excuses for not paying pensions this month included bureaucratic bungling by the province's welfare ministry accountant, who forgot to get new cheque books, and squabbling with central government over the number of pensioners in the province.

Bisho has also simply run out of cash.

Bisho authorities said there was nothing with which to pay 632 000 pensioners – while the central government said there were only 400 000 pensioners in the region.

Speaking at a packed Centenary Hall in New Brighton on Monday to mark the 86th anniversary of the African National Congress, Mr Stofile told hundreds of pensioners – to whistles of impatience – that they would be paid next Tuesday.

"We are asking for your forgiveness. We have done wrong to you, my grandfathers and mothers," he said.

But for Mrs Biko and thousands of other pensioners who did not see Mr Stofile's heart-rending performance, the apology means nothing.

Food and money took away the hunger – not promises, they said.

Although Pretoria finally agreed this week to fill the provincial begging bowl with pension money, every day that passes while the state finds the R400-million needed for January pensions is a fight for survival for thousands of destitute pensioners.

A rake-thin Mrs Biko said from her squatter camp shack this week:

"I voted for the ANC, hoping life would improve, but it has only got worse.

"I am starving and all I hear is promises.

"Every night Stofile goes home to his lovely house and has a big dinner.

"He sleeps with a full stomach and can eat whenever he wants."

Mrs Biko was visited in the broken-down hut she calls home just as she was about to make herself her first meal in three days – from a scrap of rotting pumpkin and a cup of flour she had scrounged from a neighbour.



**Nomvuyo Koko:** walks 5km to get a meal

Tears welled in her misty eyes as she patiently prepared the mush dumpling and slowly ate the food, savouring every mouthful in the knowledge that she did not know where the next meal would come from.

A few doors away Bongiwe Wakashe, 67, was celebrating. She was one of the lucky ones who had managed to hobble to the Grahamstown post office and get a R30 food voucher.

But she has her own family to feed, and also has vivid memories of not eating for two days at a time – "since Christmas" – while she tried to beg or scrounge food.

For her, Mrs Biko is one of the "unlucky ones".

"I was very lucky to get a voucher and some food. I know some of my neighbours are too sick and elderly and have nobody to help them, but what can I do – I also have nothing," she said.

Like Mrs Biko, Mrs Wakashe said she was "disappointed" that government "fat cats" got their salaries while the province's pensioners starved.

Ida Kulati, an energetic 76-year-old who supports four young grandchildren, lives down the road from Mrs Biko – but she cannot help because she has her own problems.

Early this week Mrs Kulati took her prized collection of old cups and plates onto the streets and raised R10 after her food ran out the day before.

"Over the past few days I have been eyeing the neighbourhood chickens and have been thinking what a lovely meal they would make.

"But I cannot steal any because I do not want to cause problems with my neighbours – who are also unemployed and battling," she said.

But Mrs Kulati and Mrs Wakashe consider themselves "lucky" – they can at least get to a neighbourhood soup kitchen.

Mrs Biko is not so lucky. Her "old bones" can barely shuffle to the front gate – let alone the neighbourhood soup kitchen.

At the soup kitchen this week pensioners patiently waited for three slices of bread and a spoon of soup.

Nomvuyo Koko, a 75-year-old on crutches, said she had heaved herself 5km just to get a meal. She would be back – as it was her only meal ticket.

While thousands of pensioners flocked for food parcels in cities and towns this week, concerns were raised over the plight of the "forgotten pensioners" in the rural areas.

Although money had been promised by next week, many pensioners interviewed vowed to rethink their political allegiance in the looming 1999 national elections.

According to Mrs Kulati: "Things are worse in the new South Africa.

"I am very disappointed. Surely apartheid cannot still be blamed for the pension problems. I don't think I will vote at all next year."

The small change that was given to Elsie Biko after her heart-wrenching experience of hunger and depression paled next to the knowledge that I would soon be out of her life and – like the premier and government ministers – enjoying a hot and hearty supper. – ECN Weekend Service

# Treasury rescues Eastern Cape pensioners

Star 15/1/98 (300)

## Task team to analyse what went wrong in department's administration and infrastructure

BY HOPEWELL RADEBE
Political Staff

The national treasury has advanced the Eastern Cape Welfare Department R801-million to pay thousands of its pensioners in the next three months, Welfare Minister Geraldine Fraser-Moleketi said yesterday.

Addressing the media in Johannesburg, she said a further R330 000 was obtained from other sources to stop the closure of two children's homes in the former Transkei.

She said an announcement about when the pensioners would be paid could not be made earlier because the Eastern Cape Welfare Department had serious administrative difficulties that had to be sorted out. The pensioners will be paid as from January 19.

In an attempt to avoid a repetition of the crisis, a national task team comprising social security and finance experts and systems managers, led by national department acting director-general, Dr Benny Mokaba, had moved in "to put in place the necessary management and administrative systems".

Fraser-Moleketi said this team would also handle the funding of non-governmental organisations facing closure due to a lack of financial assistance. Her department had made available about R4,5-million from the special poverty alleviation fund set up by Finance Minister Trevor Manuel.

Fraser-Moleketi said she had also sent in a forensic auditor to audit the cash flow of the provincial department. She had requested Public Service and Administration Minister Zola Skweyiya to set up a commission of inquiry to investigate why the system had failed.

Fraser-Moleketi said civil servants would work from Monday next week paying out social security grants. "Senior provincial officials of the post office, banks and police have also agreed to add more staff to help speed up the payment processes," she said.

She had approached Safety and Security Minister Sydney Mufamadi and police commissioner George Fivaz to tighten security at payout points.

She said warning red lights were flashing in other provinces, such as Northern Province and KwaZulu Natal. An investigation was being conducted in Mpumalanga to ascertain whether a similar problem should be expected.

"We do not see these provinces experiencing a critical financial crisis to the level of the Eastern Cape," Fraser-Moleketi said.

Welfare MECs would discuss further preventive measures at their meeting on January 26 in an effort to bolster early warning systems and avert problems.

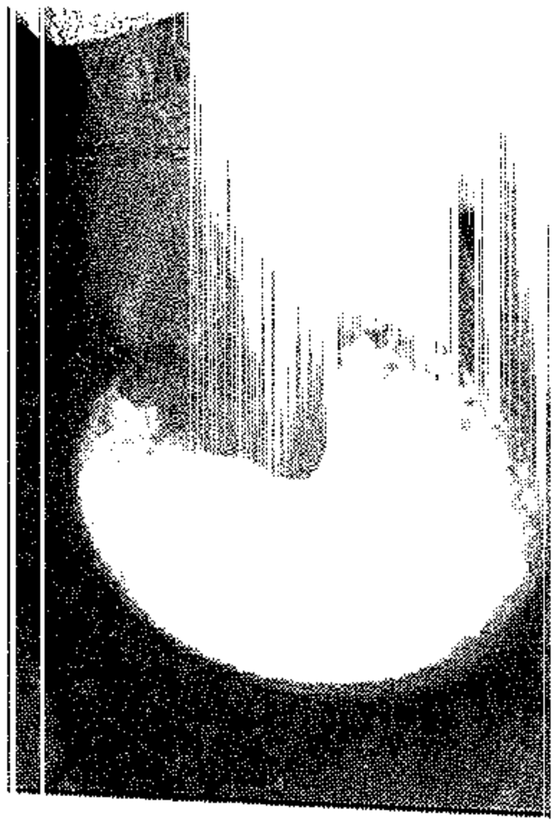
ec for January payouts is a lifeline for survival for thousands of destitute pensioners.

A rake-thin Biko said from her squatter camp shack this week: "I voted for the ANC hoping life would improve, but it has only become worse. I am starving and all I hear is promises. Every night Stofile goes home to his lovely house and has a big dinner. He sleeps with a full stomach and can eat whenever he wants."

When ECN visited the broken-down hut she calls home, Biko was about to cook her first "meal" in three days – from a scrap of rotting pumpkin and a cup of flour she had scrounged from a neighbour.

Tears welled up in her eyes as she patiently prepared the mush dumpling and slowly ate the food, savouring every mouthful.She did not know from where the next meal would be coming.

A few doors away, Bongiwe Wakashe (67) was celebrating.







*'LUCKY ONE' . . . Nomvuyo Koko (75) (below)... hobbles five km for a meal.*

She was one of the lucky ones who had managed to hobble to the Grahamstown Post Office to get a R30 food voucher.

But she has her own family to feed and also has vivid memories of not eating for two days at a time – "since Christmas" – while she tried to beg or scrounge food.

"I was very lucky to get a voucher and some food. I know some of my neighbours are sick and elderly and have no-one to help them, but what can I do? – I also have nothing," she said.

Like Biko, Wakashe said she was "disappointed" that government "fat cats" got their salaries while pensioners starved.

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But Kulati and Wakashe consider themselves "lucky" – they can at least get to a neighbourhood soup kitchen.

Biko is not so lucky. Her "old bones" can barely shuffle to the front gate.

When ECN visited a local soup kitchen this week, pensioners patiently waited for three slices of bread and a dollop of soup.

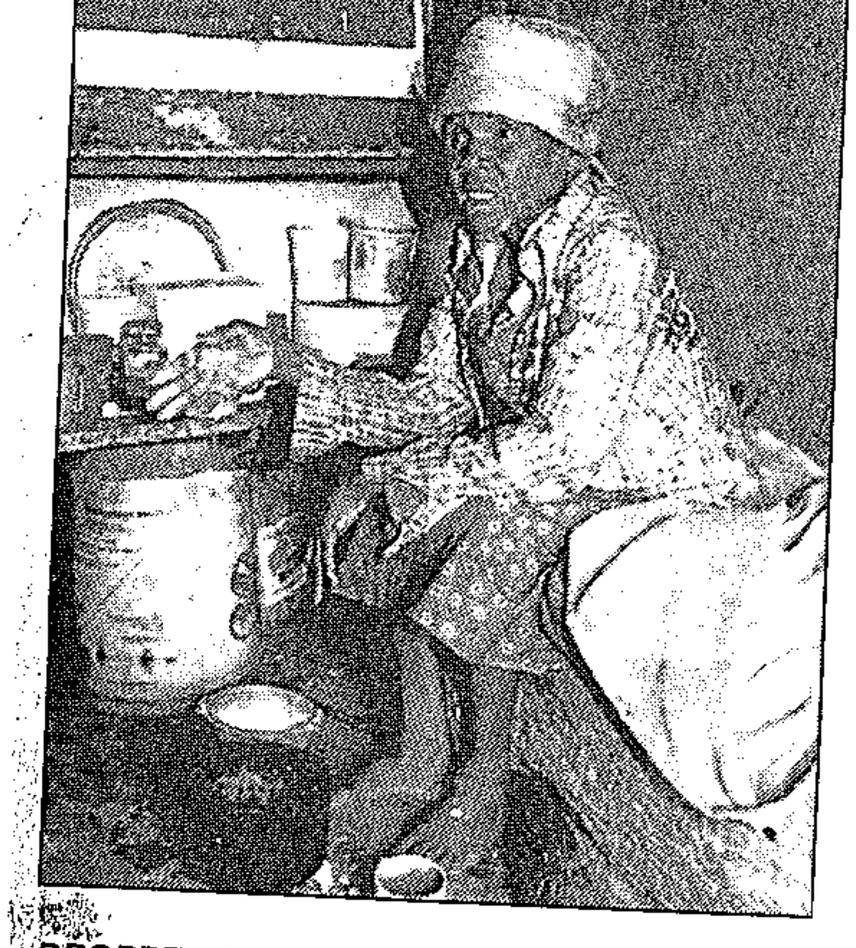
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While thousands of pensioners flocked for food parcels in cities and towns this week, concerns were raised over the plight of the "forgotten pensioners" in the rural areas.

Although money has been promised next week, many pensioners interviewed vowed to rethink their political allegiance in the coming 1999 national elections.

According to Kulati: "I am very disappointed. Surely apartheid cannot still be blamed for the pension problems. I don't think I will vote at all next year."

The small change that was given to Biko after her heart-wrenching experience of hunger and depression paled next to the knowledge that this reporter would soon be out of her life and – like the Premier and government ministers – enjoying a hot and hearty supper. – ECN Weekend Service



*DROPPED BY 'FAT CATS' . . . Bongiwe Wakashe.*

CP 18/01/98

300

# Hunger hits home after pension payout botch in E Cape

PENSIONER Elsie Biko has not eaten for three days. She has now become too weak to leave her dilapidated shack. ECN's **DAVID MACGREGOR** reports.

EASTERN CAPE pensioner Elsie Biko (84) sees death as her only escape. She hopes it will come quickly. She is one of more than 600 000 thousand East Cape pensioners, and she is praying she will still be alive when next week's long-overdue R470 pension payout is made to her.

On Monday Eastern Cape Premier Makhenkesi Stofile publicly apologised for the delay in giving the cash-strapped province's pensioners their measly monthly payments.

The excuses for January's non-payment included bureaucratic bungling by the province's welfare ministry accountant, who forgot to get new cheque books, and squabbling with central government over the number of pensioners in the province.

Bisho has also run out of cash. Bisho said they had nothing to pay 632 000 pensioners – while central government said there were only 400 000 pensioners in the region.

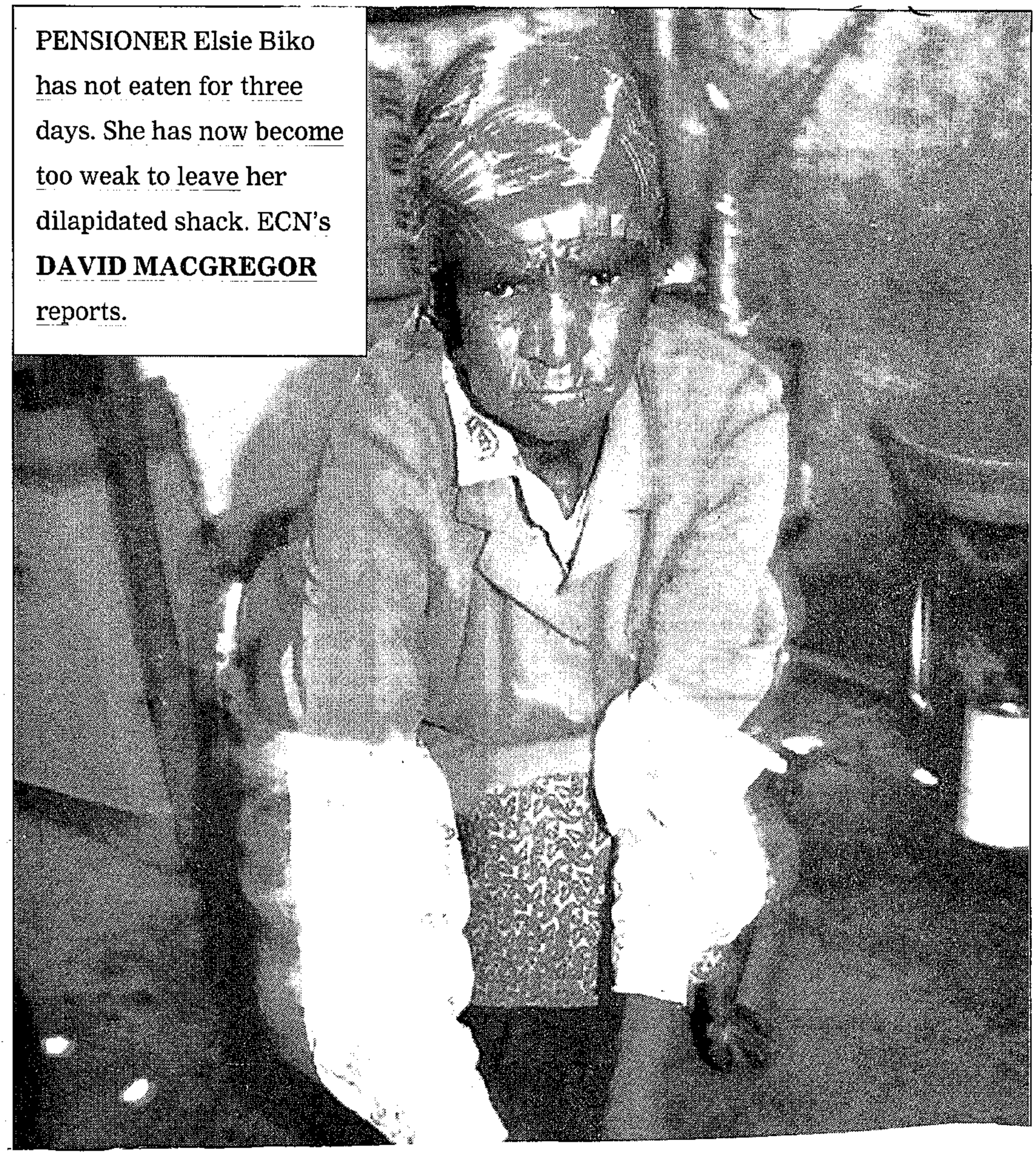
Speaking at a packed Centenary Hall in New Brighton on Monday to mark the 86th anniversary of the ANC, Stofile told hundreds of pensioners – to whistles of impatience – that they would be paid on Tuesday.

"We ask for your forgiveness. We have done wrong to you, my grandfathers and mothers," he said.

But for Elsie Biko and thousands of other pensioners who did not get to see Stofile's heart-rending performance, the apology means nothing.

Food and money take away the hunger – not promises, ECN was told.

Although Pretoria finally agreed last week to fill the provincial begging bowl with pension money, every day that drags by while the state finalises the R400 million need-



***DYING FOR HER PENSION . . .*** *Elsie Biko (84) is praying that her pension will arrive before she dies of starvation.*

CP 18/01/98

(900)

# Our grannies are starving on a diet of promises

CP 18/1/98

(~~£12~~) (£00)



***SOLUTION FOUND ...*** *Geraldine Fraser-Moleketi's welfare ministry has undertaken to pay over 60 000 pensioners on January 20 (Tuesday).*

# Pensioners wait, as do 'cheating' pupils

**By ANDILE NOGANTA**

THIS week is crunch time for two embattled Eastern Cape government departments.

The Welfare Department has to make good on promises to scores of pensioners, while the Department of Education seeks to resolve an impasse it created by withholding over 2 000 matric results last Tuesday.

The Department of Welfare has undertaken to pay over 60 000 pensioners on January 20 (Tuesday). This comes after pensioners were turned away from paypoints two weeks ago.

Welfare Minister, Geraldine Fraser-Moleketi, recently admitted that the Eastern Cape needed R801 million from central government – to save the cash-strapped welfare department.

But it was touch and go whether money would be made available until frenetic behind-the-scenes talks between Fraser-Moleketi, Finance Minister Trevor Manuel, Deputy President Thabo Mbeki, Premier Makhenkesi Stofile and MEC Mandisa Marasha yielded results to set free the funds this week.

The resolution of the crisis averts an embarassing legal action by the Human Rights Commission.

The provincial welfare department came under fire from various quarters for not paying the grants to the elderly, with the statutory watchdog committee calling it a "violation" of the pensioners' human rights.

The Commission then issued government an ultimatum – pay up by January 20 or face court action.

☐ There were also widespread rumours last week that parents of students who did not receive their matric results might take legal action against the Department of Education.

The department is withholding the results of 2 578 students – suspected of cheating – until the Provincial Irregularities Board, consisting of representatives from the legal section and senior exam centre officials, meets.

In a strongly worded statement, the department said the board will call in "the chief invigilators of affected centres and other officials, to establish the truth".

Angry parents and students, however, say the department cannot substantiate allegations of irregularities against students.

Reacting to claims that some students did not know that their results would be suspended, education's Hennie Franzsen said the department had informed all affected students in advance.

"Students cannot claim they didn't know because all students who were suspected of cheating were sent letters," said Franzsen.

# Bisho paying pensions from an empty purse

BISHO — The R801m bailout for Eastern Cape welfare payments has not yet been paid to the provincial government, finance MEC Prof Shepherd Mayatula said yesterday.

That means Bisho is paying out social grants without having any money deposited into its already overdrawn bank accounts.

Mayatula said yesterday: "Nobody is able to say now if this is an advance or not. We are still engaged with the centre (central government) and exchanging figures. It depends on a number of issues. This is not only happening to the Eastern Cape, but to other provinces as well.

"For now we will have to accept that it (the promised R801m) is an advance on next year's budget." Mayatula said no one at central government could say yet if the promised R801m was an advance payment from the 1998/99 budget, or a top-up amount which will be added to the present 1997/98 budget through the adjustments appropriation bill.

Any central government decision will have to be ratified by the National Assembly, which has yet to convene this year.

On a broader perspective, Mayatula said the overall expected provincial budget deficit had decreased.

He said: "Our overdraft has gone down, but not to the extent we hoped because of these difficulties." The problems were that personnel costs, including temporary school teachers who were not budgeted for, and pension payments, were difficult to bring down.

Mayatula said he did not want to give a round figure for the overdraft because it "fluctuated every day".

He also declined to make any comment on the rates of interest charged by Bisho's banker at present, because the contract to do the province's banking was out for tender. — ECN.

# R1,7m for Eastern Cape welfare bodies

BD 23/11/98

Pearl Sebolao

THE payment of subsidies to private welfare organisations in the Eastern Cape resumed on Wednesday, with R1,7m in outstanding grants for December 1997 having been paid, Welfare Minister Geraldine Fraser-Moleketi announced yesterday.

Fraser-Moleketi said the funds would provide limited interim relief to welfare service organisation, including children's homes, homes for the aged, and rehabilitation centres which depended on subsidies to provide important services to communities.

The late subsidy payment in November last year due to the cash flow crisis in the Eastern Cape had led to widespread anxiety in the private welfare service sector, with two children's homes in the former Transkei threatened with closure. This has now been averted, she said.

The cash-strapped province earlier in the month received an R301m advance from the finance ministry to meet its obligations to 600 000 pensioners.

Fraser-Moleketi said she had appointed a task team, which included provincial and private welfare service organisations, to assist the provincial welfare department in managing its cash flow problems. Payments for the rest of the financial year would be handled by the team, and would follow in due course.

An agreement had also been reached between the private welfare sector and the provincial government to reprioritise welfare services on a regional basis to promote maximum impact, cost-effectiveness and the efficient use human resources, Fraser-Moleketi said.

# Millions lost in pension scam

Sowetan 26/1/98 (300)

By Khathu Mamaila

NORTHERN Province has more than 94 000 "ghost pensioners" who have been regularly drawing on the state coffers for the past few years.

The fraudulent practice, confirmed by the provincial government at the weekend, cost the taxpayer more than R44,5 million a month.

A provincial government spokesman said because the scam was only discovered towards the end of last year, it was not possible to say how much had been lost so far or for how long it had been running.

Health and welfare spokesman Mr Tshepo Moshima said some of the beneficiaries had, in fact, died while others did not qualify in terms of age.

Moshima said in a clean-up operation launched towards the end of last year, more than 94 800 irregular pension beneficiaries were identified and had since been removed from the system.

He said the department had found gross irregularities in the social payment system. Some of the anomalies found were that some of the beneficiaries did not qualify for the grants as they were under age while others were found to be non-South African citizens.

Men have to be 65 years or older to qualify for social pensions while women qualify at the age of 60. The number of men who were under age but were getting pension was 7 234 while that of women was 29 623. A total of 1 216 non-citizens had been receiving pensions fraudulently, according to Moshima.

He said pensioners older than 90 had to be regularly reviewed to ensure that they were still alive. He said 2 159 of this group had not been reviewed. This meant that the department could have been paying dead people.

Some of the beneficiaries qualified for the social grants because of ill health. These people, who receive pensions in the form of disability grants, are supposed to be examined annually to determine if they still qualified to get the pension.

## Disability period

However, more than 52 000 people have been getting pensions without any specified disability period. Other people have been getting pension while their temporary disability status had expired.

There were about 2 000 people aged between 18 and 65 years who had been getting disability grants even though they did not qualify.

"The monthly value of the potentially irregular and questionable benefits is R44 522 627. All these benefits have been suspended from January and will be abolished if they are shown to be irregular.

"These pensioners and other beneficiaries will have to re-register at pension offices. If they do qualify for pensions then any suspended money due to them will be paid out. It is unlikely that about a third of them qualify and will continue to benefit in the future," a statement from the welfare department said.

Although the removal of the irregular pensioners will save millions of rands, the projected overspending in the welfare department in the province stands at a staggering R313 million.

# Pensions revamp delays payouts

Pule Molebeledi BD 30/11/98 (300)

THE Northern Province's 360 000 pensioners will not receive their pensions for two weeks next month, as the provincial health and welfare department attempts to root out over 94 000 irregular payments from its system.

Health and welfare MEC Hunadi Mateme said it had become clear the huge amount of work involved in reprogramming the computer system would result in a delay of next month's payments.

Mateme apologised to "thousands of pensioners" who would be inconvenienced. Mateme said next month's pension payouts would begin a week late at the latest. The department normally issued pensions from the first week to the 20th of each month, while the rest of the time is used to reconcile figures.

An internal study by the department disclosed that 94 806 people who did not meet the criteria were receiving monthly grants totalling R44m. The department estimated it would save up to R36m a month by eradicating irregular payments.

Mateme said the only way to root out irregular grants was to put a stop to all payments, and wait for those who used to receive them to come forward for reassessment.

She believed only a third of current beneficiaries would qualify.

# Pension ombudsma help solve your pro

ARGUS 31/1/98

CHARLENE CLAYTON

The long-awaited pension adjudicator, Professor John Murphy, has taken up office in Cape Town and is hard at work sifting through the flood of complaints about retirement funds which his appointment has unleashed.

Murphy was appointed by Finance Minister Trevor Manuel to deal with the increasing dissatisfaction with the way members are treated by retirement funds.

His appointment offers an avenue of complaint for South Africans, many who have been getting the short end of the stick by large bureaucratic retirement funds.

Murphy says he will be in touch with people who have sent in their written complaints within the next two weeks informing them of the status of their complaint.

Before you can take your pension problem to Murphy you must follow certain procedures. It is important that you do because you have only three years, from the date which you experienced the problem, to report it.

Murphy says anybody who has an interest in a complaint regarding a pension fund is allowed to take the problem to the pension adjudicator. This includes members and former members of pension funds, beneficiaries and employers who participate in pension funds, the Financial Services Board (FSB), the Registrar of Pensions, or even the life companies which invest the money for pension funds.

But not all pension fund members can take their complaints to Murphy. He has jurisdiction only to deal with funds which are registered under the Pensions Fund Act. For example, pension fund members of bargaining councils cannot turn to Murphy for help, and at this stage it is not clear whether government funds and state-aided funds fall under his jurisdiction.

Murphy says he is looking into this issue.

Legislation which created the position for a pension adjudicator is very specific about what you can complain about. Your complaint must relate to one of the following:

◆ The administration of the fund;

◆ The investment of the fund's money; or

◆ The interpretation and application of the rules of the fund.

In addition, your complaint must allege one of the following:

◆ That the fund made a decision outside its powers;

◆ That you have been prejudiced as a result of maladministration by the fund;

◆ That there has been a dispute of fact or law; or

◆ That your employer has not fulfilled its duty in terms of the pension fund's rules.

Once you have established that your complaint falls within the adjudicator's ambit, you should follow the correct procedure to enable Murphy to deal with your problem as quickly as possible.

It is vital that you first lodge your complaint with your pension fund or employer.

Legally the fund or employer has 30 days in which to respond to your complaint and you should receive a written reply. Only then should you raise the problem with Murphy.

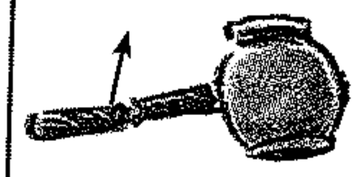
He says a potentially huge pension claim against a major South African company came to a grinding halt because the pensioner had not first

## THE PENSION COMPLAINTS



1 Lodge a complaint with pension fund or employ

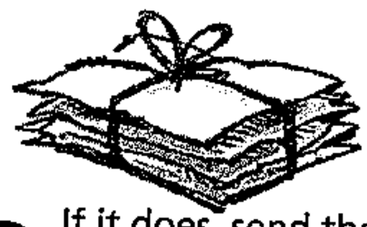
7 After six weeks, his decision becomes binding.



6 The Adjudicator will then make a decision. Either party has a right to appeal his decision within six weeks.



5 He may then set up a meeting with you and a representative of the pension fund



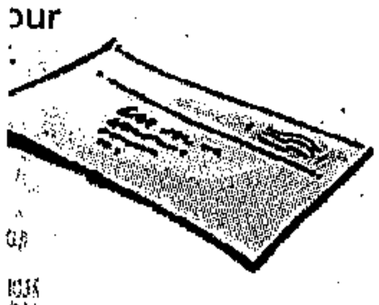
4 If it does, send the r your written complai information and sup

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ARG 31/01/98

## PROCEDURE



Give them 30 days to respond to your complaint in writing.



If you are not satisfied with their response, establish whether your complaint falls within the ambit of the Pensions Adjudicator



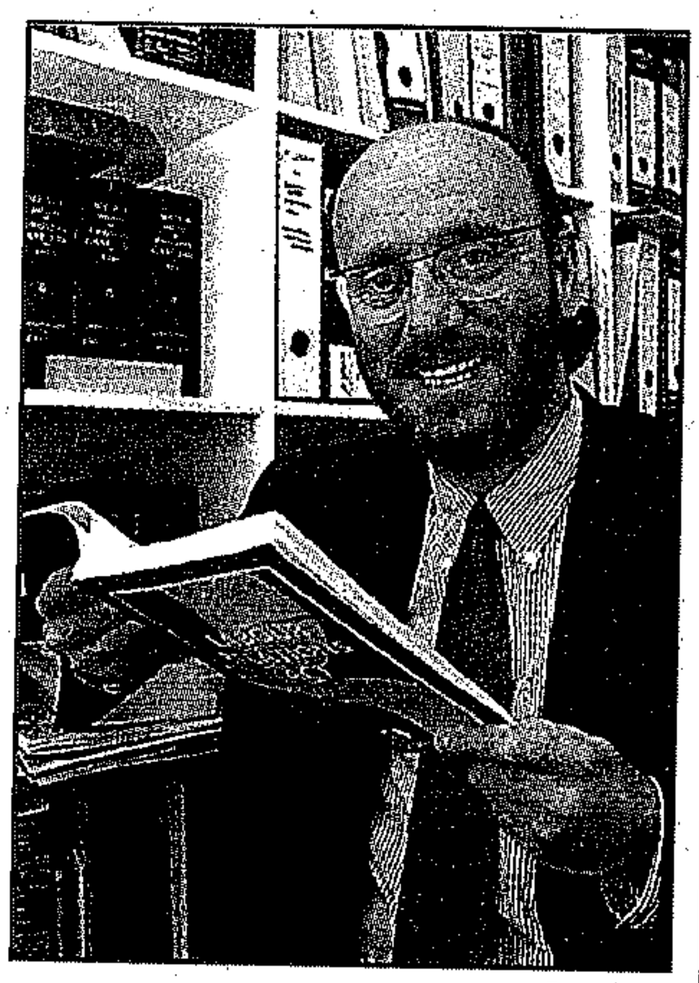
ensions Adjudicator
t, containing all vital
porting documents.

taken up the problem with the pension fund. The company will simply tell Murphy that he has no jurisdiction over the matter.

Your complaint must be in writing and Murphy has stressed that he will not take your call until he has received your letter or fax.

Once you have sent in your complaint and all the necessary supporting documentation, he may arrange a meeting between yourself and a representative of your pension fund.

If you intend to have legal representation for this hearing, you should notify the adjudicator's office in advance.



DOUG PITHEY

**IN OFFICE:** Professor John Murphy settles into his new office in Cape Town.

After this, Murphy will make his decision, which either party has the right to take to the High Court on appeal within six weeks.

If the matter does not go to appeal, his decision, which carries the same authority as a court order, will be binding.

## ✓ CHECKLIST FOR YOUR COMPLAINT:

◆ Don't forget the basics. Supply full personal details including your employment history and how long you have been a member of the fund.

◆ Provide contact details for your pension fund and employer.

◆ Concerning the complaint itself, make sure it falls within the pension adjudicator's powers and then be sure to give full particulars about the complaint.

◆ Supply proof that you have submitted your complaint to your pension fund or employer by attaching a registered letter slip or fax confirmation sheet.

◆ Attach the reply you have received from your pension fund or employer regarding your complaint or state you have not received a reply within the 30-day period of grace.

◆ If possible, provide the pension adjudicator with a comprehensive copy of the rules of the pension fund of which you are a member.

◆ Supply proof that the pension fund has been registered under the Pensions Fund Act.

◆ And lastly, but very importantly, spell out what you want. In other words, what do you regard as a solution to the problem?

MANY RECIPIENTS NO LONGER HAVE THE MONEY

# 'Struggle' pension debacle

CT 6/2/98 (300)

**THROUGH** a misinterpretation of the Special Pensions Act, 262 beneficiaries who were incorrectly paid lump-sums totalling R11,7 million will have return the money. **ERIC NTABAZALILA** reports.

HUNDREDS of 50-60-year-old ex-political prisoners, former exiles and other liberation movement stalwarts are being asked to return millions of rands to the state due to a "misinterpretation" of the Special Pensions Act by the Special Pensions Board.

Chief executive officer of the board Mr Trevor Wentzel told the *Cape Times*: "I know this is difficult, but we know and respect these comrades for their honesty and unwavering contribution in the struggle and are confident that they will work with us where possible."

Ms Maria Ramos, Director in the Department of Finance said: "We have written to these people saying we will arrange with them individually — depending on what suits them — for the repayment of the lump-sums paid to them in error. We are obviously concerned that, for the most part, these people are relatively hard-up."

According to Mr Peet Maritz, chief director of the finance department's Pension Administration Board, the misinterpretation of the act affected 262 beneficiaries, who were incorrectly paid out lump-sums amounting to R11,7 million — an average of more than R44 000 each.

The Special Pensions Act, promulgated in October 1996, provided for certain categories of freedom fighters and activists to qualify for pension payouts as reward for their contribution in bringing down the apartheid government.

The primary qualification requirement was that the applicant should have been at least 35-years-old when the pension scheme came into operation on December 1, 1996.

Those eligible for special pensions must have been active in a banned organisation for more than five years during the apartheid years, been imprisoned or exiled for the same period, restricted to a certain area for five years or have been disabled as a result of their participation in the freedom struggle.

Fifteen thousand people applied, including such stalwarts as Mr Walter Sisulu (ANC), Mr Johnson Mlambo (PAC), Mr Clarence Makwetu (PAC) and Mr Raymond Mhlaba (ANC).

A formula was devised whereby some beneficiaries qualified for lump-sum payouts only, while others qualified for lump-sum and monthly payments. The spouses of some fallen comrades, such as Steve Biko's wife, Mrs Ntsiki Biko, for example, qualified for a "once-off lump sum" with no monthly pension payments afterwards.

According to the Special Pensions Board's interpretation of the act, applicants aged between 50 and 60 were due lump-sum and monthly payments. The monthly payments would only start after the applicants' 60th birthdays, although they had an option of drawing reduced monthly payments from the age of 50.

But subsequent legal opinion suggested that the 50-60-year-olds were not entitled to lump-sum payouts, and it is this money that the finance department now wants to recoup.

The problem is that many of the recipients no longer have the money, or are unemployed, disabled and indigent — hence Ramos' stated concern.

She said her office had delayed recalling the money until April, because the auditor-general had also been approached for an opinion.

As things stand now those paid out incorrectly and who no longer have the cash will have a certain percentage of their monthly payments deducted.

Said Wentzel: "We have explained to them in the letters that if it is impossible for the money to be returned, deductions will be made on their monthly pension payments to recover the money already paid out."

# Struggle back-pay chaos

M+G 6-12/2/98 (300)

**Marion Edmunds**

An embarrassed Department of Finance is demanding R11-million from almost 300 ageing former anti-apartheid activists, claiming it mistakenly overpaid them from the special pension fund.

Peet Maritz, of the Special Pensions Board in the Department of Finance, said the department had misinterpreted the Special Pensions Act last year and erroneously paid out lump sums to 262 "struggle" pensioners.

The system was created to provide pensions for people who had made great personal sacrifices in the fight against apartheid and could not make provision for their retirement.

They were given the option of monthly pensions from the age of 60, or if they were between 50 and 60, they could apply for an early pension, which would be paid at 3% less than the standard rate.

The over-60s could get back-pay either to their 60th birthday or to April 1 1995. The board said this principle was mistakenly applied to the pensioners younger than 60 years who also received back-pay up to their 50th birthdays.

Letters have been sent to 262 special pensioners, asking them to either pay the lump sum back in 40 days, or to arrange with the board to pay instalments for their rest of their lives.

They have been asked to suggest a monthly amount they can afford and a statement of their expenditure, income, assets and liabilities, so the board can assess their suggestions.

The letter concludes that a failure to respond will force them to deduct 30% off the monthly pension to make good the "debt". It is not certain whether this practice is legal.

"We are trying to be as fair as possible," said Maritz, "It's extremely important that people pay back only what they can afford. The pension is already very low and we do not want to push them into further poverty."

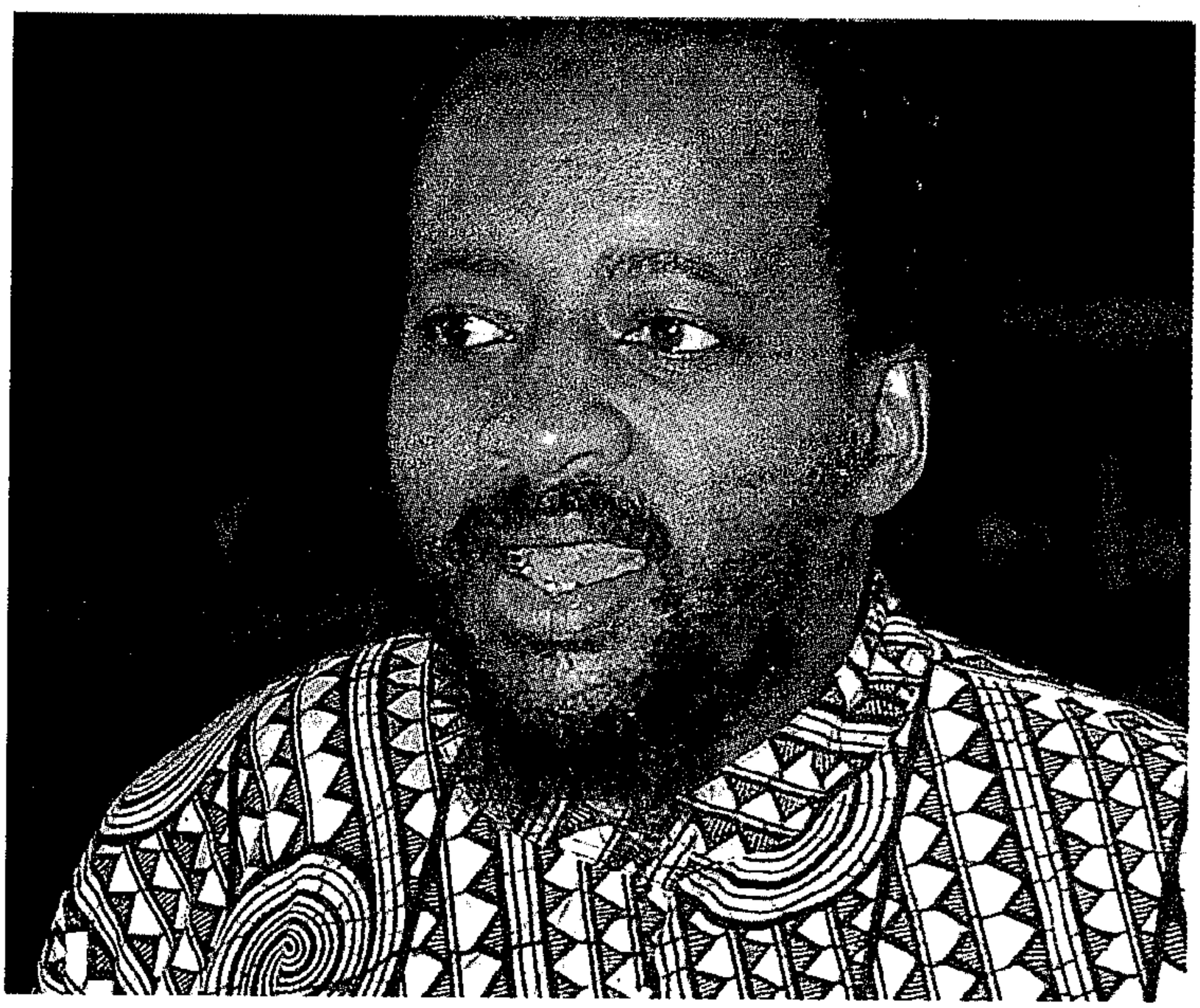
Maritz said the department would have to go to court to retrieve the money if the recipients refused to pay it back.

A pensioner, who did not want to be named because of "political sensitivities", said he could and would not pay back the lump sum that had already been spent on his subsistence.

Another, Terry Bell, who was active in the ANC underground, detained, deported and banned by the National Party government, and exiled for 20 years, is furious. He has been asked to pay back R52 680.

"I am outraged," he said this week. "Not only for myself but for the other 261 comrades who are in the same position. This is morally and legally indefensible. The finance department — after a long, convoluted and frustrating process — gave us promises and a contract that we accepted.

"They should not now be able to renege on this. If they are short of money why do they not stop paying some or all of the R30-billion in annual interest payments on what is effectively apartheid debt?"



**ENVIRONMENTAL VISION:** Minister of Environmental Affairs Pallo Jordan said in a briefing that one of the greatest gains we have made is to initiate a change in the mindset of those within development and conservation circles and among the public at large, towards a sustainable vision of development and managing our natural resources.

# Lessons learnt from pensions crisis

(300)

CT 11/2/98



**THE PENSIONS** crisis in the Eastern Cape could have been averted if appropriate action had been taken earlier. **JOVIAL RANTAO** reports.

The crisis in the Eastern Cape, where pensioners went for 14 days without payment, actually taught officials new ways of managing money that would now be extended to other parts of the country, it was announced at Parliament yesterday.

In an address to the Social Services Committee of the National Council of Provinces, Welfare and Population Minister Geraldine Fraser-Moleketi said the delay in the payment of pensions in the Eastern Cape was largely due to negligence. She said officials should have foreseen that they would run out of money and taken appropriate steps.

She also revealed that when the national Government made available R801-million to the provincial government, it was discovered that there were no cheque books available to pay the 200 000 pensioners. "This was negligence. But there won't be a recurrence of that because action has been taken," she said.

Fraser-Moleketi said problems in the Eastern Cape were exacerbated by the fact that many pensioners in the province still used identity documents issued by the former Transkei and Ciskei homelands.

She said clearing fraud and corruption out of the system would be accompanied by programmes to improve financial and human resource management.

The minister said through the medium term expenditure framework, an early warning system has been instituted to ensure that provinces in distress would receive help in time.

Fraser-Moleketi said there was a backlog of 100 000 pensioners who were waiting to receive their money.

She assured pensioners, however, that despite delays caused by exercises to rid the system of fraud and corruption, no pensioner would be denied their constitutional right to a pension.

She pleaded for patience from beneficiaries but remained firm that fraudulent recipients, officials and civil servants who were discourteous to the public would be harshly dealt with.

"A clean up process is under way. It will inconvenience beneficiaries but it's necessary," the minister said.

Following her revelations that the Government has saved close to R70 million in its effort to eliminate fraud and corruption, the minister further revealed that in the Northern Province 94 000 illegal beneficiaries had been discovered, saving the Government an additional R44m.

She said said a further 20 229 recipients of State maintenance grants who should have been removed when they turned 18 years old had been discarded, resulting in a monthly saving of R3,7m.

● The Public Service Commission has completed an investigation into how the social security system can be improved and recommended that internal control to minimise fraud and corruption should be enhanced as well as the upgrading of the human resource management, finance and logistics and information technology systems.

The commission has also suggested that uniform computerised application forms should be implemented, pay-out methods should be improved and voucher and cheque payments being phased out.

It was also suggested that a national policy should be issued for the handling of backlogs, proper verification and control.

# New system to prevent pension delays

## Cash-flow crisis in Eastern Cape won't be repeated as early warning system is now in place in all provinces

**By Jovial Rantao**
Cape Town

The crisis in the Eastern Cape, where pensioners went for 14 days without their grants because the provincial government experienced a cash-flow problem, has yielded a finance management model that would be extended to other parts of the country, it was announced in Parliament yesterday.

In an address to the social services committee of the National Council of Provinces, Welfare and Population Minister Geraldine Fraser-Moleketi said the delay in the payment of pensions in the Eastern Cape was largely due to negligence.

She said officials should have foreseen that they would run out of money and should have instituted the relevant steps.

She also revealed that, when the national government made available R801-million to the provincial government, it was discovered that there were no cheque books available to pay the 200 000 pensioners.

"This was negligence, but there won't be a recurrence of that because action has been taken," she said.

Fraser-Moleketi said problems in the Eastern Cape were exacerbated by the fact that many pensioners in the province were still in possession of identity documents issued by the former Transkei and Ciskei homelands.

She said the process of clearing fraud and corruption out of the system would be accompanied by programmes to improve financial and human-resource management.

The minister said that, through the medium-term expenditure framework, an early-warning system had been instituted to ensure provinces in distress would receive help in time.



**Taking action ... Welfare Minister Geraldine Fraser-Moleketi.**

Fraser-Moleketi said 100 000 pensioners were still waiting to receive their grants.

She assured pensioners that, despite delays caused by exercises to rid the system of fraud and corruption, no pensioner would be denied their constitutional right to a grant. She pleaded for patience.

Fraser-Moleketi remained firm that fraudulent recipients, as well as officials and civil servants who were discourteous to the public, would be harshly dealt with.

"A cleanup process is under way. It will inconvenience beneficiaries but it's necessary," the minister said.

Following her revelations that the Government had saved close to R70-million by eliminating fraud and corruption, the minister further revealed that in Northern Province, 94 000 illegal beneficiaries had been discovered. This had saved the Government an additional R44-million.

She said a further 20 229 recipients of state maintenance grants, who should have been removed from government-aid programmes when they turned 18, had been discovered, resulting in a monthly saving of R3,7-million.

■ The Public Service Commission, which has completed an investigation into how the social security system can be improved, has recommended that internal control to minimise fraud and corruption should be enhanced.

It also recommended the upgrading of the human resource management, finance, and logistics and information technology systems.

The commission has also suggested that uniform computerised application forms should be implemented, payout methods should be improved, and voucher and cheque payments phased out.

It was also suggested that a national policy should be issued for the handling of backlogs, as well as proper verification and control.

# Disabled lived life of horror in PE house

ART 14/2/98

## *Two forced to sleep in toilet*

OWN CORRESPONDENT

**Port Elizabeth – He looked like a Nazi concentration camp survivor, but Niklaas van As, 19, was a "boarder" at a house of horrors uncovered by Port Elizabeth police this week.**

The emaciated young man was photographed by police standing in front of a cramped toilet with a tatty green blanket in the background – his living quarters for eight months.

This he shared with his step-brother, Wayne Thorn, 23.

In a shocking tale of neglect and abuse, police discovered that up to 12 pensioners and disabled people had allegedly been locked up in the neat home by a couple who allegedly creamed off their state grants.

The dark and dirty secrets of the North End boarding house were exposed to the public recently when one of the residents "escaped" from the double-storey building on the corner of Rhodes Street and Prince Alfred Road and went for help at the Algoa Park police station.

When police went to investigate, they were first refused entrance to the house, but later returned under the supervision of a legal adviser.

During the search, police broke down a toilet door and found Mr Thorn and Mr van As huddled inside, lying on filthy cushions.

The stench inside the tiny room was reportedly so horrific that one of the police officers who helped kick the door open was overcome with nausea.

Police were told the step-brothers had been locked in the toilet from 5am to 11pm daily for the past eight months.

Niklaas, who suffers from a speech impediment, was emaciated and severely malnourished.

Both brothers had to undergo physiotherapy because their legs had been affected by the cramped conditions in the toilet. They also had back problems.

The two men said they spent the days reading from the Bible and praying that they would be freed.

According to other residents, the brothers banged on the door when they were hungry and were forced to eat their food in the toilet.

The residents said they often received only one meal a day and were assaulted.

It was also alleged the brothers' disability grants were collected on their behalf, but never handed over to them.

Mr Thorn said he ended up in the boarding house because his mother was an alcoholic. He approached a social worker and they arranged for the brothers to stay at the boarding house.

The brothers' mother, who "lives somewhere in Port Elizabeth", apparently paid the owner of the boarding house monthly for board and lodging, but never visited her children.

When police asked 44-year-old boarding house owner Gerda du Preez why she had locked the brothers in the toilet, she claimed they had tried to steal from her and were "naughty and difficult to handle".

At the Algoa Frail Care Centre, where the police took the brothers, Mr Thorn said: "We were not being given food, but we would see bowls full of bread. That is when we started taking bread."

Apart from the brothers, elderly residents living at the house also claimed they had been assaulted and ill-treated.

The pensioners, aged between 56 and 78, said their pension money – up to R700 a month – had been taken from them.

According to police legal adviser Marlene Mostert, one woman in her 70s had a broken ankle and gangrene had set in.

The woman apparently also had an eye infection and severe sunburn. She was allegedly forced to rake the backyard every morning before she was allowed breakfast.

She also was forced to spend days in the backyard and was not allowed back inside the house before 5pm.

A former resident, Anna Claassen, 56, said inhabitants were never allowed to leave the building unless Mrs Du Preez was with them.

"The only shop we could go to was her shop on the premises. There is a gate that is always locked to make sure we do not go out."

The police took several of the residents to the Algoa Frail Care Centre.

Ms Mostert said police were investigating charges of assault, fraud and theft. – ECN Weekend Service

CAPE ARGUS, **TUESDAY**, FEBRUARY 17, 1998

# War veterans wait in vain for pensions

## *Pair say money is due to them*

(300)

ARG 17/2/98

**MOSES MACKAY**
SPECIAL CORRESPONDENT

**Two Guguletu World War 2 veterans have waited more than a decade for their war pensions and relief is not in sight.**

Morris Dingiswayo, 81, and Dumisa Mbana, 73, say they need the money due to them.

Both say they have been backwards and forwards to veterans' and social welfare offices in Cape Town for more than 10 years trying to claim their war pension benefits, but all they have been offered are ordinary old-age pensions.

"We are not happy about this. The Government should have solved our problems. We need the money and we deserve it," they said.

Mr Dingiswayo and Mr Mbana have certificates of service from the old South African Defence Force and the South African Navy respectively.

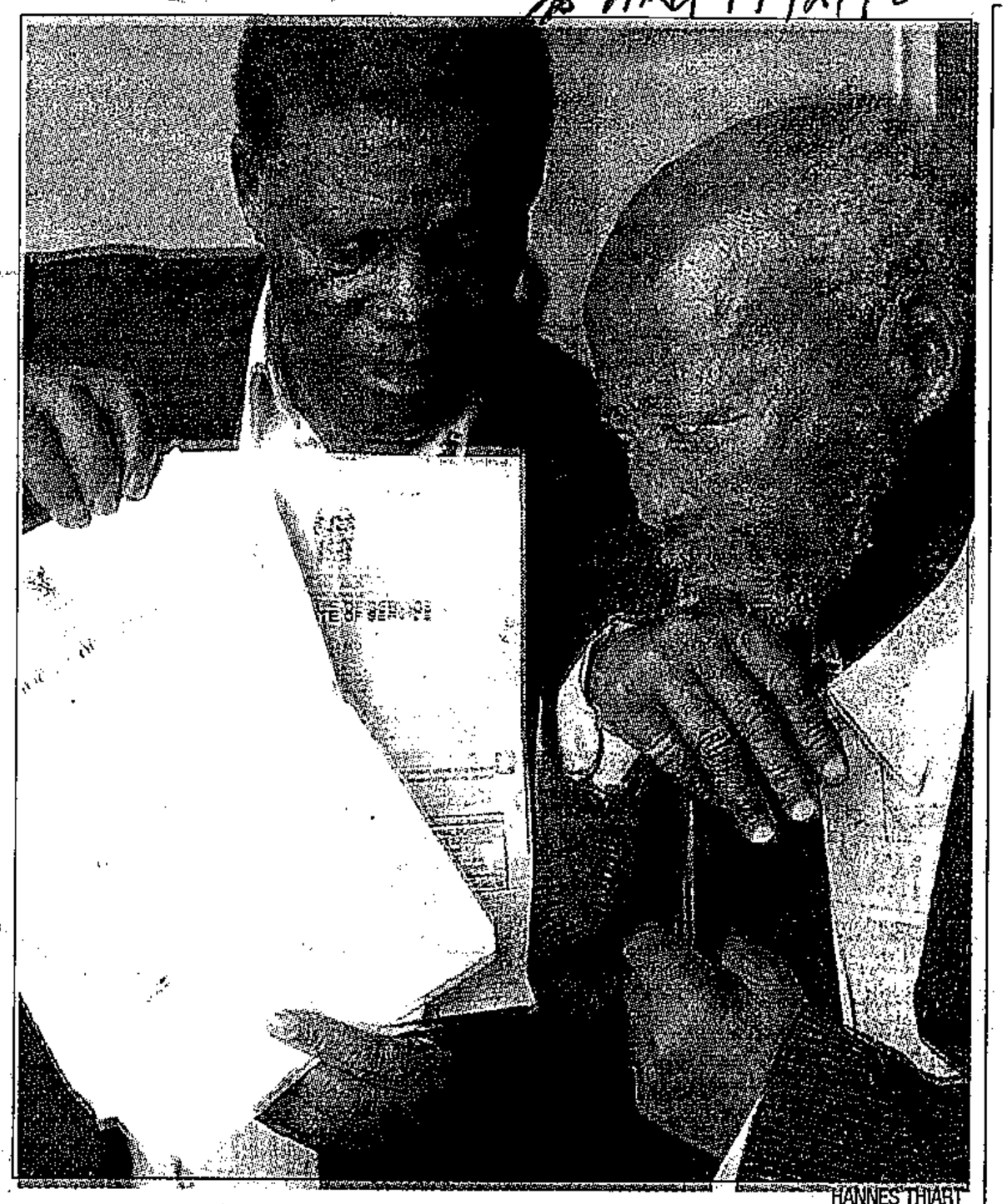
"We applied in 1991, 1996 and 1997 and they promised us our pension benefits, but nothing was forthcoming," they said.

Mr Dingiswayo joined the navy in 1939 when he was 22 and, after his training, worked as a security officer.

Among his duties was working at military funerals and people he worked with at the time had been granted pensions years ago, he said.

He got no financial support from his six children, although he and his wife, Clara, 68, also a pensioner, from Ngqamakhwe in the Eastern Cape got old-age pensions.

Mr Mbana said he joined the defence force as a security officer in Cape Town in 1941 when he was 24 and also worked with aircraft mechanics.



HANNES THIART

**Veteran struggle:** Dumisa Mbana holds the pension application letters submitted by himself and Morris Dingiswayo, right

Mr Mbana and his wife, Ethel, 62, are also dependent on their old-age pensions as their four children do not support them.

Mr Dingiswayo and Mr Mbana said there would be no reconciliation in South Africa if war veterans were not treated properly.

"We fought for this country and we deserve to be treated in a respected and dignified manner. We want to see Premier Hernus Kriel and discuss our plight with him," they said.

Michael Shultz, spokesman for Western Cape Welfare Minister Arnold de Jager, said his department was investigating.

"The minister is committed to service to the community. I have no further comments until the matter has been resolved," he said.

# Complain to fund first, says ombudsman

CT (BR) 18/2/98 (300)



**MURPHY** *Ready to protect against discrimination*

Many pensioners fail to lodge complaints about their pension funds with the fund or the participating employer before taking further steps.

This is one of the problems Professor John Murphy has encountered in his new the position as pension funds adjudicator.

At the Pension Lawyers Association Conference in Somerset West this week, Murphy said complainants must give the pension fund or participating employer 30 days to reply to a complaint.

Murphy has also declined to give advice to the public who phone him.

The function of the adjudicator is to determine complaints of maladministration, abuse of power, disputes of fact and law and the dereliction of duty on the part of employers relating to retirement funds. It is not to furnish advice to one party to a potential complaint, and such advice would be more appropriately given by consultants or lawyers, he says.

Murphy says he has been asked whether he has the jurisdiction to strike down or modify pension fund rules on grounds of unfairness or unreasonableness, or for being in violation of constitutional rights.

The Pension Funds Act attempts to restrict his powers to "the adjudication of disputes about existing rights and obligations".

But Murphy believes the statutory definition of a complaint as well as the constitution provide him with the opportunity to rule on the equity of pension fund practices.

Murphy said he intended to "seize" opportunities afforded by the act to protect against discrimination.

"Should my equity jurisdiction be constrained, and I am found unable to oblige complainants on equity grounds, the Labour Court recently has indicated that it is willing to step in to fill the breach."

Other avenues for complaints include the Labour Court, possibly the Commission for Conciliation, Mediation and Arbitration.) or the life assurance ombudsman who has recently been granted extended powers.

Murphy has been receiving about 100 complaints a week since taking up office in January this year.

"Looking at some of the complaints which have already been lodged with me, the argument is sure to be made that actuarial calculations which underpin some of the rules, which have been applied to schemes over many years, may be discriminatory in nature and effect," Murphy said.

# Preservation funds' days not yet over

(300) CT (MK) 18/2/98

Preservation funds still have a very important future, even though the Receiver of Revenue is scrutinising certain aspects of these funds, says Hennie Swanepoel, portfolio manager at Citadel Investment Services.

At the two-day Pension Lawyers Association Conference in Somerset West this week, Swanepoel said that preservation funds have to be used with caution.

"Any misuse could result in the authorities re-evaluating the approval of preservation funds as a retirement vehicle," he said.

Preservation funds, which are administered by life assurance companies, provide a place where you can "park" your retirement money if you are uncertain what to do with it.

One of the major advantages of a preservation fund is that you are allowed one lump sum withdrawal of any amount from the fund prior to normal retirement age or at any other time.

Swanepoel outlined what is and what is not permitted in terms of a preservation fund.

☐ Members of a company pension fund who wish to go into a preservation fund have to go into a pension preservation fund and similarly those who are members of a provident fund have to stick to a provident preservation fund.

☐ An employee can only become a member of a preservation fund if his or her employer is registered as a "participating" employer. If not, the member can try and persuade the employer to participate in a certain preservation fund.

☐ Employees have to transfer the full amount of retirement money into a single preservation fund. It may not be split between two or more preservation funds.

☐ A transfer between preservation funds will be allowed, but only if the transfer is between similar funds, for example, from one pension fund to another or from one provident fund to another.

☐ Retirement fund members cannot be paid withdrawal benefits while they are still employed by the employer from whose fund benefits were transferred.

☐ If any amount is deducted from the benefits prior to the transfer, no further withdrawals will be allowed until retirement age. Even the first R1 800 tax free is regarded as a withdrawal.

☐ An unemployed member can choose his retirement date at any age between 55 and 70 years.

☐ Early retirement and disability benefits will only be payable if the preservation fund's rules allow for such benefits.

The number of years employees have worked determines how much of the money will be tax free on retirement.

In the past, to reduce their tax liability, retirement fund members transferred only a portion of their benefit to the preservation fund, but still "claimed" the tax free benefit on the full amount based on all their past years of service.

Swanepoel says the transfer of a portion of your retirement money to a preservation fund will result in the past service being reduced proportionately.

FERENCE

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# Institute set up to (300) educate new trustees

LT (ABR) 18/2/98

An Institute aimed at educating and disseminating information to retirement fund trustees was launched at the annual Pension Lawyers Association conference in Somerset West this week.

A first in South Africa, the Institute of Pension and Provident Fund Trustees of South Africa (IPPFTSA), is an independent Section 21 company formed in response to changes in the pension funds legislation which allows retirement fund members to elect 50 percent of their board of trustees.

The new elected trustees need to be educated about their duties and obligations, explained Pierre Reineck, managing editor of a new journal *Pensions World SA*.

Reineck said the primary purpose of IPPFTSA was to provide education and information to trustees of retirement funds in South Africa. Its secondary function was to ensure co-ordinated education standards for trustees.

He emphasised IPPFTSA was in no way the industry "spokesperson" or representative. This was the Institute of Retirement Fund's function.

"There is a need for trustees to be educated by an independent body. This is not to say that what the service providers (who were providing such education before) were doing was wrong.

"Instead, it is an attempt to consolidate the good material that is being prepared to inform trustees and to give everybody this information."

Membership of the institute is open and for their annual fee members will receive:

☐ A loose-leaf publication entitled *The Essentials of Retirement Fund Management in South Africa* by James Downie and quarterly updates of this;

☐ A quarterly newsletter;

☐ An invitation to an annual update seminar; and

☐ A quarterly journal called *Pensions World SA*.

In addition, IPPFTSA has approached the Technikon SA to compile and administer a trustee training programme.

This programme will be a three-year national certificate consisting of a first-year National Certificate, including a bridging course for trustees without a matric qualification; a second-year Higher National Certificate and a third-year National Diploma.

Reineck said IPPFTSA members would not be required to enter the programme.

Participation in the tertiary programmes was voluntary and, he said, it was not to the exclusion of any existing training programme.

The first course is expected to commence in April.

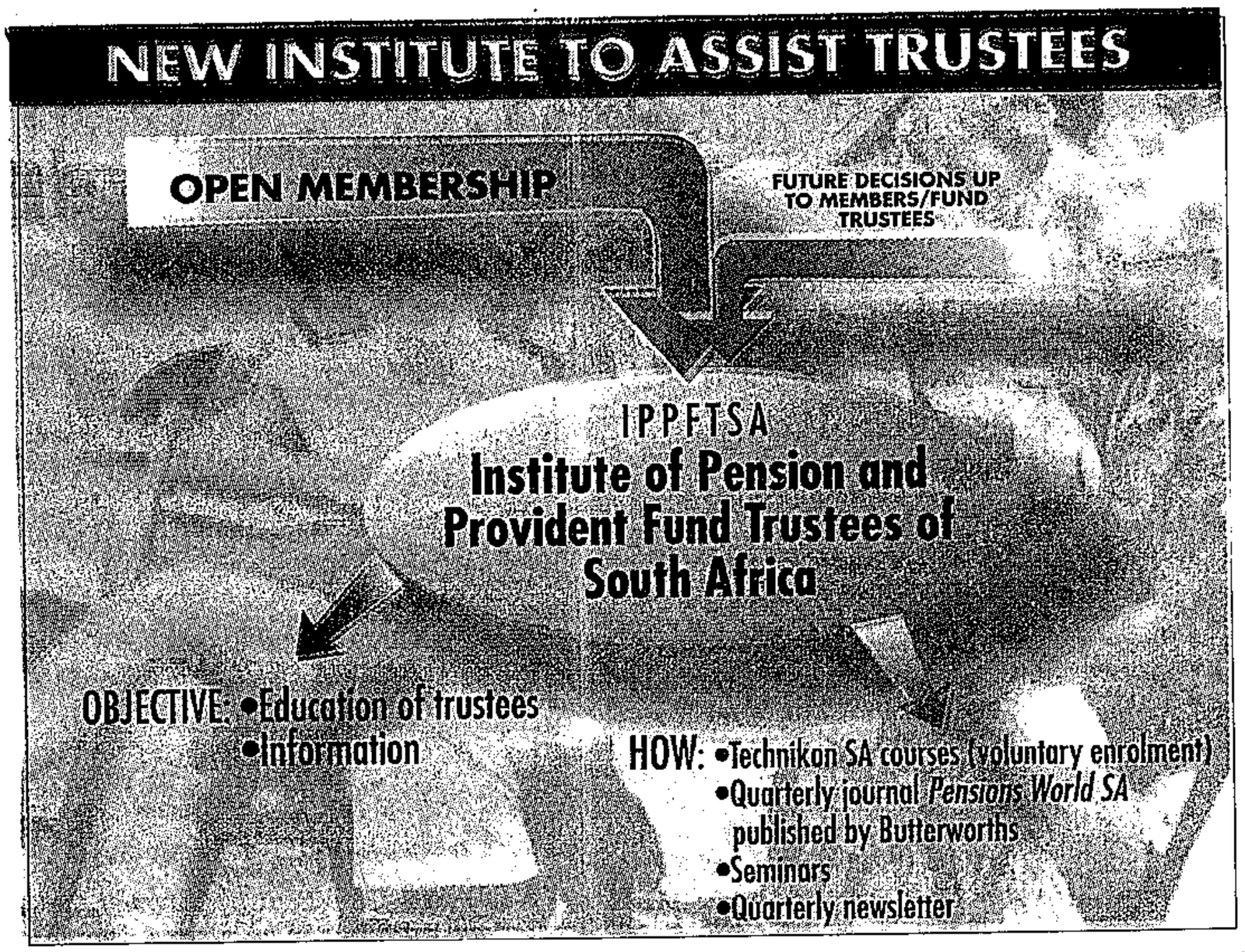
Reineck said the journal, *Pensions World SA*, was based on the UK journal called *Pensions World UK* published by Tolleys UK – a Butterworths group company.

Butterworths South Africa has secured the rights to publish the South African version of the journal.

The primary objective of the journal will be educational and training information for trustees. It will not engage in investigative journalism and there will also be no "agony" columns.

Reineck said although it was necessary for a commercial organisation to start the journal, IPPFTSA was independent and its members would decide how things should be done.

"It will be up to the members and trustees to decide if things will change in future."




# Employers 'should not pay for practices of the past'

(300) CT(BR) 18/2/98

Employers should not be forced to pick up pension fund costs driven by significant or unforeseen external factors such as Aids or high inflation.

Chris Newell, president of the Institute for Retirement Funds (IRF), told the Pension Lawyers' Association conference that he believed there were limits to an employers' social responsibility for pension fund returns.

Newell said it was necessary to separate the past, present and future when considering what constituted fair practices for retirement funds.

He said he was "not so sure" companies should be pressurised to carry the cost of improvements related to past practices when those practices used to be acceptable.

"The past should not be retrospectively applied.

"Ongoing participation should be negotiated in funds where factors beyond the control of employers have resulted in problems."

Newell said if the key elements of a retirement fund are commitment to members and a structure in which funds are kept safe, "fair practice" for managing the money in a fund would be adequately dealt with by allowing fund members meaningful and influential participation in the management process.

He said the new Labour Relations Act and changes to the Pensions Fund Act adequately allowed for this.

Newell said if pension fund benefit structures were negotiated fairly and agreed to by the employer and the employees or their union, he saw no need to categorise them as fair or not.

A benchmark set of perceived good benefits should, however, be part of any modern employers' pension fund.

Newell suggested that there should be a non–discriminatory fund where, based on the deferred payment concept, early termination of a defined contribution fund should not be penalised and where full investment returns should be credited for those who leave the fund.

Newell said it was important to consider the evolutionary history of pension funds to realise that it implied changes to funds.

"What was acceptable some time ago and even part of legislation, is no longer acceptable. Socio–economic situations have changed, for instance, and there is a worldwide move away from paternalism."

The evolution of funds also underlined the shift away from defined benefit funds to defined contribution funds, he said.

BUSINESSREPORT PENSION LA

*Nedlac ideally positioned to set norms, says chairman*

# Pension industry must have code of fair practice

(300)

ET (BR) 18/2/98

The National Economic Development and Labour Council (Nedlac) is probably in the best position to create a code for determining fair retirement fund practices.

This was the view expressed by Kobus Hanekom, chairman of the Pension Lawyers' Association at the association's annual conference in Somerset West this week.

Hanekom said the association's appeal to its members is to get together and create a norm "which we can all live by".

The appeal stems from the fact that there are no fair retirement fund practices or procedures laid down by legislation, case law or the authorities.

As a result the Commission for Conciliation, Mediation and Arbitration (CCMA) is, in a sense, compelled to "make law" when these matters are referred to them for a decision.

Hanekom said the dilemma of who determines fair retirement fund practice was a significant one for all retirement funds, insurers, administrators and consultants.

"We have all been a part of this industry for a long time and now that the rules are changing, realignments could take place and huge losses could be suffered."

He appealed to members of the association to point out to the industry "that we are are dealing here with a significant concern and if we don't take action, it will come back to bite us".

"So, let's develop industry guidelines which can be given legislative power and force.



**KOBUS HANEKOM** *says the industry must make some decisions before it gets bitten*

"If we don't, we'll have a turbulent environment where our understanding of the law and the rights and entitlements of members will change from day to day, or from court case to court case.

"Nedlac, as representative of government, the union movement and business, was ideally placed to develop 'best practices'," Hanekom said.

"In fact, the Labour Relations Act makes provision for best practices to be developed by Nedlac."

Hanekom said the alternative was for the National Retirement Consultative Forum to develop a code of practices.

However Hanekom said the forum had been "acting with spurts of energy and one is not too sure, if you entrust an important matter like to this to the forum, that you'll get action soon enough".

He said if the industry didn't take action, the CCMA, Labour Court, High Court and the pensions fund adjudicator would create precedents as they went along.

"We will be tossed around, not knowing exactly what our rights and entitlements are."

Commenting on opinions expressed by other speakers at the conference relating to how fair practice in retirement funds was being established and how the legal system was dealing with the matter, Hanekom said it seemed that the CCMA was likely to rule in favour of a claim against unfair practice.

The CCMA was also likely to say that the rules should change from that point onwards.

The commission, however, was less likely to award an order for damages.

On the other hand, he said, common law practices and the High Court were less likely to compel any fund to change its rules.

"If, however, the court finds that there is a right worthy of protection, it may well order damages and the damages may go a few years back."

# Adjudicator to take on pension funds

**Pat Sidley** BD 20/2/98 (300)

PENSION lawyers gathered to hear the views of the newly appointed retirement fund adjudicator, Prof John Murphy, were in for a rude shock if they believed they had circumscribed his power sufficiently to allow them and the funds they advised easy lives.

Murphy would take on funds and their rules if he believed them to be unfair.

His talk this week to the annual gathering of pension lawyers in Somerset West gave a clear signal that he believed the attempt to limit his power to deal with unfair or discriminatory rules in retirement funds, would not succeed.

He said the constitution and its principals of redefining public values for the public good would be a basic part of his motivation.

With a legal background in labour and constitutional law, he would be well qualified to do this. But his office, already inundated with complaints, was underresourced. He had a budget of less than R1m a year, an office and a secretary — and 100 complaints within the first month.

Murphy said there was uncertainty about where his jurisdiction began and ended. Given the constitutional commitment to design fair labour practice and just administrative action, he would have hoped his jurisdiction would have included the capacity to deal with some of these issues as they arose in pension funds disputes.

He had been asked on more than one occasion whether he could strike down a rule which was unconstitutional. The answer to this was still not clear.

Some legal opinions sought to limit his powers so that he was obliged to follow only the rules of a fund — and not human rights. "Such a fetter on my office would make a mockery of my office."

One legal opinion expressed the view that the office of the pension fund adjudicator was neither a court nor a judicial office — it was, rather, an inferior judicial organ of state. His jurisdiction was further limited by the fact that it applied only to funds registered with the registrar of pensions. This excluded, for instance, state pension funds.

For all those listening to the talk, the adjudicator made it clear he intended to interpret his mandate as broadly as he possibly could. This would at times include looking at labour law, and at how similar disputes had been resolved in other countries — aside from the need to be guided by the constitution.

☐ *Complainants can call Murphy's office at tel: (021) 45-4041, or fax (021) 45-4046. He requires full details. The fund will be given 30 days to resolve the problem.*

PERSONAL FINANCE

# Equality likely to be central to rulings

(300) BD 20/2/98

**Pat Sidley**

PROMOTING equality and ironing out entrenched disadvantages and inequalities of the past is likely to be a determining factor when disputes of discrimination and inequality in pension funds come before the Constitutional Court.

This was the signal given by Judge Catherine O'Regan in her key note speech to the Pension Lawyers' Association meeting this week in Somerset West.

It was a signal few lawyers would have missed, as they debated for two days how to deal with pension fund surpluses and the fallout of the landmark TEK case, which ruled that surpluses did not belong to employers but to the fund itself, and the effects of divorce and other issues of equality and discrimination in the pension fund arena both here and abroad.

"The primary purpose of our equality legislation is to combat and prevent ... patterns of disadvantage," O'Regan said.

"It is whether differentiation is likely to, or will, lead to such patterns of disadvantage that should be the primary determinant of whether it is inappropriate or not."

O'Regan sketched the inequalities in SA society using statistics from a Central Statistical Service report.

She said the report showed "that poverty is particularly acute in black households in nonurban areas, particularly where the head of those households is female. Old age pensioners are particularly poor."

This prompted the need to plan for retirement funding where possible, she said.

O'Regan pointed to several areas in retirement funds where equality was an issue. They are access to the funds, contributions, and benefits for those leaving funds.

In the area of eligibility to join a retirement fund, she pointed to potential problems such as the fact that part-time or temporary employees were often excluded from joining funds. This often effectively excluded women from the funds, because they were more likely to do part-time work due to the demands of their families.

The long-running issue of the ability to transfer the fund also needed attention, O'Regan said.

She cited several cases decided by the European Court of Justice and said some scrutiny of the area might be required if similar approaches to the eligibility of joining funds was adopted in SA.

"Historically one knows that it was common practice to deny certain classes of workers access to pension funds in ways that might constitute direct, never mind indirect, discrimination. It seems likely that many of the directly discriminatory practices are now extinct. Whether there will be scope for disputes and litigation relating to indirect discrimination remains uncertain."

The issue of benefits paid out on an unequal basis — say for men and women — has been the subject of litigation in both the US and Europe and although treated differently by each region, it was likely to end up being scrutinised in this country.

The European Court of Justice has held that contributions to retirement funds "fall within the ambit of the concept of equal pay" and they have been challenged accordingly.

O'Regan also raised the thorny issue of the use of mortality tables and asked whether it was legitimate to permit pension funds and insurers to select any way at all to minimise cross-subsidisation.

"It needs to be recognised that there are a range of reasons that insurers select criteria to limit pooling of risks.

"A key one is profit which also incorporates the need to attract business," she said.

"However, another reason relates to administrative convenience. Some risks may be easy to determine and uncontroversial ... it is easy and uncontroversial generally to determine age and sex.

"It may be more difficult to determine race, smoking or drinking habits, family history of significant diseases, etcetera.

"The complexity of the situation is probably best illustrated by HIV. There seems to be no doubt that there is a real connection between longevity and being infected with HIV yet is it a factor which as a matter of policy should legitimately be selected out for cross-subsidisation?" O'Regan asked.



O'REGAN

SOWETAN Wednesday February 25 1998

# Pensioners' problems to be aired

sowetan 25/2/98

(300)

## Mayor will attempt to alleviate rising food, electricity, and water costs

By Joshua Raboroko

GREATER Johannesburg mayor Mr Isaac Mogase, who has always displayed compassion towards the aged and the sickly, has summoned all pensioners to Regina Mundi Church in Soweto today in an attempt to alleviate some of the problems they face.

Soweto pensioners – like all pensioners in the country – have been hard hit by the spiralling cost of electricity, water, rent, food and service delivery. The meeting starts at 10 am.

Mogase told *Sowetan* yesterday that pensioners had been affected by the cost of electricity tariffs.

Eskom had reached agreement with consumers about payment of electricity accounts in the townships.

Eskom, which is owed R1 billion by township folks, has made arrangements with residents about how they can repay their debts.

Pensioners were among consumers given terms to repay their arrears or make arrangements to do so, but the council proposed to the provincial government to grant pensioners subsidies.

It was important that consumers make arrangements to repay services, and the council would intensify its credit control measures in an attempt to recover money owed by residents.

The council was prepared to deliver services to all people, but, he said, the continued non-payment of these services could only yield bad results.

The council would not survive without these funds and Mogase urged all residents to resume payment for services. Mogase said the old citizens had problems about owning properties or homes they had occupied for many years. The Government resolved to give them ownership of their homes.

He also announced that additional pension pay points would be introduced in the Soweto area.

The decision came after numerous complaints to the local council.

# Discrimination ruling awaited

(300) BD 27/2/98

**Pat Sidley**

THE pension fund industry, with trade unions, will be waiting with bated breath for the outcome of a landmark judgment on discrimination within pension funds.

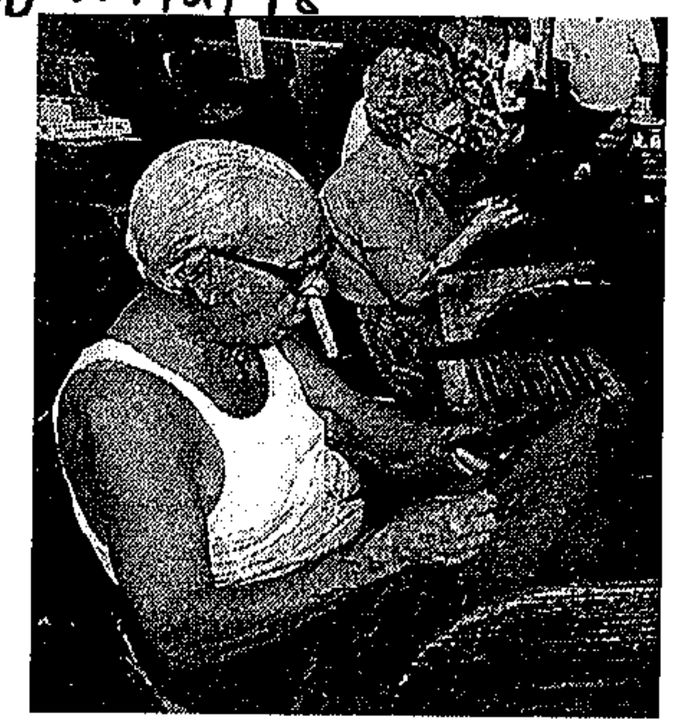
The case has evoked wide interest among pension lawyers and labour lawyers as it suggests labour practice and practice within company pension funds can no longer be divorced.

Moreover, a compensation decision still being awaited by the parties to the dispute will indicate whether pension funds facing discrimination lawsuits will also land up paying punitive amounts for past practices.

The case arose out of a dispute between a union and a tobacco products manufacturing company called Leonard Dingler. It had, for many years, two pension funds: one for monthly paid workers and one for weekly paid workers.

The problem arose from the fact that most weekly paid workers were black and barred by the employer from belonging to the pension fund which housed the monthly paid, salaried, workers.

Many years of negotiations with one union had not resulted in any finality, but the entry of a new union proved to be a catalyst and the company was taken to court for alleged discrimina-



**A judgment on discrimination within pension funds arises out of a dispute between a union and a tobacco products manufacturing company**

tory practices in terms of the Labour Relations Act (1995).

The court found the practice had been discriminatory but asked the union and management to try to reach an agreement. This was done for all except one item — compensation.

According to Leonard Dingler's lawyer, Peter Bam — who is labour department head of Rooth & Wessels in Pretoria — a single fund has been negotiated with differing options for workers who belong to the fund.

All workers, weekly or monthly paid, can belong to the fund and will pay the same percentage of their pay to belong to it. However agreement could not be reached on whether compensation should be retrospective — or how far back this should go.

The union would like compensation for all the years when there were different and discriminatory pension funds, management is looking to a date rather closer to the judgment.

Argument was heard last week and judgment reserved — yet either way its outcome will confirm the need for pension fund members and employers to look carefully at all aspects of the judgment to ensure their practices are not discriminatory, either directly or indirectly.

Discrimination is likely to be a large arena of contention in both pension funds and labour law and where they interface and is likely to occupy trustees' time and energy.

This pressure will become more stark towards the end of this year — the deadline for boards of trustees to be represented by half management-appointed trustees and half member-elected trustees.

ART 27/2/98 (700)

# DP man's fight to halt abuse in old-age homes

CLIVE SAWYER



IN PARLIAMENT

A Democratic Party MP from the Western Cape has proposed private member's legislation to boost the rights of people in old-age homes and protect them from abuse.

James Selfe, a DP member of the National Council of Provinces, will next week ask the select committee on private members' legislation to allow his Aged Persons Amendment Bill to be tabled in Parliament.

South African law provides very little protection for aged people, according to a memorandum to the bill. "As the law stands anyone can apply and open, own and manage an old age home, and does not need to have any knowledge of the ageing process, or any nursing abilities."

A manager with no geriatric nursing knowledge would have difficulty assessing how well nursing staff were doing their jobs, especially in running frail-care sections.

The current system of inspections by the Department of Welfare was inadequate.

Abuse of the aged should be criminalised, and a charter of rights of the aged put into law.

The 1996 constitution provided for a right to dignity, while the United Nations principles for older people said they had a right to respect for their dignity, beliefs, needs and privacy while in any care or treatment facility.

***'The protection of the rights of this vulnerable group in our society should be a top priority'***

Mr Selfe's bill aims to resolve shortcomings in current legislation by setting up a regulatory council to set standards for institutions involved in aged care. "When one considers the widespread prevalence of aged person abuse, and the daily violations of the human rights and dignity of aged persons, it becomes clear that the protection of the rights of this vulnerable group in our society should be top priority for the Human Rights Commission."

The bill says one of the Human Rights Commissioners should be given a specific mandate to look after the interests of the aged.

Attached to the bill is a charter of rights for the aged. Based on the experiences of elderly people who have been abused, it provides for rights to dignity and privacy.

A section on free choice and participation says the aged have the right to reside at home for as long as possible, to form associations, to work, remain integrated in society, refuse to perform services for the facility, communicate with people of their choice within and outside a frail care facility, and retain and use personal clothing and possessions as space permits.

The charter says aged-care facilities will have to provide immediate access, subject to reasonable limitations, to any resident by immediate family, anyone visiting with the consent of the resident, and anyone providing health, social, legal or other services.

The aged will have the right to personal privacy and confidentiality of their personal and clinical records.

They will also have the right to be free from verbal, sexual, physical and mental abuse, corporal punishment and involuntary seclusion. Facilities will not be allowed to use "any physical or chemical restraints imposed for patient discipline or staff convenience which are not required to treat the resident's medical symptoms except in the event of such resident posing a threat to others".

The aged will have the right to manage their financial affairs and to have their money kept separate from that of the institution. They will also have the right to be fully informed about their health status.

On grievances, the aged will have the right to exercise rights, voice grievances, and recommend changes in policies and services through residents' committees.

# Welfare officials fired over 'ghost' pensions (300)

By Hopewell Radebe
Political Reporter

About 27 Gauteng welfare department officials have been dismissed and charged with defrauding the provincial government of thousands of rands by withdrawing social grants for "ghost pensioners", Welfare MEC Ignatius Jacobs said yesterday.

The department had also identified at least 18 000 ghost pensioners in Gauteng.

"We did not suspend the officials with their salaries intact but dismissed them because we believed there was sufficient evidence available for the law to take its course," said Jacobs yesterday.

Addressing a media briefing at the legislature, Jacobs said the department had reduced opportunities for officials who were responsible for paying social grants to pensioners to "go home with their pockets and bags full of money".

At least one departmental official in the fraud investigation unit had survived an assassination attempt.

He was shot seven times after he identified a fraud syndicate "which was stealing from the aged community of the province".

Jacobs said the department had changed its strategy of using cash to one of using banks and the Post Office to pay pensioners.

However, the department was still responsible for 84 pension paypoints in Gauteng.

"Our automated paypoint security system has discouraged criminals from robbing the paypoints. Paypoints no longer carry large sums of cash like before," Jacobs added.

He said the department had reduced the waiting period by making the service more efficient to eliminate queues.

The time spent by pensioners at paypoints before being serviced had also been cut.

Star 27/3/98

# Aged hope light will shine on them when bill is considered

(300) Star 2/3/98

By Tiro Holele and Mandy Taylor

The Aged Persons Amendment Bill comes under the spotlight this week when it is considered by a National Council of Provinces (NCOP) select committee. Introduced by Democratic Party member James Selfe as a private member's bill, this bill will provide a crucial test for how amenable the NCOP is to private members' bills.

In terms of the new constitution, individual parliamentarians may submit private bills to the legislature for consideration. These bills are first referred to a committee set up to look at private members' bills and if they get approval from this committee they then follow the same procedure as all other bills.

How receptive is Parliament to private members' bills? So far the only private member's bill to successfully chart its way through the entire parliamentary process has been a Correctional Services bill introduced by Carl Niehaus as the then ANC chairman of the portfolio committee.

The ANC used the private members' bill procedure for introducing a bill that did not have the support of the Minister of Correctional Services, IFP member Sipo Mzimela. In contrast, private members' bills initiated by opposition MPs have not made it past the starting post.

In an interview, Selfe was upbeat about the possibility of the bill being agreed to by the NCOP select committee that makes the recommendation whether or not the bill should be proceeded with. He believes that the NCOP may be more receptive to private members' bills than the National Assembly. Describing the NCOP as more "collegial", he said that the select committee that deals with private members' bills understands its role as a technical rather than a political role.

This bill will be the first real indication of how the NCOP intends dealing with private members' bills as previous private members' bills before the NCOP were withdrawn when the final constitution introduced different procedures for bills.

The bill seeks to regulate the care of the elderly in institutions. It proposes the establishment of a regulatory council to set standards for institutions involved in the care of the elderly, it seeks to criminalise the abuse of the elderly and it provides for mandatory reporting of elderly abuse to the Human Rights Commission. It proposes that a commissioner from the Human Rights Commission should be tasked with investigating complaints of aged-person abuse and conducting regular investigations of aged-care facilities.

**Even if not passed, it will highlight crucial issues affecting elderly**

The Minister of Welfare Geraldine Fraser-Moleketi has opposed this bill and it will be interesting to monitor the effect of executive disapproval on the passage of a private member's bill. Her grounds for opposing the bill include that there is already a consultation process in place for the drafting of new legislation concerned with the aged, and that the Administration of the Aged Persons Act has been assigned to the provinces.

Private members' bills also have significance for civil society organisations. NGOs concerned about the aged have lobbied for many years for a change in the law. In the face of executive inaction they chose to work with Selfe to produce this private member's bill.

Even if legislation is not ultimately passed, it will have been a way of increasing the pressure on the executive to deal with the issue at hand.

According to Piet Matthee, chairman of the Private Members Legislative Proposals Committee in the National Assembly, steps must be taken to enhance the capacity of MPs to draft legislation. His committee went on a study tour of Canada, the United States and the United Kingdom at the end of 1997 and will shortly be releasing a report with proposals on how to improve the private members' legislative process.

He confirmed the sense that private members' bills are important whether or not they are passed because the process provides an opportunity to shine a bright light on important issues.

It is hoped that even if the Aged Persons Amendment Bill is not approved by Parliament, it will serve to shine a light on this crucial area.

■ *Idasa's Political Information and Monitoring Service set up a project of monitors in 1995 specifically to observe the work of the national parlian ent.*

# Bill on abuse of aged in the balance

ARG 5/3/98 (300)

**CLIVE SAWYER**
POLITICAL CORRESPONDENT

**A decision on whether to allow a bill criminalising abuse of the aged to be put to Parliament has been postponed to next week.**

The bill, designed to protect the elderly from physical, sexual and financial abuse, has been proposed by James Selfe, Democratic Party delegate from the Western Cape to the National Council of Provinces.

It is supported by the National Party and Freedom Front.

Although the bill has not been published officially for comment, press reports have prompted a positive response to it from a wide range of non-government organisations involved with care of the elderly.

However, Welfare Minister Geraldine Fraser-Moleketi says she does not want Mr Selfe's bill to go ahead because she has plans for her own.

Mr Selfe's bill is designed to be an interim measure, providing a wide range of protection and introducing a charter for protection of the aged, while requiring the minister to produce her own legislation within 12 months of the passing of the private member's bill.

The bill was put to the NCOP committee on private members' legislation yesterday, to decide whether to allow it to go ahead into the parliamentary process.

Private members' bills may be introduced only if they are not vexatious or frivolous and do not duplicate existing legislation or a bill which is officially scheduled to be put to Parliament.

The African National Congress majority on the private members' legislation committee said it had no objection to the bill in principle, but needed to study the detail.

A decision was postponed until next week to give the ANC time to make up its mind on the bill.

PENSION FUND SURPLUS

# From tax dodging to inflation proofing

**With amendments** to the Pension Funds Act pending, a moratorium has been placed on employers' attempts to gain access to any pension fund surpluses. Legislation may be passed by parliament later this year.

Peter Milburn Pyle, convenor of a task group appointed in 1996 by the Pension Funds Advisory Committee, says there is a case to be made for permitting the payment of part or all of surplus pension fund assets to employers, provided the facility is not abused.

He makes a carefully worded point: "It can be shown to be to the detriment of the members if employers are prevented from withdrawing any surplus assets."

For example, a company could save jobs if it is able to avert insolvency by tapping a surplus. It could also be beneficial if retired and active members are given a satisfactory share of the proceeds. And if employers are never allowed access to a surplus, they will tend to underfund rather than overfund.

But, if employers are to be allowed a slice of a surplus, safeguards are crucial.

"If the surplus was created by inadequate resignation benefits, before an employer even thinks of applying for access to the funds he will have to change the fund rules to ensure the benefits are no less than each member's full actuarial reserve.

"And existing pensions must be raised to the level they would have been today if increases equal to the inflation rate had been awarded."

As from December 15 this year, at least half the trustees will have to represent members, who will have to be polled on a proposed distribution. Two-thirds of those who respond will have to agree before it can take place.

A few attempts by employers to dig into a surplus were sanctioned by the Financial Services Board before the moratorium. This was because of special circumstances and a precedent established by a decision by the Financial Services Appeal Board in 1994 in the case of the Lintas Pension Fund.

A different situation arises when employers don't want to access a surplus but simply want to reduce or suspend their contributions — take a contributions holiday — because of previous overcontributions.

"In that case we would normally be happy to accept a certificate by the fund's actuary of the soundness of the proposed holiday," says Milburn Pyle.

These issues are part of a broader picture. As retirement choices expand, there is a greater need for employees to be kept informed. Employers will have a role to play in providing information. And employees will have to show more initiative. But it is the members' trustees who will ultimately take responsibility when members lose out.

They will have to be alert in a time of rapid change for the retirement industry if they are not to risk breaching their fiduciary responsibilities.

The task group's recommendations are before Cabinet for approval in principle. From there they will go to the Portfolio Committee on Finance.

**Ethel Hazelhurst**

# Pay-outs to 'struggle' pensioners who sacrificed for democracy

(300) ARG 7/3/98

WILLEM STEENKAMP

**South African taxpayers have already forked out more than R147-million in special pensions to 1 750 citizens who made sacrifices to establish a non-racial and democratic South Africa.**

The Special Pensions Act No 69 of 1996 was promulgated to prescribe criteria under which special pension pay-outs could be made to "struggle" pensioners. However, concern is growing that the special pension board is not stringent enough in deciding whether to pay out pensions or not.

The R147-million plus has been paid out over a 14-month period that began on December 1 1996.

It is estimated that up to 25 000 other applications for special pensions may still have to be processed – ultimately leaving the taxpayer with a bill of close to R1-billion.

But Peet Maritz, chief director, pension administrations at the Department of Finance, said the Special Pensions Act had laid down strict criteria under which pay-outs were considered.

Under the Special Pensions Act, a person hoping to qualify for a special pension has to prove, among other things, that he or she was involved full-time in the services of a political organisation, that the person was prevented from leaving a certain place or area in the Republic, or was prevented from being at a particular place in the country as a result of an order issued in terms of a relevant law.

The person would also have to prove that he or she was imprisoned or detained in terms of any law or for any crime mentioned in schedule 1 of the Special Pensions Act, or that he or she was imprisoned for any offence committed with a political objective.

In considering whether a person committed an offence with a political motive, the board also had to consider other factors.

Among these would be the person's motive, the context in which the offence was committed and the nature and gravity of the offence.

Also, the effect of the offence on a political opponent, state property, state personnel, private property or on individuals, had to be taken into account.

The board must also consider whether an offence was committed "without personal gain and without personal malice".

A person had a right to a special pension if he or she was at least 35 years old on February 2 1990 and was prevented from providing for a pension because of a total or combined period of at least five years before that date under the requirements described in the Act.

People will only receive the special pensions once they have turned 50. Even where pensions for younger people have been approved, they will have to wait until they turn 50 before pay-outs can begin.

Even top Government officials and ministers may qualify for the special pensions – but will have to wait for retirement.

# ... may top R1-bn mark

# Pension industry opens to blacks

(300)
Sowetan 10/3/98

By Abdul Milazi

KAGISO Trust Investment and Liberty Life Asset Management have formed a joint asset management company that will see blacks stake a claim in the R200 billion pension and provident fund market.

The company, Kagiso Asset Management, will be jointly owned by Kagiso Trust Investment (KTI) and Liberty Asset Management (LAM) and will be run by a black majority management team.

LAM executive chairman Roy McAlpine said his company would contribute seed assets of about R500 million to the new company and would also provide support in investment research, administration and information technology.

KTI chairman Eric Molobi said the partnership with LAM was part of his company's move to strengthen its financial services.

"The new operation will compliment KTI's existing interest in Kagiso Financial Services (a merchant banking operation jointly controlled with UK merchant bank NM Rothschilds)."

He said establishment of the new company represented a further step in KTI's strategy of building an integrated financial services group. The group already holds a 25 percent interest in the stockbroker Huysamer Stals.

Molobi said KTI was looking at investment opportunities in the financial services sector and intended setting up a private equity fund in the near future to capitalise on continued restructuring of the local economy.

McAlpine will join the KTI board of directors as a non-executive member when he retires from LAM at the end of March. He will also sit on the board of Kagiso Asset Management.

He said he wanted to see more black fund managers in the group in five years' time because "there was a shortage of blacks in the fund management sector".

## Tight-lipped

Two of the new company's three fund managers are black, but both Molobi and McAlpine were tight-lipped on their identity as they were still to resign from their present employment.

KTI was formed in December 1993 with a R17 million loan from US investment-backed JP Morgan and a R8 million loan from Kagiso Trust. In November 1996 Liberty Life bought convertible preference shares in KTI which, if converted, would translate into a 25 percent shareholding in the group.

KTI's core investment focus is in the media and financial services sectors, and Molobi and McAlpine said the new partnership was the beginning of a long-term relationship between the two groups in the financial services arena.

# Just R20 a month extra for pensioners

ARGUS CORRESPONDENT (300) ARG 12/3/98

**Welfare and Population Development Minister Geraldine Fraser-Moleketi has announced a 4,3% increase in social security grants, amounting to R452-million, from July 1.**

This follows Finance Minister Trevor Manuel's announcement that Welfare would receive R18,7-billion for the 1998/99 financial year – a nominal increase of 15,8%.

The grant adjustments will be:

- Old-age, disability and care dependency grants will increase from R470 to R490.
- War veterans' grants go up from R488 to R508.
- Foster care grants will increase from R340 to R350.
- Grants-in-aid will increase from R80 to R90.

National Council for the Aged executive director Syd Eckley expressed disappointment at the R20 increase in social pensions.

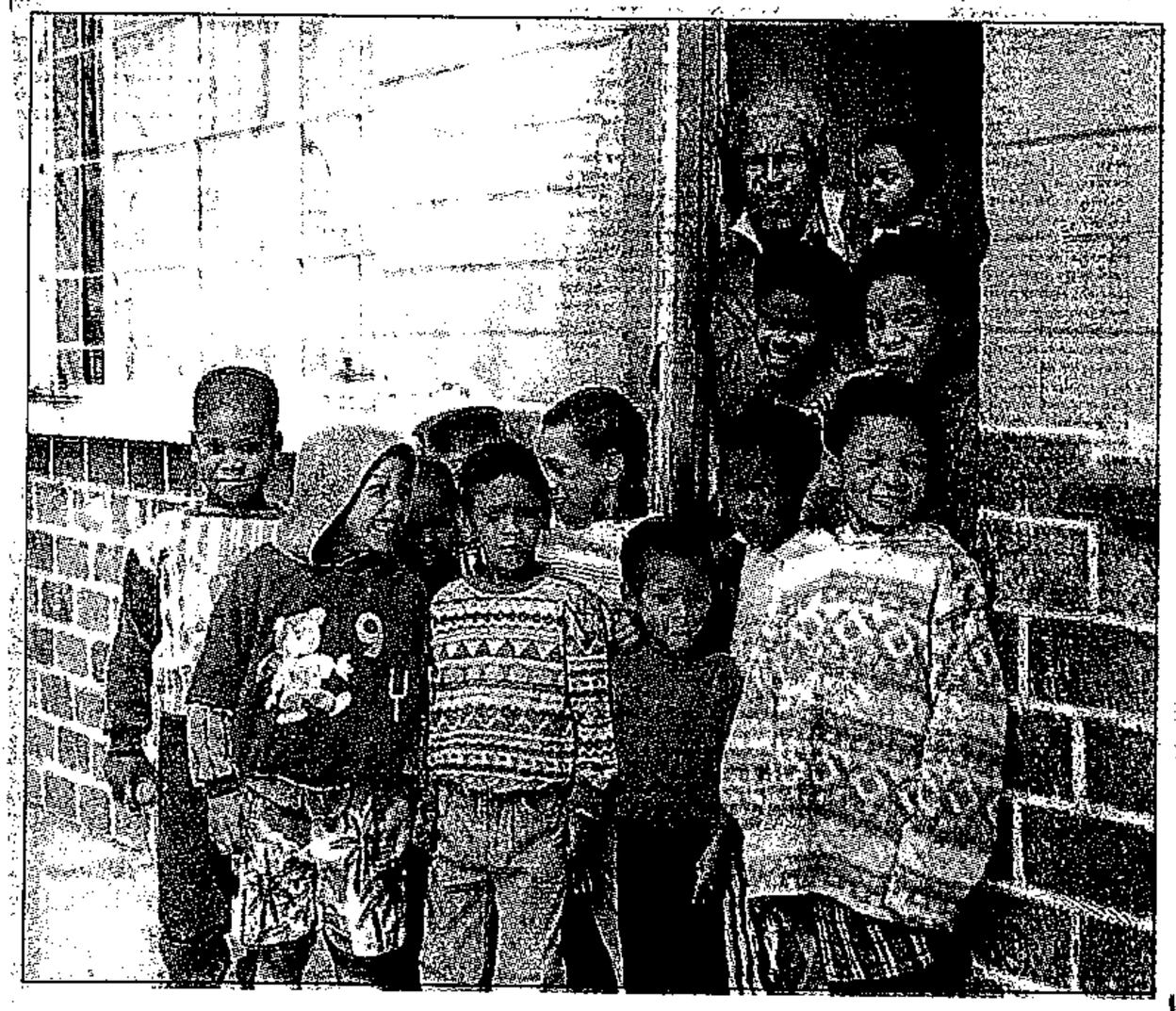
"We submitted a report to Trevor Manuel and President Mandela a while ago on behalf of the Black Pensioners Association, pleading for an increase of at least R50," he said.

"It appears as if the Government is regarding older people as not important."

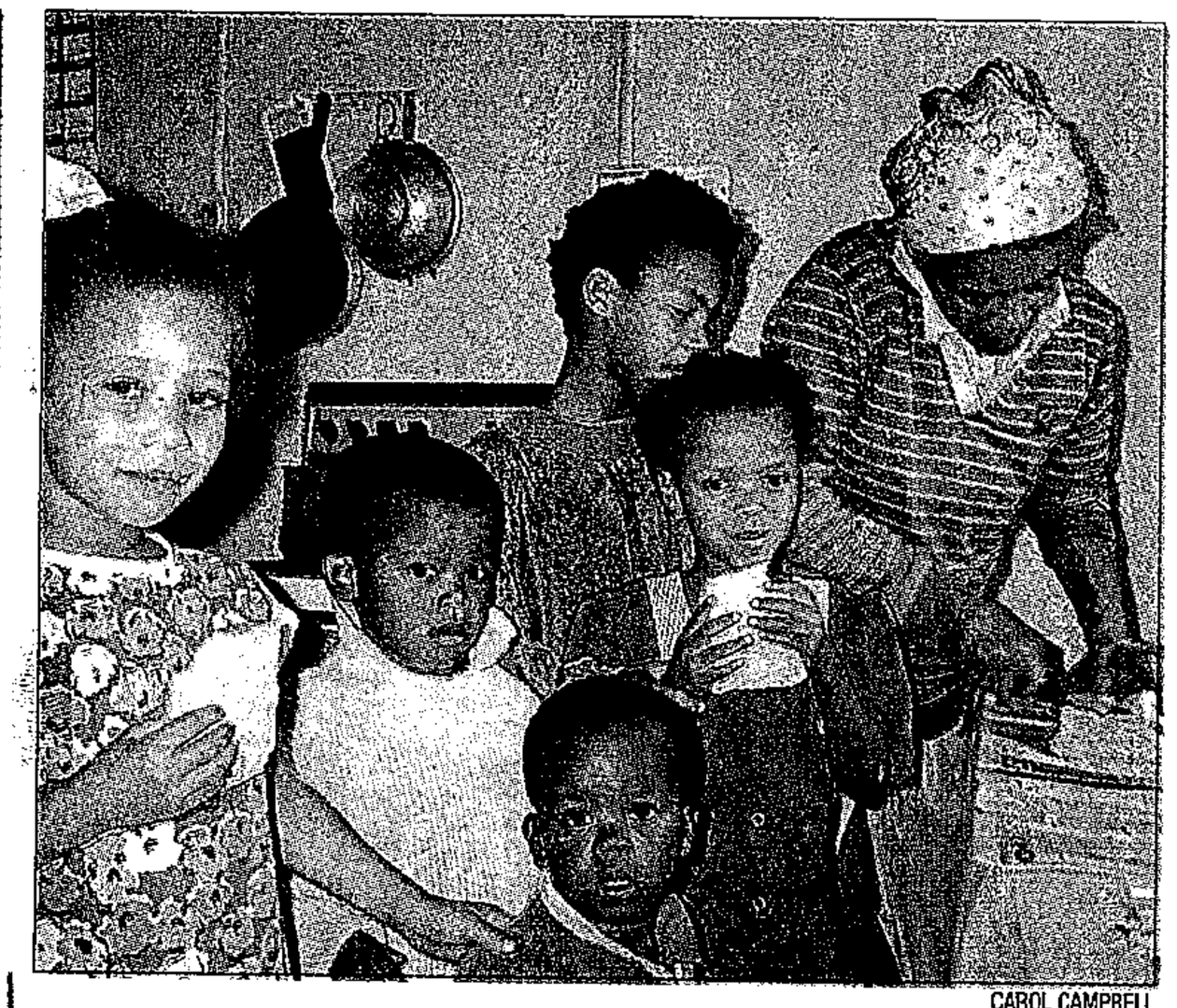
Mrs Fraser Moleketi said it was now estimated that up to a quarter of all household income in rural areas was derived from pensions and grants. "For black South African households, each pensioner's income helps five other family members."

She also announced the introduction of a new child-support grant from April 1. The grant, amounting to R100 a child a month, would be paid to the primary care-giver of children under seven if a means test was met.

The new child-support grant would replace the state maintenance grant which would be phased out over three years.



**Always hungry:** pensioner Jacobus Classen from Lavender Hill with some of his grandchildren and their friends. He feeds 12 grandchildren with his R470 monthly pension



CAROL CAMPBELL

**Below the bread line:** Sheila Serenge, common-law wife of pensioner Jacobus Classen, divides a precious loaf of bread among some of her grandchildren

## Main points of the 1998 Budget

- **Tax relief puts R3,7 billion in taxpayers' pockets, half of it going to people with taxable incomes of less than R60 000 a year**
- **VAT is unchanged at 14%**
- **Tougher tax treatment of medical aid contributions by employers and of trusts**
- **10c a litre increase in fuel levy**
- **Hikes in taxes on cigarettes and alcohol**
- **Once-off tax on the value of shares to be issued to policyholders by Sanlam and Old Mutual – money to be used for new job creation fund**
- **60% of government spending earmarked for social services: welfare and social grants R19 billion, health R23 billion, education R45 billion**
- **Provinces get more than R90 billion, Western Cape R9,5 billion**
- **Cuts in taxes on computers, perfumes, photographic goods, watches and other goods; new taxes on cellphones**

BUDGET

# Relief for lower- and middle-income earners

BD 12/3/98

Samantha Sharpe

CAPE TOWN — Individual taxpayers will pay R3,7bn less tax in the new financial year as government made good on its promise to bring tax relief to the man-in-the-street, Finance Minister Trevor Manuel said yesterday.

While most of the relief, about R1,7bn, will go to those earning less than R60 000 a year, those to R600m will be shared among those falling into the highest tax bracket.

The tax reductions will be financed partly through an improvement in the efficiency of tax collection by the SA revenue services and the broadening of the tax base.

Manuel said the individual tax relief aimed to combat the negative effect of "bracket creep", which arises when salaries and wages increase with inflation and tax thresholds are left unchanged. Adjustments proposed in the 1998/99 budget, which included a single scale of rates for all taxpayers, would help eliminate this effect and its ability to reduce after tax income in real terms, he said.

The single scale of benefits proposed for all individuals would reach a maximum rate of 45% at a taxable income of R120 000 a year, pushing out the maximum marginal rate of tax by R20 000.

At the same time the marginal rate applicable to taxpayers with taxable income in the range R46 000 to R60 000 a year would be reduced from 41% to 39%, Manuel said, with the number of income brackets reduced from seven to six.

"Bracket creep affects lower and middle income taxpayers particularly severely and so nearly half of the relief granted will go to individuals with taxable incomes of less than R60 000 a year," he said.

This was despite the fact that latest available data showed taxpayers in the R100 001 to R200 001 income group contributed close to 45% of the total revenue taken from income tax.

This meant an effective increase in the primary rebate from R3 215 to R3 515 a year, with the rebate in respect of individuals 65 years old and older to increase from R2 500 to R2 660.

"The effect of the proposals on a taxpayer earning R30 000 and who is under 65 would be a reduction in tax liability of R300 a year, while a taxpayer earning R100 000 would pay R1 000 less per year," he said. "In the case of a person over 65 years earning R50 000, the tax liability will be reduced by R960, while a person earning R120 000 will pay R1 360 less per annum."

# Dragnet aims to raise R1bn from 'dodgers'

BD 12/3/98

Samantha Sharpe

CAPE TOWN — Taxpayers will fork out an extra R1bn in fringe benefits tax during the 1998/99 financial year as government moves to clamp down on tax avoidance, says the Budget Review.

Those benefits falling under the spotlight include residential accommodation, travelling allowances, benefit loans and medical aid scheme contributions. Finance Minister Trevor Manuel said in his address yesterday that aggressive structuring of salary packages eroded the tax base and put at a disadvantage lower-paid workers who did not enjoy the same degree of tax mobility. "Moreover, it discriminates against smaller firms that generally do not have the capacity to manage complex remuneration packages," he said, a situation which had helped prompt government to take action.

On medical fund scheme contributions, Manuel said government had become aware that these were increasingly being used to structure salary packages in a way that was never intended in the Income Tax Act. Government therefore had decided that where the employer's contribution to a medical scheme on behalf of an employee exceeded two-thirds of the total contribution, this would be taxed as a fringe benefit in the hands of the employee. This was expected to yield the fiscus R700m in 1998/99.

On residential accommodation, he said government had proposed measures to combat the abuse of accommodation-related salary sacrifice schemes. These occurred where the employer paid a monthly rental in respect of an employee's accommodation in return for a reduction in salary, thereby reducing the taxable income of the employee.

Employees would now be taxed on the cost to the employer of the accommodation where the accommodation was not owned by the employer or an associated institution. Exceptions would exist where it was customary or necessary for employers to provide free or subsidised accommodation or where the benefit was provided at arm's length for bona fide purposes.

The portion of an employee's travel allowance included in the taxpayer's remuneration to determine pay-as-you-earn (PAYE) would also be increased from 40% to 50% with effect from April 1, Manuel said.

While this proposal had no effect on the eventual tax liability of an individual, it was estimated to yield a cash flow advantage of R150m for 1998/99.

Manuel said government planned also to abolish benefit funds with effect from January 1 2000, with employer contributions to friendly societies no longer tax deductible.




Tax on alcohol and cigarettes will increase the price of some simple pleasures. Picture: TREVOR SAMSON

# SA smokers left fuming as Manuel raises tobacco tax

BD 12/3/98

Linda Ensor

CAPE TOWN — Smokers were left gasping yesterday following Finance Minister Trevor Manuel's announcement that excise duties on tobacco would be increased by 29%.

A packet of 20 cigarettes would cost 46c more, Manuel said, justifying the move in terms of the need to keep the overall tax on tobacco products, including VAT, at 50% of the retail price. The measure would generate an additional R699m for the fiscus.

Drinkers would also have to dig deeper into their pockets to indulge their habit after Manuel's stinging tax increases on alcohol products, which would see 340ml cans of beer and cider each costing 1,6c and 9c more respectively; a 750ml bottle of cane spirits 65,7c more; a 750ml bottle of whiskey and other grain spirits 48,2c more; a 750ml bottle of wine spirits 104,2c more; and a 750ml bottle of unfortified wine 5,9c more. There was no change to the excise on sorghum beer.

In total, government calculated that the adjustments to excise duty would yield an additional R1bn. The hike in grain spirits tax alone would generate R683m, beer R118m and wine spirits R101m.

Regarding alcohol, the budget review said the aim of the increases was to tax high alcohol content products at a higher rate than low alcohol products and to bring SA taxes in line with broad international benchmarks.

Furthermore, one consolidated duty of R27 per litre of absolute alcohol would apply to the differentiated rate structure for seven categories of spirits. No increase in the excise rate for soft drinks was proposed, representing a real 6% decrease. Total abolition in line with international trends would depend on affordability issues, the review said, as revenues of R300m were collected from this excise tax.

Revenue from excise duties was expected to be 4,2% higher in the coming fiscal year compared with the last.

# Retirement fund levy to raise 25%

BD 12/3/98

Samantha Sharpe

CAPE TOWN — SA's retirement fund industry faces an increase in the current 17% tax levied on its net rental and interest income to 25%, a move which will boost government coffers by R1,2bn in the new financial year.

The extent of the increase has come as a surprise to some industry members who, while expecting some tinkering of the 17% figure, had forecast the rise to come in at about 19%-20%.

Finance Minister Trevor Manuel said while the tax was currently being investigated in its totality "to determine the most appropriate method of taxation of the flow of funds through retirement funds to the ultimate beneficiaries", no changes had been made to the rate since its introduction. This justified an increase in the rate from 17% to 25% with effect from March 1.

On the current state of the National Retirement Consultative Forum, the budget review said the forum had established five theme committees to consider the contribution of the SA retirement provision industry to the general economy. The input of the forum would be framed as a white paper, followed by draft legislation, it said.

# Government plans to undermine trusts as avoidance mechanism

BD 12/3/98

Samantha Sharpe

CAPE TOWN — Government plans two initial reforms to current trust tax legislation, and has signalled that further changes could be introduced following a full investigation later in the year.

The move is in line with market expectations, with several tax experts forecasting earlier in the week that government would attempt to reduce the effectiveness of trusts as a tax avoidance mechanism.

Manuel said yesterday government was aware trusts were increasingly being used to channel losses, incurred as a result of the deduction of expenditure and allowances in the trusts, to their beneficiaries. The beneficiaries then set these losses off against income.

They were also being used as a means of splitting income between the fund's beneficiaries, thus reducing the tax rate at which income was ultimately taxed and creating a mechanism for tax avoidance.

Manuel said the provisions of section 25B of the Income Tax Act would therefore be amended "to provide that the losses of the trust may, for tax purposes, not be allowed to flow through to the beneficiaries".

"They can, however, be retained in the trust, where they may be carried forward to the following tax year to be set off against the income of the trust in that year.

"This proposal will apply in respect of all new trusts created from March 11 1998. As far as existing trusts are concerned, it will apply from years of assessment commencing on or after 1 January 1999," he said.

Manuel also proposed that income vesting in the trust as taxpayer (not the income vesting in any beneficiary of the trust) be taxed at a rate of 35% on taxable income not exceeding R100 000 and at 45% on the amount of taxable income which is in excess of R100 000.

"An exception is proposed in the case of a trust created for the benefit of persons who suffer from a mental illness as defined in section 1 of the Mental Health Act, 1973; or a disability, where such disability incapacitates the beneficiary from earning income to maintain him or herself."

These changes would apply from years of assessment commencing on or after March 1 this year, he said.

BUDGET

# Private sector participation to be promoted

Robyn Chalmers

GOVERNMENT is to extend the range of infrastructure projects that make use of private sector participation, with the focus on prisons, airports, harbours and roads.

The move was broadly welcomed yesterday by the private sector, which has invested heavily in a range of infrastructure projects, including the Maputo development corridor and major water and sanitation schemes.

However, analysts said that the private sector was most likely to look to projects where it could make good returns — such as toll roads — where the risk could be forecast and managed.

The Budget Review said programmes such as electrification and telecommunications were self-financing and were able to draw on domestic and foreign financial markets.

However, proposals were under review for the private construction and maintenance of prisons under long-term contract. Private finance and management would be brought into airports, harbours and roads.

Finance Minister Trevor Manuel said government aimed to extend the delivery of basic services by bringing private sector finance into infrastructure projects.

"Business partnerships are encouraged between municipalities and private concerns for financing, extending, operating and managing infrastructure services," he said. Eighteen pilot projects had been established countrywide. These included water, sanitation, refuse collection and transport projects. The private sector invested R1bn in these projects in the 1997/98 financial year which amounted to R5 for every R1 spent by government.

A number of government agencies would be used to promote private sector involvement. The Development Bank of Southern Africa, for example, was playing an increasingly active role in financing infrastructure.

The review said the bank would "act as a catalyst for public-private" partnerships and was expected to mobilise at least R10bn in co-financing in the current year.

It said the bank's disbursements for 1998/99 were expected to exceed R1,8bn from R1,38m the previous year. "Based on an average of 20 persons employed for each R1m invested, about 60 000 jobs will result from these project commitments."

Investment in transport infrastructure was expected to accelerate over the next three years, both as a result of increasing government spending and greater use of private finance. The national roads agency, which would be up and running soon, would draw on user charges and private finance as well as a more stable allocation of budget resources.

Comment: Page 15

# Budget 'shocks' retirement fund institute

Lukanyo Mnyanda

THE Institute of Retirement Funds said yesterday it was "shocked and dismayed" by government's decision to increase the tax on rental and interest income of tax funds; accusing it of breaking a promise to consult widely before making changes.

Institute president Chris Newell said Finance Minister Trevor Manuel's decision to increase the tax to 25% from 17% had come as a shock and could lead to the closure of some funds as people sought value in other instruments.

He said low-income earners, who would find themselves "paying more tax inside the pension funds", would be hardest hit.

Manuel said in his budget speech that the increased levy would boost government's coffers R1,2bn in the current financial year. The tax was being investigated to "determine the most appropriate method of taxation of the flow of funds through retirement funds to the ultimate beneficiaries".

However, Newell was not convinced and accused government of going above the National Retirement Consultative Forum which was supposed to investigate the taxation of retirement funds.

He said the imposition of a 17% tax two years ago was supposed to be a temporary measure, while the forum investigated the taxation issue. It was not clear if government intended to take the increase to the forum.



The Institute of Retirement Funds says the effect of government increasing tax on rental and interest income of tax funds would be felt by low-income earners who would 'pay more tax inside the pension funds', taking the sparkle out of the funds

# 'Extra R1,2bn will not swell province's coffers'

GRAHAMSTOWN — The R1,2bn increase in the Eastern Cape's allocation would not represent a real increase in the amount of money the province would be able to spend next year, Democratic Party MP Eddie Trent said yesterday.

He "did not share the general enthusiasm for the Eastern Cape's R15bn allocation" and was "absolutely certain" the allocation would be less than was spent by the province in the past fiscal year if the province's overdraft and the amount still owed to suppliers was added to the previous budget.

He said all departments, including those responsible for social delivery, would therefore have less to spend in real terms next year than they did this year. He said he would have to wait until the provincial government released its budget next Wednesday before seeing how the Eastern Cape would deal with these real budget cuts.

Finance and economic affairs department spokesman Khulile Radu dismissed Trent's comments as "groundless electioneering".

Radu said his arguments were "very simplistic" as they did not take cognisance of the fact that the provincial administration has taken huge steps to enact credible budgets which "conform to treasury norms and standards".

Radu said the increase in the budgetary allocation was an "affirmation of the confidence that the national government has in the leadership of the province and in the financial control systems they have put in place".

Eastern Cape business activist Kevin Wakeford said yesterday the Eastern Cape's "kindergarten government" still did not have the capacity to deliver the goods to the "people at grassroots level" and was heading for a mammoth R2bn deficit for 1998/99.

He said the budget was "great in theory and in line with the fundamentals of the growth, employment and redistribution strategy", but that the Eastern Cape would be left in the lurch again at the end of this financial year with pensions and welfare grants unpaid and education in the province still in chaos. — ECN.

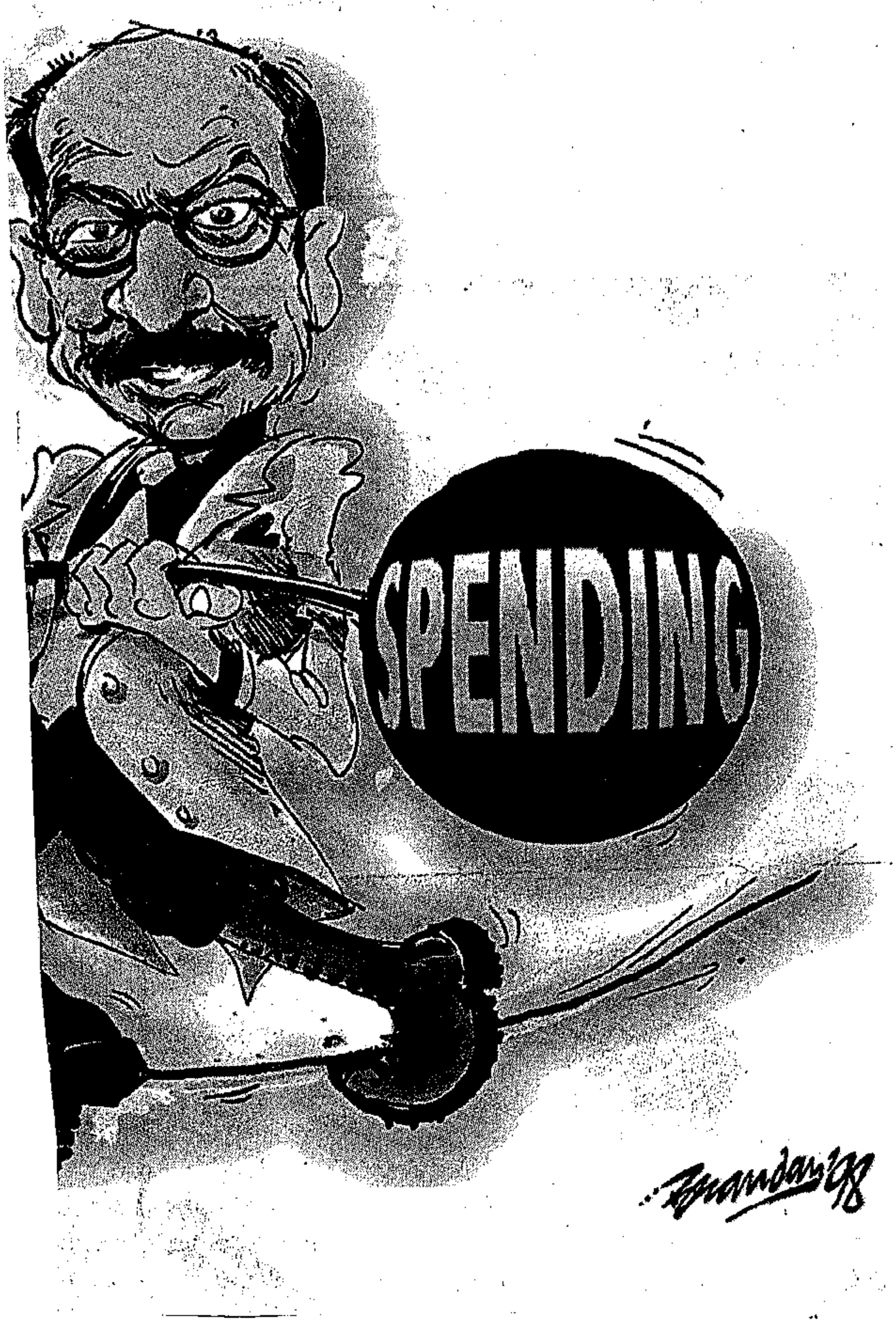
# Home loan penalties 'can be harmful to property market'

ARG 14/3/98

300

REPORTS ON PAGES 2, 3 AND 4

# on savings




Boardman '98

BUDGET ISSUE

(300)
FARG 14/3/98

# Manuel raids pens.

## Low income earners hit the hardest

BRUCE CAMERON

Government has launched an attack on retirement funds that could result in significantly reduced benefits for retirement fund members and individuals drifting away from retirement saving vehicles.

And the life assurance industry warned that following the government's decision to increase the tax on the gross interest and net rental income of the funds from 17 to 25 percent that the hardest hit would be low income earners.

Apart from the direct hit it also means that low income earners, who would be paying no tax or a marginal rate lower than 25 percent, are penalised, while high income earners with a marginal rate of 45 percent, get off comparatively lightly.

The blow to low income earners should have been balanced out by a proposal to subsidise pensions of low income fund members, which is still under government consideration.

The industry reacted with both surprise and anger to the increased tax. The industry, including the Institute of Retirement Funds, was not consulted by government about the effects prior to the announcement.

The industry believes that the tax will make retirement funds unattractive to members, particularly of defined contribution funds, and could severely damage the substantial retirement annuity industry.

Sanlam says that those people who switched from defined benefit funds to defined contribution funds have taken a nasty rap for their decision.

The industry is still crunching the numbers to establish the full extent of the damage.

Initial calculations done by Old Mutual Actuaries and Consultants show that retirement fund members could lose up to 25 percent of their final benefits as a result of the tax.

Worst hit will be provident fund members because their contributions to funds are not tax deductible. Consequences for members of defined benefit funds could also be significant if employers refuse to make up any shortfall caused by the tax. This would mean members would either have to contribute more or take lower end benefits.

Pre-budget speculation was that the tax rate would increase from 17 percent to 19 percent, in line with the lowest rate of income tax.

Old Mutual Actuaries and Consultants estimate that the effect of this increase will be to reduce fund investment yields by about 0,3 percent a year – taking the total yield reduction since the tax was introduced in 1996 to almost one percent a year.

"For members of defined contribution funds, the effect of the rate change is to reduce the retirement capital which a member could expect to accumulate over a working lifetime by around eight percent. Compared with the situation before the tax was introduced, retirement expectations have been reduced by roughly 25 percent."

Jurie Wessels, director of the Life Offices Association, says this should be seen as a tax on pensioners and future pensioners.

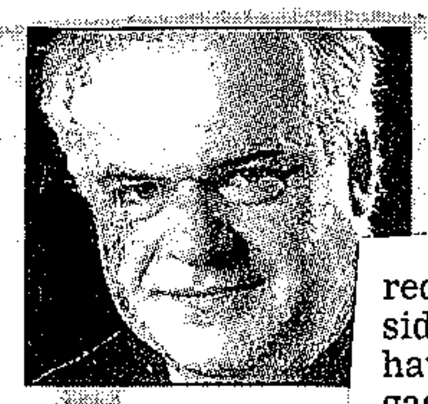
"The increase in the levy rate is difficult to understand against a background where the National Retirement Consultative Forum (NRCF) has accepted a recommendation that ad hoc changes should not be made.

"The NRCF's holistic review of the country's retirement funding system is severely undermined by this announcement."



# Retirement fund loans could cost you in later years

ARG 14/2/98 (300)



*life* with **Cameron**

The newly appointed Pension Fund Adjudicator, Professor John Murphy, has made his first ruling. In this case the ruling went against the applicant. However, the ruling deals with a very important grey area – the right of an employer to deduct money owing from your retirement savings when you resign, are retrenched, fired or take retirement.

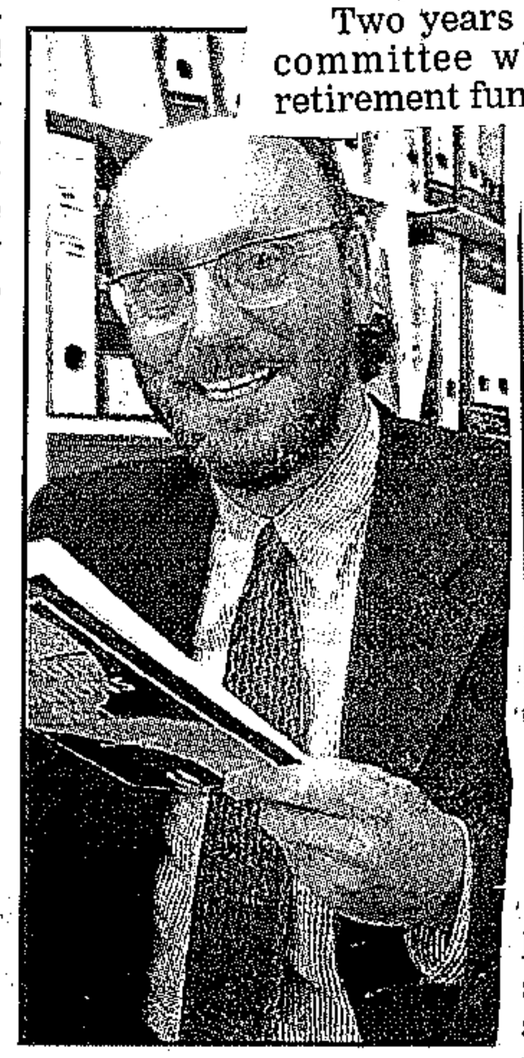
What happened in this case was Mr K, on being employed by retailer Woolworths, was granted a housing loan of R37 500. In signing an acknowledgement of debt Mr K agreed that "any money owing to me by the Wooltru Group Pension Fund may be off-set against the outstanding balance of the loan".

Mr K used the housing loan, which was granted at a preferable rate of interest, to pay off part of an existing mortgage loan.

Two years later Mr K was retrenched. The retrenchment was contested and a settlement was reached at the Commission for Conciliation, Mediation and Arbitration which made no express or implied reference to pension benefits.

After the settlement Mr K was told he could not claim his pension benefits until the outstanding loan and the interest due (about R37 000) were repaid. Mr K claimed this was illegal in terms of the Pensions Fund Act, which deals with housing loans.

Mr K argued that the loan should have been secured by a mortgage bond on the property as would have been the case if the retirement fund had lent him the money.



JOHN MURPHY

Murphy disagreed and found in favour of Woolworths. In other words a company can lend you money to buy a property and use your assets in its retirement fund as security rather than your home as a bank would do.

An interesting aspect of the ruling was that Woolworths applied for costs to be granted against Mr K. Murphy decided otherwise, saying the purpose of establishing his office was to "create an informal, cheap and expeditious means of resolving pension disputes".

Murphy says as a general rule he will only award costs when the complaint is frivolous or vexatious, taking account of the complainant's level of education and access to suitable advice.

❐❐❐

While on the subject of home loans from retirement funds, the number of people abusing the scheme, with the connivance of the funds, has vexed the Registrar of Pension Funds.

It appears people have been using loans from retirement funds for all sorts of things other than housing.

Two years ago the Guy Smith committee which investigated retirement funding suggested that funds should be able to lend money to members for a number of life crises and life necessities from housing to education to large medical bills.

The government is expected to issue a policy paper soon on a number of issues relating to retirement and this subject will no doubt be included.

In the meantime the Registrar of Pension Funds wants abuses of home loans from retirement funds stopped. According to a note he has sent out to funds the following things are happening:

◆ Retirement funds have redeemed loans granted by an outsider to a member and the loans have not been secured by a mortgage bond over immovable property;

◆ Loans have been granted to members or their spouses for properties they do not own (or even occupy);

◆ Loans are used to buy second homes and even a holiday homes;

◆ Loans are granted for purposes other than housing;

◆ Loans in excess of the cost of additions, alterations, maintenance or repairs to homes are granted; and

◆ Loans for periods longer than 30 years have been made while in other instances conditions for repayment do not involve equal instalments.

This kind of abuse of retirement funds is a total no-no. Trustees allowing these things to happen could find themselves in hot water, including being personally liable if things go wrong.

❐❐❐

Now for a bit of advice to members, particularly of defined contribution retirement funds, who want to use their retirement funds for home loans.

Try to avoid borrowing from your retirement fund, particularly at preferential rates of interest. All you are doing is undermining your final benefits. Effectively you are borrowing money from yourself and paying yourself a lower return. This means less money when you retire.

When you consider that most retirement schemes do not match income needs in retirement, you are adding to your future problems.

Rather encourage your fund to negotiate preferential lending rates from a financial institution using the weight of the number of members in the fund and the fact that the fund will guarantee your loan.

# Disabled in new welfare fiasco

BRETT ADKINS

ST 15/3/98

DESPITE promises of better management after January's pensions fiasco in the Eastern Cape, thousands of disabled people in the province have again not received their welfare grants.

Recipients in East London were turned away at pay points this week after the province's welfare department failed to issue them with cards designed to stamp out fraud.

Officials said all legitimate beneficiaries were receiving their grants and only those who had been rejected by the new system were not.

But the newly appointed welfare minister, Nomsa Jajula, said on Friday that a computer error in Pretoria had resulted in a number of people not receiving theirs. She said the problem was receiving priority attention.

About 100 people protested in East London on Tuesday.

Several said that, although they were unfit to work, they had been told they were eligible for employment as Bisho intensified its efforts to eliminate false claims.

# Provident funds hardest hit

(300) (~~Sowetan~~) Sowetan 16/3/98

**By Abdul Mllazi**

PROVIDENT Fund members will be hardest hit by the tax increase from 17 to 25 percent on retirement funds announced by Finance Minister Trevor Manuel.

Experts say this substantial increase would bring in about R1,2 billion for Government in the next tax year.

Both Sanlam and Old Mutual agree that members of provident funds will be directly affected, with a reduction in their returns over a period of time.

It is argued, however, that while members of pension funds will not be affected, employers will face a proportionate cost increase.

Sanlam's Nico van Gijsen says: "Now more than ever, members of defined contribution retirement funds will have to take notice of the investment decisions made on their behalf and the options they exercise.

"In provident funds, the employer and member contribute a fixed percentage of salary, but the investment risk is carried by the member."

# Retirement funds 'not playing ball in paying levy'

Linda Ensor

BD 16/3/98 (300)

CAPE TOWN — Government has justified raising the controversial tax on retirement funds' rental and interest income by accusing the industry of not "playing ball" in paying the levy.

Finance Minister Trevor Manuel pushed up the tax from 17% to 25% in last week's budget. He told Parliament's finance committee it was apparent that derivative instruments had been devised to avoid the tax. If this was so, the increase to 25% could not be seen as a "punitive measure". It appeared the industry was taking advantage of the "huge" arbitrage gap between the 35% corporate tax rate and the 17% charge on certain income.

Inland revenue commissioner Trevor van Heerden said that evidence on the use of derivatives to disguise interest income "was one of the considerations taken into account" when increasing the tax rate. It appeared interest income was being switched into something else, such as shares.

Liberty Life deputy chairman Dorian Wharton-Hood said yesterday that if this was the problem it should have been discussed with the industry. It was no solution to increase the tax rate which would have unrelated consequences. He had heard rumours that pension funds borrowed assets from taxed funds to avoid the 17% tax, but said if this was so it was illegal.

Manuel said the hike was also based on the need to iron out distortions in the tax treatment of various savings instruments. The tax treatment of retirement funds was "very positive". More attention would be given to the life industry's trading income which had not been looked at yet.

Van Heerden said the national retirement consultative forum would review taxation of the industry this year.

Deputy Finance Minister Gill Marcus said life companies were making enormous profits and the question needed to be asked whether they were being taxed fairly. Government would be concerned if the responsibility for taxation was shifted onto the policy holder "when the industry should be looking at its responsibilities".

Stals welcomes budget: Page 3

RETIREMENT FUNDS

# New pension funds' tax will hit the poor

(900) PM 20/2/98

## Retirement and life assurance industry a soft fiscal target

The raising of the levy on retirement funds from 17% to 25% in the Budget confirms government is deaf to arguments that this route to raising extra revenue is unfair to poor people. In certain respects, it is also counterproductive.



Jurie Wessels

»The increase in the levy on retirement funds is an unwarranted attack on the savings of the nation.«

Nevertheless, it's still important to repeat the arguments against both the principle of the levy and the increase in rate. These have been well summarised by Life Offices's Association Director Jurie Wessels, who describes the increase as "an unwarranted attack on the savings of the nation". He says:

❑ Pension funds represent the most effective way for ordinary working people to co-own the productive capacity of the country and so share in profits.

The levy, therefore, is a tax on the employed population who use pension funds to save towards their own retirement. This is consequently also a tax on future pensioners;

❑ The rate has been sharply increased in the face of a recommendation by the National Retirement Consultative Forum (NRCF) that ad hoc changes to the retirement tax system are detrimental to a holistic appraisal of the retirement funding system;

❑ The levy represents an average tax on retirement fund members, many of whom do not pay income tax or have marginal rates well below the level represented by the levy. This aspect will ultimately offset concessions made in the Budget to personal tax rates; and

❑ The levy should not be equated to a tax of 25%, as normal deductions are not allowed. This restriction makes a 25% rate equivalent to a much higher tax rate.

To these criticisms, Fedsure Life Chief Actuary Gerald Raftopoulos adds the point that tax relief is provided on all pension and retirement annuity contributions and on employer contributions to provident funds to encourage savings, while benefits are taxed when drawn by the fund member on retirement — subject to some exceptions.

So there is little justification for a tax on the build-up as well. If this principle is accepted, then a rate of 17% makes no

MONEY SUPPLY GROWTH

## Death of a bogey man

**While manic** borrowers were being blamed for boosting money supply last year, it was in fact savers who were doing some of the damage.

The reason is that money's role as a store of value gained ground. When the financial problems of southeast Asia slashed the value of equities during the October stock exchange upheaval, individuals and institutions reassessed their investment strategies.

As equities became a risky investment, rather than a useful inflation hedge, money was shifted out of the stock exchange into bank deposit accounts, according to the Reserve Bank's *Quarterly Bulletin*.

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more sense than a rate of 25%.

These rates are unrelated to the tax that is paid by any particular taxpayers — especially the rates applicable to lower income earners.

Taxing the build-up of benefits could discourage personal savings. Momentum Life AGM Martin Kourie emphasises the negative effect of the levy on contractual savings by lower-paid workers. He suspects the unions may start advising their members to stop contributing.

Our savings ratio has already reduced from 20% to 18% of GDP over the past four years. What's more, institutional investors in bonds will now require higher yields to compensate for the higher tax rate. This factor makes the measure self-defeating as the Treasury will have to pay more for its borrowings.

Comparable reasoning can be applied to the tax on rentals from property, which will discourage the provision of residential rental stock at a time when housing is in desperately short supply.

Both Raftopoulos and Wessels reject the contention that arbitrage is being used to frustrate the levy on interest income. Says Raftopoulos: "Many of us who work in the industry have never heard of this, never mind see it happen."

He also rejects the suggestion that there might be arbitrage between retirement money and life assurance funds. And a Sanlam spokesman denies specifically that group has been using any "schemes" to avoid the levy.

If arbitrage is taking place, surely it can be dealt with through a different mechanism. Increasing the rate merely penalises those who are paying the tax correctly. In any event, Wessels reminds us of the old principle that taxpayers can lawfully arrange their affairs to minimise their tax burden. So it is misleading and unfair to

This brought the funds within the definition of the broad money aggregate M3 and pushed that figure up dramatically.

To understand the connection between all these elements, imagine a balance sheet.

On one side is M3, made up of notes and coins in circulation, current accounts, 24-hour call accounts, 32-day accounts, long-term fixed deposits and so on.

On the other side of the balance sheet are loans made by the banks. Because banks always raise deposit levels in tandem with loan levels, any increase on one side of the balance sheet automatically pushes up the other side.

Also feeding into money supply is foreign exchange entering the country. This brings us to another influence on last year's 17,2% growth in M3. The Bank explains that a big contribution came from the R4,3bn rise in net foreign assets last year.

Borrowers were not blameless, of course. Credit extension to the private sector rose 14,2%. This was fuelled by loans to local authorities.

But the Bank has recalculated the sum, stripping out these loans from the definition to produce a dramatically lower growth rate (12,4%) in credit extension in 1997.

Even without the redefinition, the latest figures in the bulletin show a marked deceleration in private-sector credit growth.

Using the conventional definition, the bulletin reports that quarter-to-quarter growth slowed from 21,2% in the second quarter to 10,6% in the third.

It is this slowing that is making it possible for Bank Governor Chris Stals to ease banks' cost of borrowing.

Money supply growth has been preoccupying the monetary authorities since 1994.

The Budget Review records that, since the second quarter of that year, money supply has been growing faster than nominal GDP (GDP measured in current rather than constant prices).

And, in the 12 months to December 1997, nominal GDP grew only 9,6% while M3 grew 17,2%.

The Budget Review points out that this would raise concern over future inflation were it not for the fact that the relationship between money supply and inflation (which is called the velocity of circulation) has changed because of greater capital mobility.

With this in mind, the Bank and the Department of Finance are thinking of scrapping M3 as an intermediate target in the fight against inflation. They believe a "stated inflation target may have advantages over the present policy".

What a relief. **Ethel Hazelhurst**

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HotHouse/BR/503

# Eastern Cape 'must repay R801m pension lifeline from budget'

(300) BD 20/3/98

Kevin O'Grady

THE R801m lifeline from central government to the Eastern Cape which enabled the province to pay more than 600 000 pensioners in January would have to be accounted for in the province's budgeting in fiscal 1998/99, it was confirmed yesterday.

There has been confusion about whether the amount was a grant to the bankrupt provincial welfare department or an advance.

The funds were negotiated with Finance Minister Trevor Manuel by Welfare Minister Geraldine Fraser-Moleketi after pensioners were turned away from pay points because of a lack of money to pay them.

Fraser-Moleketi's spokesman, Brian Sokutu, said yesterday the money was an advance on the province's R14bn allocation from national government for 1998/99.

It was not paid over in a lump sum but was fed to the province gradually to allow it to pay pensioners on a staggered basis.

ECN reports that Eastern Cape finance MEC Enoch Godongwana said yesterday the amount would be deducted from payments received from central government.

This meant some provincial government programmes would have to be sacrificed, as sufficient funds for them would no longer be forthcoming.

Details of what would be scrapped to allow for the repayment of the advance would be known only when he put the province's Adjustments Appropriations Bill before the provincial cabinet, Godongwana said.

Godongwana blamed the pensions and welfare crisis in the Eastern Cape on three factors.

He said budgets were not adhered to by the province, and actual expenditure was not used to draw up budgets.

Debts totalling R597m incurred by the former Transkei and Ciskei homelands had been discovered which the provincial government had been forced to honour. In addition, a lack of financial control and unbridled spending by departments had wasted valuable public money.

Godongwana said: "We think we are on top of the problems. We understand them and are dealing with them."

# Higher tax on pension outlandish — tax expert

**Linda Ensor** (300)(  ) BD 26/3/98

CAPE TOWN — Reports that Parliament's finance portfolio committee might recommend an amendment to the proposed increase in the tax on retirement fund income was "outlandish", one of the committee's tax experts said yesterday.

However, to get a broader understanding of the effects of the tax increase on the nation's savings and the poor, the committee had mandated its tax subcommittee, consisting of Andrew Feinstein (African National Congress) and Gavin Woods (Inkatha Freedom Party) to invite submissions on the issue.

Finance Minister Trevor Manuel, in his 1998/99 budget, announced an increase in the tax on the rental and interest income of retirement funds from 17% to 25%. During the finance committee's public hearing on the budget last week, the life industry objected to this increase on the grounds that it would negatively affect the poor and act as a disincentive to save. However, they could not provide any empirical evidence to back up their claims.

## Submissions invited

This was why the committee decided to investigate further, not with a view to getting the proposal changed when it appeared in the Income Tax Amendment Bill, but so that it was fully informed of its effects.

Feinstein said: "The chances of our wanting to persuade the minister to change the proposal is highly unlikely," Feinstein said. "If the committee was intrinsically opposed to it, this would have become clear at the hearings, but this was not the case. The idea of our wanting to change it is quite outlandish."

He said submissions would be invited from the industry, trade unions and tax experts. It appeared the 17% tax had little if any effect on savings when it was introduced, but no one seemed to have any idea what the threshold of this tolerance might be.

In its report on the budget hearings, the finance committee expressed concern that capital expenditure as a percentage of total government spending remained at a low level. It commended the proposal to alleviate fiscal drag by setting aside R3,7bn for this purpose.

# Angry senior citizens call for a boycott of 1999 polls

(300) Sowetan 27/5/98

**By Khangale Makhado**

AS various political parties prepare to woo voters for the 1999 elections, senior citizens in Gauteng will be urging their peers countrywide to boycott the polls.

The decision was taken after a two-day consultative meeting by several organisations of the aged in Johannesburg which ended yesterday.

The meeting resolved that none of the aged would cast a vote "until their demands are addressed in full".

The group's spokeswoman Mrs Priscilla Mutshekwana told *Sowetan* that this decision follows fruitless efforts by senior citizens to have their grievances addressed by Government.

Mutshekwana said the Government had failed to respond to a memo they presented to Deputy President Thabo Mbeki in October 1995.

"We strongly feel that our views are not represented and entertained in Parliament. So how does it help us to continue voting for people who will not look after our interests?" she asked.

Some of the grievances contained in the memorandum are:

- Having to wait in long queues before receiving their pensions and being harassed by officials who are insensitive and rude;
- Pensioners have to wait for months before their applications for grants are approved;
- Pensioners are sometimes penalised and have their grant cut if it is found that they have savings accumulated during their working days;
- Authorities suspend their pension money without giving them any notice and they are expected to find their own transport to and from pay points.

"It is surprising that we are only given transport to and from voting stations but it becomes difficult to get the same treatment thereafter," said Priscilla Mutshekwana.

"The aged are victims of the struggle and although the majority in Parliament are also in the same age group, they have chosen to ignore our plight. That is why we are not going to vote next year – not for the African National Congress or any other party".

# Pension tax hike will not hurt savings — Manuel

(300) (~~320~~)

**Linda Ensor**

CAPE TOWN — Criticism that the higher tax rate on the net rental and interest income of retirement funds would undermine the national savings effort was dismissed by Finance Minister Trevor Manuel in his speech ending the debate on the budget which was passed by Parliament yesterday.

Manuel said the increase in the tax rate from 17% to 25% would address the tax treatment of pension funds inherited from a period of high inflation.

"In the past interest and property income was so savaged by the combined effects of inflation and prescribed asset requirements that the retirement funds frequently made negative returns in real terms. In fairness to savers and retired persons, the state could not apply normal tax principles to retirement funds under such circumstances," Manuel said.

The current situation was very different. Retirement funds had much greater freedom to invest their assets as they were no longer subject to prescribed asset requirements, and interest rates were much higher than the inflation rate.

"Lower inflation is without a shadow of a doubt the best protection we can offer savers and pensioners. It is more than likely that the fall in inflation since the tax was introduced fully compensates for its effects on the real returns of fixed interest investment," Manuel said.

He noted a Katz commission finding that the tax exemption of retirement funds' investment earnings gave rise to major problems in the whole system and that a greater degree of neutrality was needed. It was this principle, he added, that lay behind the increase in the tax rate.

BD 27/3/98

# Your surp us is sa e – or now

ARG 28/3/98 (300)

## Pension adjudicator's landmark decision puts the brakes on employers

CHARLENE CLAYTON

Pension funds adjudicator John Murphy, in a landmark decision, has ruled that employers are not automatically entitled to the substantial surpluses held by many retirement funds.

The ruling, the second made by Murphy since taking office, followed a complaint from a pensioner member of the Nedcor defined benefit pension fund.

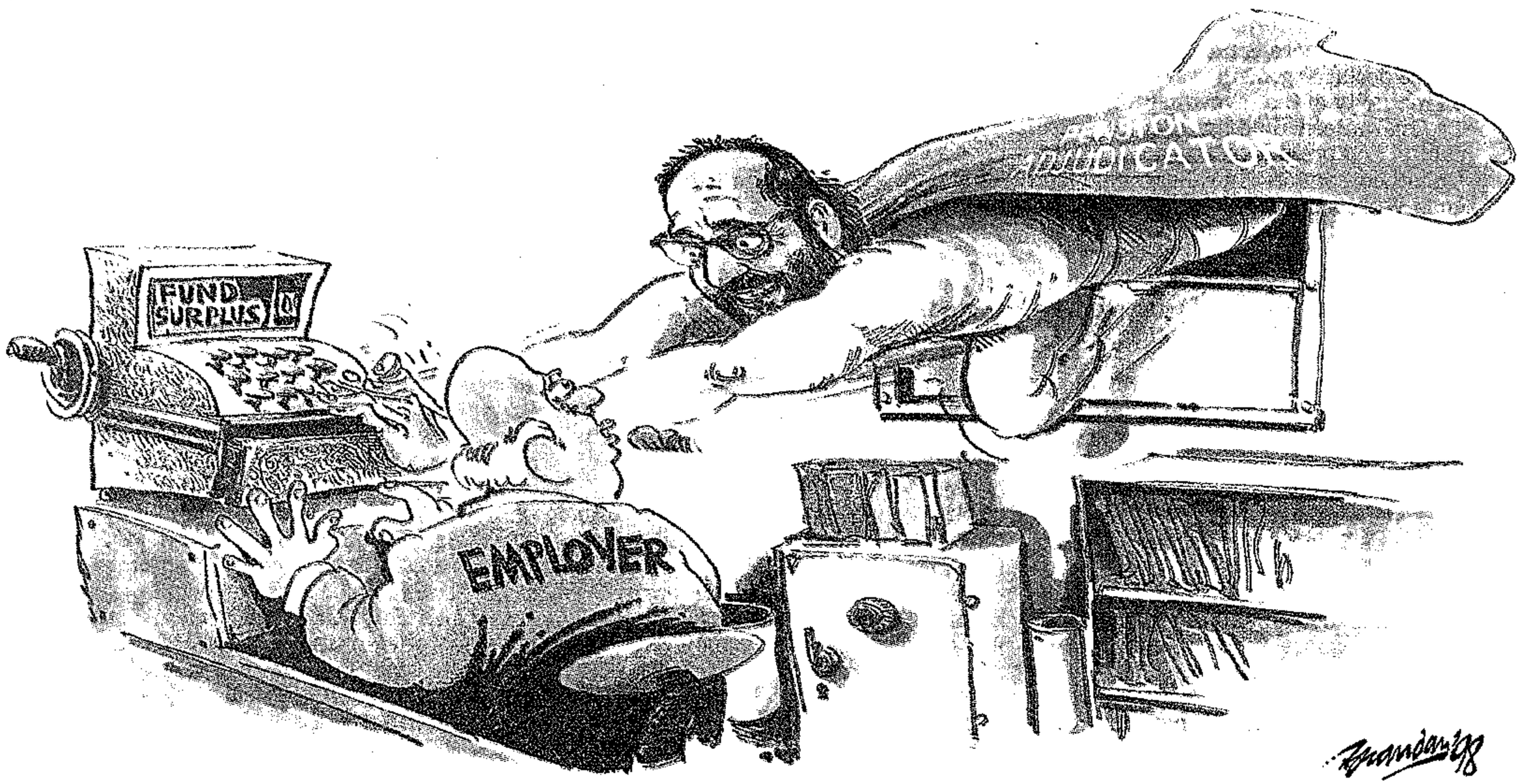
The complaint followed the restructuring of Nedcor's R2,5 billion fund into defined contribution fund options and moves to take a contribution holiday in the new fund from the accumulated surplus of the old fund.

The decision will put the brakes on many employers who are working on accessing the surpluses for their own benefit, often secretly.

Some companies are also enhancing benefits as a virtual bribe to members. What is happening is that members have to take over their employer's contributions to medical aid funds in return for higher pension benefits funded from the pension fund surplus – an indirect raid on the surplus.

Murphy says that the recent Tek judgment, in which it was ruled that an employer could not automatically lay claim to a surplus, has set the precedent.

The Tek judgment is on appeal but, until and if the judgment is overturned "the trustees would be well advised to observe its prescriptions for allocating any part of the market value surplus to the employer," he says.




Murphy has also broken new ground in stating that a wide range of people will have to be taken into account when a surplus is divided up. Stake holders would include present members of a fund, past members that are still employed by the company, and those who resigned or were retrenched from the company.

The extent to which an employer is entitled to benefit from the surplus by way of a contribution holiday will be determined by how much it has over contributed beyond the amount necessary to meet liabilities.

The complaint against the Nedcor Pension Fund, a defined benefit fund, was brought by pensioner, Tom Euijen, who is a member of the the fund.

He and a group of associated pensioners, being fully aware of the worldwide trend in the pension industry to move from defined benefit funds to defined contribution funds, started negotiating with the Nedcor Pension Fund to protect their interests.

He broke off negotiations in October last year and took his complaints to Murphy.

His complaints include an argument that former fund members would gain substantially from the restructuring of the fund to his detriment as a present fund member.

Murphy agrees that the interest of the pensioners in the Nedcor Pension Fund surplus was diminished by the decision to benefit former employees.

But Murphy says the pensioners' interest in a surplus remains an expectation and not a right.

In a defined benefit fund the pensioners have no right to share in the surplus, they have only a right to a defined benefit.

By the same token, the former employees who transferred to one of the defined contribution funds had a legitimate expectation to share in the surplus.

As part of his complaint, Euijen raised the issue that the decision to benefit former members of the fund was discriminatory because it excluded former members who had subsequently been retrenched or had resigned.

Murphy says Euijen's argument that only the members of a fund are entitled to share in the surplus may lead to the undesirable practice of leaving a minority of members as the only persons with rights and expectations to share in the surplus when the fund is wound up shortly after a retrenchment exercise.

Murphy says that before a surplus is attacked the source of the surplus has to be clearly identified. This is in line with the ruling in the Tek case where it was found that the employer had not contributed to the surplus.

He did rule that the Nedcor Pension Fund must provide information on the cause of the surplus. And he ruled that the fund may not amend a rule relating to cost of living increases.

Of Euijen's six complaints against decisions of the Nedcor Fund trustees only two were upheld by Murphy.

ANDREAS VLACHAKIS



Poor and ignored ... Grace and Isaac Dubazana are just a few of the many unpaid Soweto pensioners.

# Pensioners left empty-handed

(300) Star 31/3/98

## Stringent checks for fraud lead to grants being stopped in genuine cases

**By Themba Sepotokele**

Stringent measures which were meant to prevent fraudsters from claiming pension grants have left about 200 Soweto senior citizens without a rand in their pockets.

The measures, which include rigorous checks on all welfare applicants' financial status, were introduced by the Gauteng Welfare and Population Department last year in a bid to curb widespread abuse of the pension system.

The department now requires pensioners to submit proof of casual employment or the lack thereof, valuation certificates of property, documentary proof of investments, cash, shares, donations, private pensions, discharge certificates of last employers and bank statements for the last three months.

But community activists say this has become an extra burden for pensioners, many of whom could not fill in the forms properly since they could neither read or write.

Pensioner Nosisi Balele (79), whose grants were stopped in September, said since then she had visited the paypoint at Kopanong community centre in Dobsonville on every pay-day and always returned home empty-handed.

"Whenever I go there I am told to come next month. I don't know why I am not being paid, no one bothered to explain to me," Balele said.

Another pensioner, Ethel Majova (73), had her grants frozen in 1996 after the department declared her dead. Majova had, in fact, reported her husband Sitoli's death.

However, the department reinstated her money after The Star wrote about her plight.

Dobsonville community leader Sandile Ntwasa, said hundreds left the Kopanong community centre pay-point each month empty-handed.

"Some old ladies even cry after not being paid. It is a disgrace that the Government demands such information from old people."

Gauteng Welfare and Population Development spokesman Lebello Maloka said strict rules had to be applied to prevent people who do not qualify for receiving pension grants.

"This is primarily because some old people are rich and can do without pension grants. There should be some documentary proof to support applications," Maloka said.

He said the information would also help the department to get basic facts about the person receiving the pension and whether applicants have access to other financial resources.

Minette Beukes at the Krugersdorp welfare offices said many pensioners submitted insufficient information.

She said in 44 of the 149 cases being handled by her office grants had been stopped, and 41 had been reinstated.

A committee was assessing nine cases, 29 more have outstanding documents and more supporting files from other offices were awaited.

The Star ... Wednesday April 1 1998

# Bosses to pay for pension discrimination

Star 1/4/98 (Old) (300)

## A Labour Court judgment may have opened way for victims to claim millions of rands in compensation

OWN CORRESPONDENT
Cape Town

A ground-breaking judgment in the Labour Court may have opened the way for employees who were victims of discrimination in retirement fund rules to claim millions of rands in compensation from employers.

In a judgment last month, the Labour Court ordered Gauteng tobacco company Leonard Dingler to pay R180 000 to black employees to compensate them for previous discrimination against them.

The weekly-paid blacks had been excluded from membership of the staff benefit fund, which was open only to monthly salaried staff. The employer paid a monthly contribution of 10% of salary to the staff benefit fund but only 5% to the weekly paid workers' retirement fund.

In the first judgment in the case, in October last year, the Labour Court found that the fund's rules had discriminated against the black employees and that this amounted to an unfair labour practice.

The court gave the company and the aggrieved workers a chance to find a solution.

The two parties came to an agreement about the restructuring of the funds but deadlocked on the question of compensation.

In a second judgment, in March, the Labour Court ordered the employer to pay the difference between contributions to the two funds, backdating the payments for one year.

Peter Strasheim, of Old Mutual Employee Benefits Legal Consultancy, who helped the employees and the company reach agreement on the issue, said the two Leonard Dingler cases had huge implications for fund members, trustees and the retirement industry.

"In this case, the parties agreed that only employer contributions not previously paid would make up the compensation. The employees did not claim interest or investment returns on the unpaid amount.

"A key issue is the implications for employers and retirement funds if employees claim the full actuarial value of the unpaid contributions as compensation," he said.

This would include interest which would have been earned and investment returns foregone and could run into huge sums, Strasheim said.

"There are also serious implications where some companies are unable to pay."

Companies could come under pressure to pay out from profits or from part of the surplus, if any, in the retirement fund to cover compensation claims, he said.

Another key issue would be whether the need for equality should be satisfied by increasing the fund benefits paid to the victims of discrimination to the same level as other workers, or reducing benefits paid to the privileged to those paid to the victims, or by compromising between the two.

CT(BR) 3/4/98

RETIREMENT FUNDS

# Members now share the command

THABO LESHILO

The requirement that all existing retirement funds have fund members on their boards of trustees by December 15 is something of a mini-revolution in the R450 billion industry.

In terms of the amendment to the Pension Funds Act, every existing fund must have a board of trustees with at least half the board's members elected by members of the fund.

Harsh punishment awaits retirement funds which do not comply with the new requirement.

Cranke John, a senior consultant at Old Mutual Employee Benefits, says the Financial Services Board can fine such funds or even withdraw their registration, leading to the loss of tax approval by the Commissioner of Inland Revenue. This would mean that the retirement funds concerned would not enjoy the preferential tax charged on pension funds.

"It's a major breakthrough," says Max Maisela, the executive chairman of NBC Consultants & Actuaries. "It's the most significant development in the industry since the move to negotiated employee benefits."

NBC, then the negotiated benefits division of Alexander Forbes, started the country's first negotiated retirement fund at CG Smith in 1985. The fund was negotiated by Jay Naidoo, then the secretary general of Cosatu, following the 1992 pension strike by trade unions demanding a say in pension funds.

Negotiated funds now number several hundred. It is estimated that there are at least nine national trade union retirement funds with more than 600 000 members and assets worth more than R20 billion.

Maisela says the most significant outcome of the amendment will be in the structuring of pension benefits to make them more need-orientated.

Inadequate or improper consultation by employers has resulted in many funds with benefits way out of kilter with members' expectations.




"For example, 80 percent of funds still do not have a funeral benefit despite many, and sometimes the majority, of members being black," says Maisela. "Imagine being unable to give your parents or spouse a decent burial because the pension money can't be used for this purpose."

He says boards of trustees representative of the workforce are imperative, given the diversity of South African society. "For example, blacks and whites define family differently. The definition of a family which ignores the reality of polygamy creates instability in the black community, because it discriminates between civil and customary unions," says Maisela.

The new development means that the (white) people who designed pension benefits in the past can no longer impose their value systems and norms on other people.

The amendment also means that members of all retirement funds would now influence investment decisions of their funds. "A member will be able to ask, 'Why should I travel all the way from Soweto to shop in Norwood? Why does my pension fund not invest in proper shopping centres in the townships?'," says Maisela.

But co-determination comes with a hefty price tag. Because they decide where funds are invested, the employee representatives will share the blame for any poor returns of provident funds.

This can be quite scary for the trustees in the light of last year's market crash. Only the members of defined benefit funds are immune to stock market fluctuations, because their final pensions are determined in relation to their salaries during their last two years of service.

Also, increased consumerism means that members can no longer be kept in the dark about their benefits.

"The trustees now have to ensure they communicate their actions to members and keep them informed about the implications of being on the funds and opportunities offered by other funds," says Cranke.

Nowetu Mpati, Cosatu's spokesman, welcomes the new requirement, saying it is what the union federation had been demanding since May 1996.

"A minimum 50 percent worker representation is essential," says Mpati. "After all, if the government is serious about improving the rights of the working class and achieving black empowerment, then surely workers must be allowed at least 50 percent control of what is their own money."

Deon Smith, the regional manager at Old Mutual Employee Benefits, welcomes the change for enabling retirement fund members to play a central role in the industry. But he questions whether enough is being done to ensure such members know what is entailed in electing representatives to the boards of trustees.

"The diverse nature of retirement funds does not lend itself to setting hard and fast rules for execution of the election process," he says.

"But the overall objective should be to get as many members as possible to vote and to ensure members are enabled to make meaningful decisions."

Members need to know the implications of elections, he says: "Without education, there is a real danger that members may vote for a nominee for the wrong reasons."

Funds should consult experts to help them set up rules to deal with future eventualities, Smith says. Trustees should be trained to make them equal to the challenges of successful retirement fund management.

Given the average 18 months required to produce a fully competent trustee, it remains to be seen whether members will allow them to muddle along until they know what they are doing with their colleagues' livelihood.

# 'Advise workers on retirement plans'

Sowetan 3/4/98

(300)

**By Shadrack Mashalaba**

EMPLOYERS, with expert advice on retirement, have a duty to warn members upfront of what awaits them in the last days of their lives, Old Mutual employee benefits expert Callie Nel said yesterday.

Speaking at a briefing in Johannesburg, Nel said employees' lack of knowledge of financial planning and on how the retirement industry works was widespread.

He said this was evident as most people still relied either on their company pension or provident funds to cover them once they retired.

This situation, he said, was made worse by the fact that a lot of people reached retirement age when they were still in debt.

"This is a very sad situation," said Nel. "It is the duty of the employers, with expert advice, to warn members upfront of what awaits them in the last days of their lives. People have to know what to do with their money," he said.

He said a lot of members made uninformed decisions.

"This is why the majority of them are being forced into high risk investments, particularly on retrenchment."

Old Mutual financial advisor Leon Botha said the changes taking place in the retirement industry, which included unions' participation in the management of members' funds, demanded a plan of action.

"The issues of fair representation on the boards of trustees which manage the funds should be addressed as soon as possible to avoid squabbles," Botha said.

Our 10½ Eko

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# Aged to lose R1-m in scheme

(300) Sowetan 3/4/98

By Sipho Khumalo

A RURAL community, most of whose residents are pensioners, could lose close to R1 million in a housing scheme that has gone awry in eNyathini, near Vryheid, in the north of KwaZulu-Natal.

At least 33 people were allegedly conned into buying houses on Bloemenkrans farm, near Hlobane, believing that they were purchasing share blocks.

They paid more than R1 million of their life savings to the owner of the farm, Mr Steve Petzer, who had bought the land from Amcoal, a mining company.

It appears that Petzer has failed to pay the previous owners of the farm and now the bank – First National Bank (FNB) – has been granted a sequestration order.

## Highest bidder

FNB, which is owed R280 000 by Petzer, will now auction the farm next Wednesday, leaving scores of people homeless and without any money.

*Sowetan* is in possession of the "Notice of Sale in Execution" issued in the Vryheid Magistrate's Court on March 5.

This notice cites Petzer as a second execution debtor and it states that the property will be sold by the sheriff to the highest bidder.

This has shocked this small community. eNyathini Development Committee spokesman Mr Benneth Shezi said if the auction went ahead as planned next week, residents of the poverty-stricken village would be hard hit.

"It means more than 100 people will be left homeless if this auction cannot be stopped," said Shezi.

He said his committee was talking to the KwaZulu-Natal Housing Development Trust to intervene on behalf of the community.

"We are appealing to the FNB to stop auctioning the property and let Ulundi negotiate on behalf of the rural community.

"The tragedy of the matter is that most of those who bought into this scheme are pensioners who have lost all their savings," said Shezi.

The prices of the houses on the farm range from R10 000 to R70 000.

Shezi said people have also been paying electricity bills but Petzer has not been passing the money on to Eskom.

As a result Eskom is owed R300 000 while the previous owners of the farm, Amcoal, is owed R365 000. Electricity has now been cut.

A local priest, Mr Ray Quinton, who has been fighting for the community, said the scheme was illegal.

Quinton said before the place was sold as a share block, it should have been sub-divided, which was not done in eNyathi.

## No legal standing

"People were also not given proper documents and were made to sign some papers which have no legal standing," said the priest.

He alleged that Petzer was a character who had fooled people to buy into a shadowy scheme.

"Once the farm has been auctioned the people will be at the mercy of a new owner who may use the farm as he pleases," he said.

However, Petzer yesterday told *Sowetan* that the farm would not be auctioned because he had "sorted out the matter with FNB". He said the property was a registered company.

"I have all the right in the world to sell the houses on the farm," he said.

He dismissed Shezi and Quinton as people who had their "own agendas".

# Say if you want pension to include perks

(300)

CHARLENE CLAYTON

ARLT 11/4/98

If you want the value of benefits such as your company car to be included in your pension when you retire, you should negotiate this upfront with your employer.

Generally what happens is that your pension fund contribution, as well as that of your employer, is based only on your salary and possibly on your bonus.

The issue of whether benefits should be taken into account for pension purposes was raised before John Murphy, the pension funds adjudicator, by two retired members of the African Oxygen Pension Fund.

Chris Caffin and Dennis Dooling asked Murphy to rule that their present pensions should be adjusted to take into account the value of the company car which they each enjoyed as part of their remuneration package.

They also argued that the fact that contributions to the fund did not take into account the value of the company cars is a failure on the part of the pension fund trustees to properly exercise their discretion.

Up until their retirement, their pension fund contributions were based only on their salaries and 13th cheques.

Murphy says the contribution rate is central to the financial viability of a pension scheme as a whole.

The rules in a defined benefit pension fund make up the goals and objectives of the financing arrangement.

In order to meet its members' expected benefits, the fund has to rely on certain assumptions provided by actuaries.

"Undoubtedly the actuary has advised the fund to set its contribution rate to meet the anticipated benefits," says Murphy.

"Caffin and Dooling were aware that their contribution rate did not cover the value of the company vehicle.

"They should have started negotiations, or a process of collective bargaining, to ensure that the value of the car was included in their pension calculations."

Presumably African Oxygen would have been willing to agree to such a demand, in exchange for an agreement to increase the contribution rate proportionately.

As a result, the pension funds adjudicator was forced to dismiss the complaint.

# Adjudicator Murphy rules in favour of employee suffering depression

ARG 11/4/98 (300)




CHARLENE CLAYTON

You can expect your employer and your pension fund to take your ill-health seriously, and you can expect fair treatment if you have to take early retirement for mental health reasons

This is thanks to a breakthrough decision regarding health benefits reached this week by John Murphy, the pension funds adjudicator.

In the first pension case heard since taking up his appointment this year, Murphy has ruled in favour of a fund member, against the fund's trustees.

The member, referred to as S G, had applied for early retirement on the grounds of suffering from depression. His application was rejected by the Cape Town Municipal Pension Fund. The result was a loss of 17,4 percent in benefits that S G would otherwise have received. It amounted to his lump sum being reduced by about R22 000 and a loss of more than R500 in his monthly pension.

Murphy says the fact that S G was depressed to the extent that he was on sick leave for almost eight months prior to his application for retirement, was a highly relevant consideration, to which the fund had attached little significance.

S G consistently maintained that he was suffering from ill-health of the mind, and for the trustees not to have investigated the true reason for S G's retirement was "a dereliction of duty".

For them to have come to the conclusion that S G was not ill, without constituting a medical board to investigate it, "is unreasonable and an abuse of their discretion", says Murphy.

He has ordered a medical board be set up to investigate S G's mental health prior to retiring. On the board's report-back, Murphy will decide whether S G is entitled to ill-health benefits.

**SEE PAGE 11**

# World Bank to assess Zambian mines' privatisation problems

LUSAKA — A World Bank team would assess the troubled privatisation of Zambia Consolidated Copper Mines (ZCCM) after recent failed talks to sell the country's two premier mines, Zambia's finance ministry said yesterday.

A ministry official said the team would assess the economic effect of the collapse of negotiations between the government and the Kafue consortium on the sale of the Nkana and Nchanga copper mines.

"The officials will look at the interim arrangement and financial implications of the failed ZCCM negotiations," the official said.

"They will look also at working out a survival plan for ZCCM while awaiting new buyers."

The World Bank office in Lusaka confirmed that a team was arriving to assess the mine sales programme.

It referred further queries to the finance ministry.

Talks between the government and the Kafue Consortium — comprising SA's Avmin, Canada's Noranda, the Commonwealth Development Corporation and US-based Phelps Dodge — collapsed two weeks ago when the two sides failed to agree on terms.

Zambian negotiators said they had broken off talks after the consortium sought to alter terms agreed in November, including the amount of ZCCM debt it would assume.

The consortium said the recent slump in worldwide demand for base metals had forced it to re-evaluate the mines since winning the project last year.

It said it had offered $700m over a five-year period for the mines and other assets, but Zambian negotiators valued the package at only $105m.

Zambia launched fresh talks with potential new foreign bidders last week and pledged that the mines would still be sold as one entity, despite domestic calls for them to be unbundled.

The Nchanga and Nkana mines make up 65% of ZCCM's assets and are part of a radical privatisation campaign by President Frederick Chiluba's government.

Analysts said the failed Kafue talks could hurt Zambia's chances of securing adequate donor aid at a meeting of key Western creditors set for May 12-13.

Citibank said in a report released yesterday: "Although the reasons for breaking the negotiations advanced by the government may be justifiable from their point of view ... donors may view this as a mere failure by the government to deliver on the commitment to privatise."

Zambia was once among the world's biggest copper producers, with output peaking at about 750 000 tons in 1970.

Mismanagement, neglect and ageing equipment, however, coupled with falling copper prices, have halved that figure.

# Pension back-pay crackdown

## *'Efficiency' move likely to reduce payments*

**HUGH ROBERTON**
POLITICAL EDITOR

**The Government has cracked down on the widespread practice of pension "back-pay" in a move that could drastically reduce the amount first-time pensioners receive from the state.**

The change was announced today by Welfare and Population Development Minister Geraldine Fraser-Moleketi and takes effect immediately. It is aimed at encouraging provinces, which disburse state pensions and grants to three million South Africans each month on behalf of the Government, to provide a more efficient service.

Until now, first-time pensioners have been paid retrospectively from the date on which they legally qualified, and applied, to receive a pension.

In most cases the system was so slow and disorganised that it took many months – delays of up to a year were commonplace – before pensions started being paid.

To compensate for the delay, the state gave pensioners "back-pay" – in effect a lump sum of the pension payments that they would have received had payments begun on the date when the pensioner became eligible to receive them.

But under the new system, "back-pay" will be limited to a maximum of three months and first-time pensioners who have waited for far longer than that – possibly a majority in several of the nine provinces – will simply have to forfeit the balance.

The changes, in terms of amendments to the Regulations of the Social Assistance Act of 1992, affect all state pensions and grants.

"Provincial departments will have to deal more efficiently with applications than in the past," Ms Fraser-Moleketi said today.

She said improved efficiency was also being encouraged by cleaning up the data in the social security computer system.

"This clean-up is being done by re-registering beneficiaries, removing duplicates and 'ghosts' and investigating fraud and corruption," she said. "Keeping the customer satisfied must be the daily watchword."

(308) ARG 16/4/98




# Court finds prejudice in retirement fund profits

(300)

ALIDE DASNOIS

ARG 18/4/98

If you're a member of a retirement fund and you think you're being discriminated against, take heart: there are plenty of avenues open to you.

A recent ground-breaking judgment in the Labour Court has given new hope to employees who have been victims of discrimination in retirement fund benefits.

The court has ordered the Gauteng tobacco company, Leonard Dingler, to pay out R180 000 to black employees to compensate for previous discrimination against them.

The court found that the employer had been guilty of an unfair labour practice in barring black, weekly-paid staff from the staff benefit fund, which was open only to monthly-paid employees.

The employer paid monthly contributions of 10 percent of salary to the staff benefit fund, but only five percent to the weekly-paid workers' retirement fund.

Though the amount of money paid out in this case is relatively small, legal experts believe it may open the way for much bigger claims against employers in future.

"Fund members must realise that they have rights that they can enforce," says Kobus Hanekom, a senior manager in Old Mutual's legal consultancy, who was involved in the Dingler case.

*'Fund members must realise they have rights they can enforce'*

"They have access to the Labour Court, the Pensions Adjudicator and the CCMA (Commission for Conciliation, Mediation and Arbitration).

"In the case of the CCMA, procedures are quick (less than 30 days), simple and cheap."

If you want to take up the cudgels against an employer you think has treated you unfairly, you need only prove that you have been discriminated against; in other words, that you were part of a group which was treated with less favour than another. You don't have to prove that the discrimination was unfair; in terms of the law, the onus of proof is on the employer to prove that it wasn't.

Your first port of call should probably be the CCMA, advises Hanekom.

"Access to the CCMA is easy and the commission could bounce the case up to the Labour Court if necessary."

The first objective of the court or the CCMA, he says, will be to correct a wrong. In other words, the first step will be to end the discrimination.

That is what happened in the Leonard Dingler case.

In its first judgment, in October, the Court found that the fund's rules had unfairly discriminated against black employees and that this was an unfair labour practice.

The court gave the company and the workers a chance to find a solution. The two parties reached agreement on the restructuring of the retirement funds, but deadlocked on the question of compensation.

Then, in a second judgment, last month, the court ordered the employer to pay the difference between contributions to the two funds, backdating payments for a year.

To claim compensation, says Hanekom, you will have to prove that you suffered damages, and that the damages were as a result of an unfair labour practice. Then the court will determine the amount to be paid, balancing the interests of both parties.

But don't think you'll necessarily get lots of money, he cautions.

Proving discrimination may be easy in many cases, but getting compensation is likely to be much more difficult.

In the Dingler case, for instance, the court took into account the employers' ability to pay, as well as the workers' claims. If other cases follow the same pattern, staff compensation payouts are likely to be limited, where the company can prove inability to pay.

And though it opens up new possibilities for retirement fund members, the Dingler case also leaves plenty of questions unanswered, experts note.

These include:

◆ What should constitute compensation? Should employees be limited to claiming employer contributions which have not been paid (as in the Dingler case), or should they be able to claim the full actuarial value of the unpaid contributions, including interest which would have been earned and returns on the investment?

◆ What about discrimination on grounds other than race, for instance, when the majority of employees are barred from joining, say, an executive retirement scheme?

◆ How would it be possible to define damages, where one set of employees belonged to a defined contribution fund, while the other belonged to a defined benefit fund (in the Dingler case, both funds were defined contribution funds)?

◆ What is the status of previous members of a retirement fund, who are now pensioners, but who were discriminated against in the past?

In the Dingler case, the employees have now gone to the Labour Appeal Court on behalf of company pensioners, most of whom were not eligible for compensation because the judgment only went back a year.

The question of time scale, says Hanekom, may also be linked to the implementation of the Labour Relation Act.

In the Dingler case, the Labour Court judge noted that she would not have to decide whether or not to go further back in time than the implementation of the Labour Relations Act.

This was because compensation was only awarded for one year.

But in future cases, judges might well find that discrimination can only be defined with respect to the country's new constitution, where it is expressly outlawed. Which could mean that compensation for discrimination before 1994 is harder to prove, says Hanekom.

"This is the first case of its kind.

"We don't really know yet what all the implications are."

# Marcus eyes new taxation on pension

ARG 25/4/98 (300)

funds

BRUCE CAMERON

Get ready for a new taxation structure on retirement funds in next year's Budget.

Gill Marcus, the Deputy Minister of Finance, has told Personal Finance that her department is currently finalising new tax structure that will be put in place in next year's Budget.

But the total restructuring of the retirement industry has been put on hold.

The main effect of the tax changes will be the build-up to retirement and the taxation of benefits on retirement date.

The changes are likely to be based on the recommendations of the Katz Tax Commission of Inquiry.

His recommendations included:

◆ Getting rid of the differences between provident funds and pension funds, allowing members of both to claim contributions against tax within certain limits while preventing excessive salary-sacrifice schemes where employers paid all contributions tax-free for members; and

◆ Taxing all benefits as a lump sum at retirement but putting in place an incentive system that would encourage members to take a minimum portion of the benefit as a monthly pension.

Government has already implemented the other major leg of the Katz recommendations: namely the 25 percent tax on the interest and net rental income accruing in the build-up of retirement funds. This tax drops away at retirement.

The future structure of the retirement industry, including taxation, national savings schemes and social pensions, have been before the National Retirement Consultative Forum, which was established last year after the Smith Committee on retirement and the Katz Commission on the restructuring of South Africa's tax system had been submitted to Government.

In an interview with Personal Finance, Marcus said that the many changes taking place in the financial services industry had wider implications, including for the retirement industry, which had to be considered.

However, the issue of taxation of retirement funds had to be dealt with this year, as it was unacceptable to have an ad hoc approach to taxation of the financial services industry.

Marcus said issues that had to be taken into account included:

◆ The globalisation of the financial services industry;

◆ Competitiveness between the various sectors, including different tax approaches; and

◆ The concentration of control through the trend here and in the rest of the world to the BancAssurance conglomerates.

Marcus said she was concerned whether the Government was getting its fair share of taxation under the current system of taxation of the life industry, known as the four-fund approach.

In terms of the the four-fund approach, different taxes are applied to different funds – such as life assurance and retirement funds – managed by the life assurance industry.

Marcus said the broader financial services industry was being affected by rapid changes and Government had to draw up a policy that looked to the next millennium.

"We have to consider the appropriate environment for the supervision and regulation of the financial services industry in the next millennium.

"We have to look at the nature of products; institutions and their functions; what can realistically be expected from the regulators as well as the responsibilities of the institutions for the management of risk.

"We cannot push ahead with changes to the financial services environment, including regulation, that leave big gaps in the future."

Marcus said that although this could delay issues such as better regulation to protect investors and better retirement structures, the framework within which this takes place is very important.

"There are big issues that will require decisions with long-term consequences. We don't want to set artificial deadlines."

**Katz recommendations – page 3**

# Marcus eyes new taxation on pension

Star 25/4/98

(300)

funds

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Katz recommendations – page 19

# Judge hits the roof over delayed pay

## Bureaucrats ordered to explain why pensioner can't get her money

ST 26/4/98 (300)

CARMEL RICKARD

A DURBAN judge has gone to war against the bureaucratic abuse of pensioners.

Furious about the treatment of Doris Mkize, an elderly Stanger woman who has been trying for 19 months to get her pension, Judge Allan Magid said he would order top provincial officials to come to court to explain in person.

The judge also warned the officials they faced having to pay the legal costs of the case out of their own pockets.

Mkize applied for a pension in September 1996. She has been to the pension pay-out office each month since December 1996 in the hope that her pension will be waiting — but returns empty-handed.

She told the court that officials kept telling her that her money did not arrive because "something was wrong with her application".

However, they could not tell her what the problem was.

When the case was called on Thursday, counsel for the state, Pingla Hemraj, stood up in court before Judge Magid to ask for an adjournment.

The judge exploded. He banged the bench and demanded to know why he should agree.

He said the state attorney had been given notice of the case in February, but more than two months later there had still been no response. In the meantime, "this poor woman is still not receiving her pension".

Lawyers say there are thousands of people battling to get their pensions because of civil servants who treat the elderly with "utter contempt for their desperate plight".

They hope other judges will follow Judge Magid's tough line.

Mkize said in papers before the court that she worked for a security company for many years as a "cleaner and tea lady" but her employer terminated her services when she was 52 years old, claiming she was "too old". Since then, she has battled to maintain herself and her two dependent children. She said she hawked loose cigarettes and made about R40 a month.

She said the Kwazulu Natal MEC for welfare and population development, Prince Gideon Zulu, was riding roughshod over her rights because he was aware that "aged people were too weak to fight".

She contacted the Legal Resources Centre in Durban in January. Lawyers acting on her behalf had been in touch with Zulu's department, but had received no reply.

When no response was forthcoming, Mkize's lawyer, Ranjit Purshotam, took the case to court on Thursday, and asked for a judgment against Zulu.

Hemraj told the judge that the state attorney had written to Zulu's department on three occasions. However, the only communication they had received was a message that the files were split between three offices — Ulundi, Maritzburg and Durban.

Judge Magid then said he wanted an explanation of this state of affairs, and asked the names of the MEC for welfare and the other relevant officials.

"I want his name and I want the names of the three officials they are talking about and I am going to make an order that each one of them appears before this court on whatever date the matter will be adjourned to," he said.

The judge ordered that Zulu, and the three regional directors, give a full explanation to the court about Mkize's case.




Sowetan

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# Long wait for pensioners

**By Khathu Mamalla**

THOUSANDS of pensioners in Northern Province who were removed from a pension payroll at the end of last year may have to bite the bullet and wait until June before they get their monthly social grants.

However, the problem is not of their making but was caused by the mistaken removal of about 30 000 names from pension lists.

A senior health and welfare department official said that pensioners who did not get their money in April would only get it after June because it took at least two months to reprocess the forms.

MEC for health and welfare, Dr Hudani Mateme will address a media conference on the matter today.

More than 92 000 old age pensioners and disabled people were removed from the payroll, more than four months ago. The department said at the time that those removed did not qualify for the monthly grant.

It said some of those who were getting the money were younger than 60 while some of the people who were getting money meant for the disabled were actually fit to fend for themselves.

The removal of the pensioners from the payroll saved the province more than R45 million a month.

However, the department has since admitted that at least 30 000 people were wrongly removed from the system.

The department advised those people to reapply and submit proof that they were entitled to state money.

While some have reapplied and have been reinstated in the system, thousands others are still waiting for their money.

Some were instructed to go to their nearest hospitals to have their forms completed by doctors.

In some instances doctors were prepared to see only a limited number of patients a day and this meant that hundreds of people had to return home without being helped.

The National Party, the Democratic Party and the Azanian People's Organisation have condemned what they term the abuse of the elderly.

Sowetan 5/5/98

# How cruelty hits home when age takes its toll

## *Help on line for our abused elders*

(300) ARG 5/5/98

**Fatima Adams, 66, cannot read or write – and now she no longer owns her Retreat home, thanks to a classic case of abuse of the elderly.**



BY DI CAELERS
SPECIAL WRITER

Ownership of her house, valued at more than R65 000, was taken from her by an unscrupulous operator, who tricked the illiterate woman into signing it over to him and then borrowed R40 000 against the property.

Mrs Adams's case was one of those highlighted at the launch yesterday of the Halt Elder Abuse Line (Heal), the first helpline in South Africa to deal specifically with the abuse of old people.

It is a pilot project operating in Cape Town and surrounds and is likely to be extended to the rest of South Africa next year.

Mrs Adams, talking quietly and clearly overwhelmed by the attention, told the gathering the man who "stole" her house had asked her in 1994 whether he could run a tuckshop from a caravan in her front garden.

She had just got out of Lentegeur Hospital, where she had spent some time being treated for a nervous breakdown after her divorce.

Later, he asked whether he could buy the property for R10 000. "I wanted to go to Mecca so badly. I said yes, he could buy my house."

A while later, he took her to lunch, then to a lawyer where he asked her to sign some papers, which later turned out to be a deed of sale.

He asked for her identity document saying he needed it to pay the money into her bank account, and she handed it over.

But now, four years later, Mrs Adams has not been paid anywhere near the R10 000 agreed on. She has received only "a few R100s, R200s and R50s" and the man has borrowed R40 000 against the house.

She still lives in the house – he agreed she could live there for the rest of her life if she sold it to him – but he owns it, and lets two Wendy houses in the back garden as well as the now permanent shop in the front garden.

"I found out about the loan because a registered letter arrived at my house. It was addressed to Adams, which is my surname, but it had his initials," said Mrs Adams.

Concerned Friends of the Abused, Frail and Aged have got involved, but lawyers say Mrs Adams signed the papers and so the transaction is legal.

Legislation does not allow for exploiters of the elderly to be charged, so Mrs Adams can do nothing to get her house back.

Syd Eckley, executive director of the SA Council for the Aged, said yesterday abuse of the elderly was heading towards crisis proportions in South Africa, with estimates that 6% were being subjected to some form of abuse.

He said legislation did not protect the elderly. The Aged Persons Act was totally inadequate, with penalties for abuse of the elderly much lower than those for abusing animals.

Arthur Jacobs, Cape Town deputy mayor, said physical, emotional, psychological, financial and sexual abuse and neglect were commonplace.

■ The Heal helpline number is (021) 461 1001. It will operate from 9.30am to 1pm Monday to Friday, except on public holidays.

# WESTERN CAPE *focus*

## New helpline (300) for abused elders



THE misery of being abused need no longer be borne in silence by the elderly folk of the Western Cape. ET 5/5/98

The Halt Elder Abuse Line (HEAL) has been launched in which callers will be counselled and advised by trained people who guarantee that queries will be handled in confidence and that callers need not reveal their identity.

Current estimates indicate that at least six out of every 100 elderly people in South Africa are abused in some manner. HEAL is aimed at providing help for these people and hopes to become a voice for the victims of elder abuse. It will also keep the public informed about the phenomenon, the rights of the elderly and the resources available to combat elder abuse.

The line is open weekdays from 9.30am till 1pm. The telephone number for HEAL is (021) 461 1001.

**Marais to lead provincial legislature:** Western Cape Health MEC Peter Marais has been appointed Leader of the House in the Western Cape legislature, premier-elect Gerald Morkel announced yesterday. Morkel, who currently holds the position, will hand over to Marais when he was sworn in as premier next Monday. Marais lost to Morkel by 34 votes to 53 in the April 23 NP poll for leadership of the party in the province.



PETER MARAIS

**Groote Schuur promotes itself:** Groote Schuur Hospital launched a slick new promotional video yesterday, which they hope will help raise funds from the private sector. The video was produced by V I Television production and the crew — including narrator Alex Jay — provided their services for free. Groote Schuur's Chief Medical Superintendent Dr P Mitchell said the 12-minute video would be used to introduce new staff members, school pupils, potential donors and visitors to the hospital. It outlines the history of Groote Schuur and shows the wide-range of clinical, research and training work the hospital carries out.

## Help now a call away



**TIMELY LAUNCH:** Jules Rivalland and Fatima Adams a South African Council for the Aged, noted at the launch tha

# AFRICA *focus*

## 90 killed in Algerian security force operations



WEEKEND clashes in Algeria claimed up to 90 lives, including those of Islamic militants and civilians, newspapers here reported yesterday.

In two separate military operations that were not officially confirmed, nearly 80 Islamic militants were killed by the security force, newspapers reported.

According to the media, an operation begun on Friday and still underway in the Mizeb mountains near Tlemcen, 400km west of Algiers, claimed the lives of between 30 and 37 militants.

The operation is aimed at annihilating a unit of the Armed Islamic Group, one of the main groups fighti

## 1 400 striking Sydney dockworkers reinstated

THE High Court yesterday ordered the rei statement of 1 400 unionised dockers who sacking on April 7 plunged the port of Sydn into turmoil and Australia into its gravest crisis for years.

In a stunning blow to employers Patr dores, the country's seven top judges dism six-to-one majority an appeal against an int eral Court order for interim reinstatement o itime Union of Australia (MUA) members.

# Ramos tackles red tape and pension investments

(300) CT 6/5/98 (BK)

LYNDA LOXTON

Cape Town — The finance department was considering ways to unravel red tape delaying the distribution of aid funds to non-governmental organisations (NGOs), Maria Ramos, the department's director-general, said yesterday.

It was also simultaneously ensuring that the Public Investment Commissioners (PIC) adopted a more dynamic investment strategy for state pension funds.

The department planned to convert the PIC into a "proper state-of-the-art asset management company" run by people with more appropriate skills.

Ramos admitted there were still long delays in the government's allocation of aid funds to NGOs now that most donors had decided to channel funds through the state, sometimes to the detriment of the eventual beneficiaries. She was pushing various departments to speed up the distribution of aid funds, "sometimes much to the annoyance of the departments concerned".

Regarding the government employees' pension fund, Ramos said the PIC's board of trustees had not yet given broad policy guidelines on how to maximise its returns because of the failure of labour to nominate representatives to the board.

"Once the board is fully functional, it will have the opportunity to provide much more specific guidelines on how they would like the assets of their pension funds to be invested," Ramos said.

Although the PIC was still mainly invested in government debt, a portion of its portfolio was now invested in equities. Its Isibaya Fund had invested R3 billion in developmental projects through selected asset managers.

The PIC has assets of R150 billion with a cash flow of R23 billion a year. "We are taking a completely fresh look at that," Ramos said.

# Mother's Day – a day they'd rather forget

Star 9/5/98 (300)

## Many women in old-age homes have been abandoned by their children



It's Mother's Day tomorrow – a time of breakfast in bed, roses and treats for lucky moms. But, as **SHONEEZ BULBULIA** discovered, for some, Mother's Day is a painful and sad reminder

Esmé Brown (76) doesn't look forward to Mother's Day: tomorrow will just be a painful reminder that for the past eight

years she has been forgotten by her children. And, when she talks about this, there's a deep well of pain in her eyes.

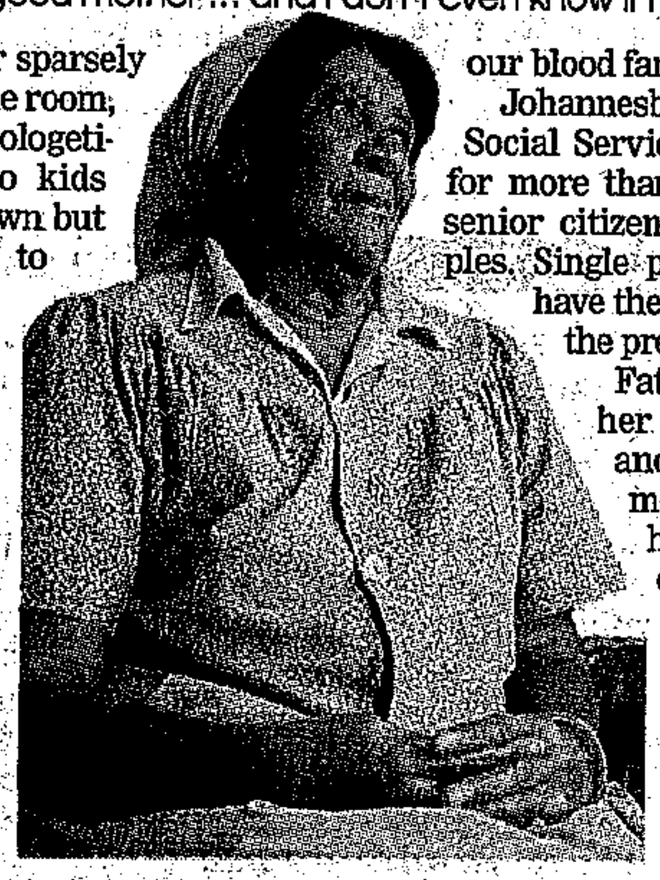
Brown's predicament is nothing unique – our old-age homes hide scores of elderly parents. Many moms have been dumped and forgotten, and Mother's Day is no treat for them.

Brown lives at the Nirvana Senior Citizens Haven in Lenasia. She bows her head when she whispers about how her children abandoned her eight years ago. But Brown is also a stout-hearted granny: she may be hurt, but she knows how to count her blessings.

"We had a marvellous Mother's Day treat last Sunday," she says brightly, changing the subject. "A group in our community, Women for Peace, prepared a great day of activities for us.

"There was a special lunch and each one received gifts, so Sunday ... well, other people can go out with their families, or families can spend the day with them here at the home ...", she adds sadly.

**REJECTED, DEJECTED:** An emotional Alida Oosthuizen prefers not to think about Mother's Day as it digs up the past. "I was such a good mother ... and I don't even know if I have any grandchildren" Photograph: CHRIS ADLAM



**ESMÉ BROWN:** Knows how to count her other blessings Photograph: ANDY KATZ

Sitting in her sparsely furnished single room, Brown adds apologetically: "My two kids live in Cape Town but never bother to phone or visit me. My children are not concerned about my welfare or well-being ... and I miss them very much.

"I am fortunate that most of the people around the home are caring and loving. We have become a big, happy family. It is sad to think that friends and strangers have become closer than our blood family."

Johannesburg's Institute of Social Services provides care for more than 80 independent senior citizens, including couples. Single people or couples have their own cottage on the premises.

Fatima Cajee (not her real name) is another forgotten mom: "I finally have a roof of my own over my head. My son and daughter could not even keep their mother in their own home ... such a burden to them.

"After my husband died 20 years ago, I looked after them – and this is what I get. My son-in-law did not want me around after my daughter gave birth, and my son said he preferred to have his domestic worker around rather than me. He said he couldn't do without her.

"Despite being thrown from pillar to post, I am so happy here that I can't stop thanking the Almighty. I never received such attention in my life, and the people actually made us feel special on Mother's Day.

"I received a box of chocolates – something I never got from my own kids."

Founded in 1954, the Johannesburg Association for the Aged in Hillbrow is another welfare organisation offering love, care and support to more than 130 elderly people, including the frail and bedridden.

Alida Oosthuizen (68) burst into tears when asked about her family's plans for Mother's Day. "What's Mother's Day? And who cares anyway? Every time an occasion like this comes along, it just digs up the

Star
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STAR 9/05/98 300



**STOUT-HEARTED:** Maria Makhuba (87) has outlived all her children but accepts her situation in her Soweto old-age home. She does not know where her grandchildren are ... **Photograph: CHRIS ADLAM**

past. It's too much to handle.

"Besides, we are all alone in this world and it's such a sad day. I have four children living in and outside of Johannesburg but none of them are bothered about me, and yet I was a great mother. That's why it hurts so much to talk about it.

"It is painful to think that I don't even know if I have grandchildren ... to them I'm dead."

While some declared they are happy at the home and love their independence, with family and friends visiting regularly, one 80-year-old pensioner, who shares a room with her handicapped daughter, said through sobs: "I'm disgusted that my daughter's children and husband don't even bother to come and see her just because she is handicapped. The minute she was disabled they never came near her again.

"Yet, before her accident and paralysis she was a great mother – and I'm not saying it just because she is my daughter.

"My child is very lonely and, as she is unable to speak, people tend to ignore her. Sometimes I catch her all alone wiping the tears away, and I know she longs to see her family."

A social worker at the home, Lenie Thomson, said: "I see the loneliness in them and I know that they are emotionally deserted.

"My main role is to rekindle the relationship between parents and kids, and I also get in as many volunteers as possible to visit them."

The Soweto Home for the Aged, established in 1988, accommodates 150 pensioners, and offers refuge to the destitute, homeless, abused and handicapped.

Maria Makhubu (87) is originally from the Free State. All her six children are dead, but she has learnt to accept her plight. She has lived at the home for the past six years.

"I have accepted that this world is temporary and we are all going to die someday. Besides, when my children were alive, we never celebrated Mother's Day because they couldn't afford to buy me luxuries.

"But at this home we are spoilt because they always plan something special, giving us a nice lunch and a small present. Yet it doesn't help to get all this when I'm so old and I don't have my children around me, because it makes me sad. I miss them very much.

"I don't even know where all my grandchildren are."

Social worker Lydia Maoba, an employee at the home, said: "Most of the elderly don't have any family. Some of them have just been dumped by their kids who don't bother with them again."

Maoba said a major problem was that many of the women's children would take their mother's pensions, or would steal their homes and then throw them out.

# Joint homes for elderly, street children rejected

(300) STAR 12/5/98

By Jovial Rantao
Political Correspondent

Cape Town – A leading ANC MP and an activist for the rights of the elderly has rejected the Department of Welfare's plan to accommodate elderly people and homeless children under one roof in a "one-stop service centre".

Adelaide Tambo yesterday told fellow committee members and senior Department of Welfare officials that accommodating the elderly and children under one roof would result in the neglect of those who need care.

She also rejected suggestions from the department that the aged should be looked after by people with fewer qualifications.

Tambo was also unhappy that the committee was not part of the planning and the decision to house those in need of state welfare under one roof.

"I find it difficult to agree to what you're suggesting. Experience has shown us that the aged are pushed back in favour of children. People are saying children are the future and they should be looked after, and that the (end of) time for the elderly is near. I don't agree that these people must be put under one roof and should be looked after by people with fewer qualifications. These people have worked and paid their taxes. It's our turn to look after them, and we should do so properly," Tambo said.

She was supported by the Democratic Party's Dr Bukelwa Mbulawa, who emphasised that committee members should be involved in such major plans by the Government.

Dr Esther Chinkanda, the deputy director-general, said the projects were pilots and that they were not "cast in stone".

# Ombudsman plan could protect elderly from abuse

PD 12/5/98

(300)

**David Greybe**

CAPE TOWN — The welfare department is considering appointing ombudsmen to protect elderly people from abuse and neglect in old-age homes.

The voluntary ombudsmen would operate in residential care facilities, community-based care and support facilities and housing schemes, the department's director of special needs, Chris van den Heever, told the welfare portfolio committee yesterday.

The ombudsmen would be elected by the residents of these facilities, their families, the community and staff, Van den Heever said in a briefing on the department's "ageing policies and programmes".

The ombudsmen would be responsible for the investigation of complaints, Van den Heever said.

"A legal framework can then be developed to deal with perpetrators in order to strengthen the efforts of the community to protect their older members against abuse and neglect," he said. The challenge though was how to give the framework "teeth".

Van den Heever said the system envisaged would be an extension of the proposed welfare ombudsman at community level whose role it would be account for the majority of old people who were not recipients of services rendered by welfare organisations, non-governmental organisations or community-based groups.

Van den Heever said work had begun on new legislation to replace the Aged Persons Act of 1967, as the legislation was "totally outdated and does not reflect the values as embodied in the constitution, as well as the new approach to ageing".

Relevant national councils and interest groups had been invited to submit proposals for the new legislation and to participate in the piloting of an ombudsman system, he said.

The closing date for submissions was May 29, and the department envisaged a first draft of the new act would be ready by November.

Van den Heever said there were presently 721 homes for the aged in SA with a bed capacity of 42 366. However, most were situated in predominantly white communities, which made them inaccessible to the majority of black old people.

He said there were indications of a decrease in the number of elderly people in residential care due to, as the SA Council for the Aged had reported, the "indiscriminate way (in which) subsidy cuts have been introduced".

Residential care facilities had been forced to increase fees by up to R400 a month to remain operational and had become even more inaccessible to the poorest of the poor.

# Tambo rejects welfare plan for the elderly

CT 12/5/98

JOVIAL RANTAO

(300)

PROMINENT ANC champion of the elderly Ms Adelaide Tambo MP has rejected the Department of Welfare's plan to accommodate the aged and homeless children under one roof in a "one-stop service centre".

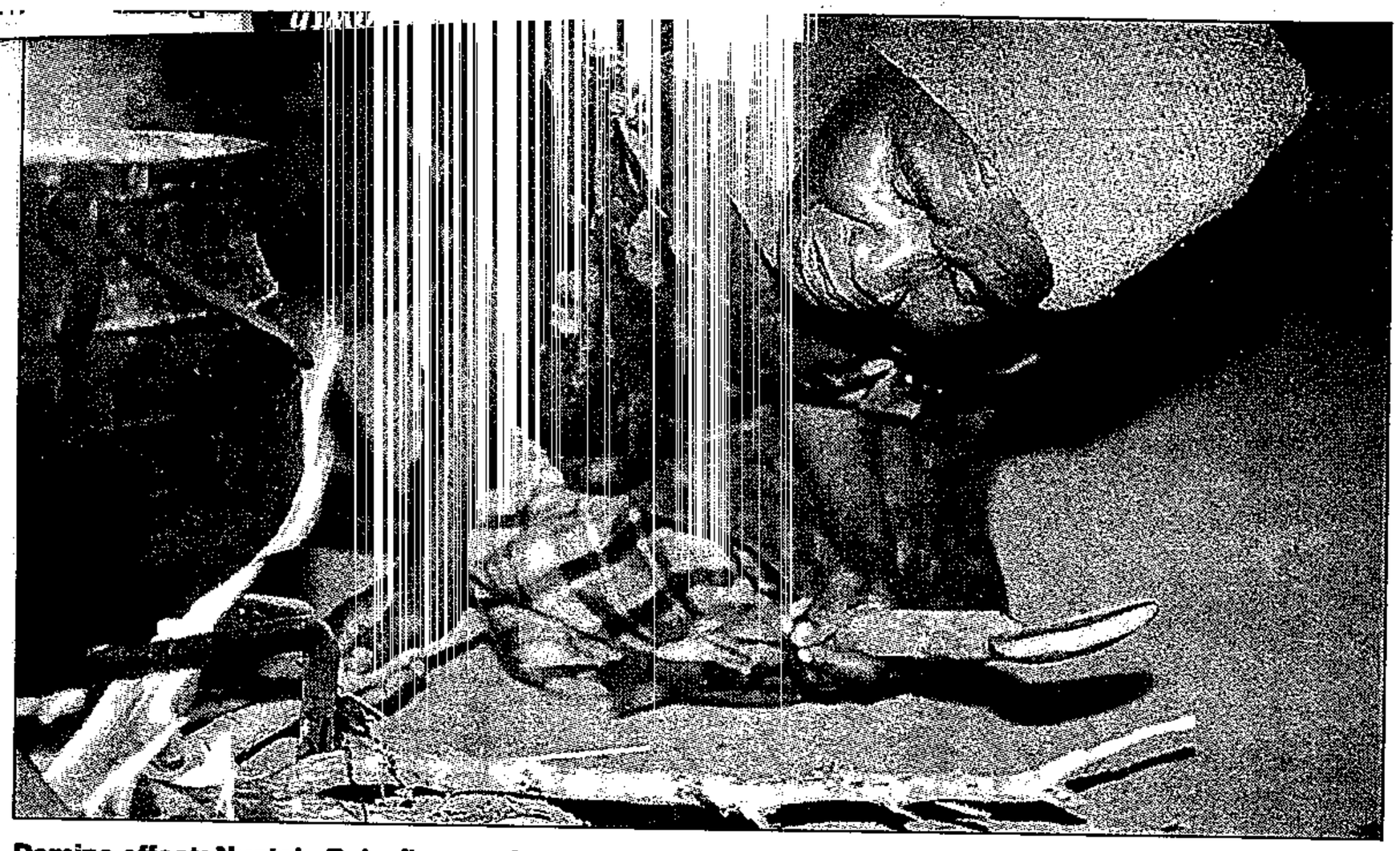
Tambo yesterday told fellow committee members and senior Department of Welfare officials that accommodating the elderly and children under one roof would result in the neglect of those who need care.

She also rejected suggestions from the department that the aged should be looked after by less qualified people.

"I find it difficult to agree to what you're suggesting. Experience has shown us that the aged are pushed back in favour of children. People are saying children are the future and they should be looked after and that the (end of) time for the elderly is near. I don't agree that these people must be put under one roof and should be looked after by people with less qualifications.

"These people have worked and paid their taxes. It's our turn to look after them and we should do so properly," Tambo said.

She was supported by the Democratic Party's Dr Bukelwa Mbulawa, who emphasised that committee members should be involved in such major plans by the government.



**Domino effect: Nyatela Baloyi's once buoyant business crashed because pensioners suddenly had no money to pay her. PHOTOGRAPH: KATIE BUTLER**

(300) MG15 — 21/5/98

Nyatela Baloyi, living in a village in Khomanani Tribal Authority in the former Venda, is typical of many of the poorest families in the Northern Province. She lives in two mud brick rondavels together with five children. She has no husband — he passed away some time ago, and supports her family with her small business.

In the past Baloyi's business was very fragile. She sells second-hand clothes, travelling for 18 hours by bus to Durban to buy them. Lacking capital, Baloyi was seldom able to raise enough money to buy stock and pay R150 for the bus.

Usually she relied on borrowing money from friends and relatives or money-lenders. With her sales she then had to repay her own debts, and survive off what little was left. It was impossible for her to generate enough profit to provide capital for restocking, and the poverty cycle seemed unbreakable.

Baloyi sells to poor people, and is often forced to sell on credit, collecting money at month-end. She is wary about credit, but relies on her knowledge of people to whom she sells — pensioners with their regular income are among the most reliable.

In July last year Baloyi joined the Small Enterprise Foundation and received a R500 loan which she used to strengthen her business. She travelled to Durban and bought two large bundles of clothes, saved the profit and found that she had enough money to return to Durban for more stock the following month. Her business became much stronger and provided a small but reliable income. She was even able to increase her stock from R500 to R600 worth.

It was a small step in the right direction. But Baloyi was still very vulnerable. She had no savings and was dependent on each month's income to buy her household basics and stock for the business to provide the next month's income. The people to whom she sold still bought on credit and repaid at month-end.

In March this year disaster struck. At the end of the month almost all her creditors failed to repay. She was left with almost no income, and certainly no money to buy stock. As a result, her business failed. Worse still, she is now in debt, and even if her creditors do cough up, she will have to repay her debt, leaving her with insufficient funds to restart her business.

The cause of this disaster? The Northern Province government's freezing of pension and disability payments. Pensioners are the biggest buyers of second-hand clothes. With the freezing of the pensions, Baloyi's debtors failed to pay, and her business was wiped out.

When the Northern Province decided to freeze pension and disability payments in February, did it consider the hardship this move was bound to cause? In the country's poorest region, the rural economy and the livelihoods of many of the poorest people are largely dependant on the R470-per-month pension payment.

The welfare department's decision was aimed at eliminating "ghost" and illegitimate claimants, and so making savings in the stretched provincial budget. Although clearly justified, the manner in which this policy was implemented showed scant regard for the welfare of the population.

Disabled people were required to obtain a doctor's certificate to verify their disability, while pensioners had to register in person at special points around the province.

The suddenness of the move and the lack of information available has led to widespread confusion and suffering. Many people believe their pensions have been stopped for good. Others don't understand the procedures for their reinstatement.

Today many pensioners and disabled people are still waiting for their payments. The ripple effects, through local economies reliant on these payments, is enormous.

Through contact with almost 6 000 business people (the vast majority women), SEF has built up a detailed understanding of the livelihoods of the poorest households in the province, and of the functioning of the rural economy.

Pensions play a vital role from a number of perspectives. For many of the poorest households the pension of one member is often the only source of income. Many families survive through a mixture of deprivation and reliance on the generosity of friends and neighbours.

The foundation's work has shown that approximately one-third of households in the rural areas of the province struggle to find any food, let alone food providing a basic level of nutrition. Many families miss meals in order to survive, or rely on food hand-outs. These families are also unable to pay school charges and their children seldom manage to remain consistently in school — many dropping out before the secondary level. Other characteristics include poor housing structures, with many people crowding into one or two leaking rooms, as well as the inability to buy clothes, particularly shoes. It is in this context that the province froze pensions.

The hardships for people living in such a precarious position are obvious. Less obvious are the wider ramifications to the local economy.

To observe a pension pay point on pension day is to observe the significance of pensions. Even some kilometres from the pay point it is obvious that an event is happening, as streams of people, old and young, move along the road. At the pension point crowds of traders gather to sell chickens, blankets, second-hand clothes, mopane worms, meat, kitchen utensils and other basics to the pensioners, or to collect money for items sold on credit through the month. It is the busiest time for many businesses.

The loss of so much money from the local economy has had ripple effects. Those people who are usually a bit better off and can provide loans of food or cash to the poorest, no longer have the means to do this. The social safety net, which prevents the worst manifestations of poverty such as severe malnutrition, has been damaged.

Baloyi's tale is a tragic example of the hardship created by the province's action. Fortunately she has a second chance. Slowly people will find out how to re-register. Young children pushing elderly relatives to the pension offices in wheel barrows are now a common sight. Once the pensions are unfrozen, Baloyi can, with the support of a second loan from the foundation, restart her business, and set out once more on the long road out of poverty and vulnerability.

But for thousands of others in the province, the blow may have been too much.

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*Anton Simanowitz is development adviser at the Small Enterprise Foundation*

MTGIS — 2/15/98

300

# A quick recipe for mass starvation

# Bill allows employers to dip into pension funds

BD 21/5/98 (300)

**Linda Ensor**

CAPE TOWN — Employers will be able to withdraw surpluses in pension funds in terms of a controversial proposal in the Pension Funds Amendment Bill which is expected to spark trade union opposition.

The bill was tabled in Parliament yesterday and follows the United Kingdom example where excess assets in a pension fund can be paid to a participating employer. The memorandum to the bill states that strict conditions will be attached to limit the circumstances in which the withdrawals can take place, with all members of the fund having to agree. The registrar of insurance will also have to be satisfied that the step is "sound and acceptable".

The withdrawn surpluses will be taxable in the hands of the employer.

Another condition is that if the pension fund subsequently develops a "deficiency" — that is, the fund's assets fall below the amount required to fulfil its obligations to its members — the employer will be liable. However, there would be a time limit of seven years and a financial "cap" on this debt. The fund would only recover the amount of the surplus withdrawn. At present, pension fund surpluses can only be used to improve the benefits of the fund or allow employers to take a contribution holiday.

A task group set up under Financial Services Board chief actuary Jeremy Andrew argued that withdrawal of surpluses was "simply a variation" on the right of employers to take a contribution holiday from defined benefit funds.

"Prohibiting payments to employers could well prove counter-productive and to the disadvantage of members, in that it could encourage employers to underfinance their funds or convert to defined contribution funds," the memorandum said. "In contrast, permitting such payments under specified conditions would encourage proper financing of funds, leading to greater security of members' benefits and greater possibilities of improvements in benefits."

Those opposed to the measure asserted that pension fund assets were trust monies which could only be paid out in the form of benefits to members. Surpluses arose because members had been ill-treated in the past by getting small pension increases and low benefits on termination of services.

# Rift between Manuel, Cosatu deepens

BD 22/5/98 (300)

**Linda Ensor**

CAPE TOWN — A deepening rift between the Congress of SA Trade Unions and Finance Minister Trevor Manuel was highlighted yesterday when Cosatu warned that it might call a national strike to object to proposed legislation which would give employers access to billions of rands in pension fund surpluses.

Manuel said the strike threat was "uncalled for". He said he was surprised by Cosatu's reaction as the amendment had been drafted in consultation with interested parties, including the federation.

Cosatu knew it would have a further opportunity to put its concerns to the parliamentary finance committee.

Cosatu said surpluses belonged to pension fund members. It demanded that the Pension Fund Amendment Bill — tabled in Parliament on Wednesday — be submitted to the National Economic, Development and Labour Council (Nedlac) immediately.

Manuel's "unilateral" tabling of the bill was "provocative and might spark massive national industrial action", Cosatu spokesman Andre Kriel said. He likened the action to Manuel's "provocative and unilateral" introduction of the growth, employment and redistribution strategy.

Tabling the bill without first referring it to Nedlac, as required by "common decency" and the Nedlac Act, had intensified Cosatu's concern over the finance ministry's approach to reform in the retirement fund industry.

The bill allows employers to withdraw pension fund surpluses on certain conditions. "The granting of such access to employers flies in the face of recent High Court judgments and the views expressed by the newly appointed ombudsman ... that any surpluses in pension funds belong to employees," Kriel said. "Cosatu cannot allow the unethical raid on workers' hard-earned retirement fund savings."

Although Cosatu had participated in the Financial Services' Board's task team which debated the proposals, its views had not been adequately incorporated into the legislation.

FSB chief actuary Jeremy Andrew said the legislation incorporated safeguards to protect fund members. These included a requirement that employees be fully informed of an employer's application to withdraw surpluses and be given a reasonable opportunity to express their views, that two-thirds of those voting agree to the step, and that the whole process be audited. "It is very difficult for a rape of a fund to occur if members have to be consulted."

# Restructuring state pension fund could save govt billions — unions

(300) BD 22/5/98

**Reneé Grawitzky**

CONGRESS of SA Trade Unions (Cosatu) public service unions intend demanding inflation-linked increases for the majority of public servants and the restructuring of the state pension fund, which it says could save government billions of rands.

The proposals are among demands to be tabled formally by the unions on Monday in the public service bargaining council.

The National Education, Health and Allied Workers' Union, SA Democratic Teachers' Union and the Police, Prisons and Civil Rights Union have proposed a shift away from a fully funded method of payment by government to the pension fund to a "pay as you go" system.

This, they argue, could reduce government deficit repayments to the fund by two thirds and could release assets to be used for other initiatives.

The Cosatu unions agreed to government's proposal, outlined in the budget, to reduce the employer contribution to the pension fund from 17% to 15%. It called for the employer contribution to be reduced further to 13,5%. The unions believe this could save government R3bn, to be used to finance "public service transformation".

Other aspects of the unions' demands include closing the wage gap between grades, removing the management echelon from the bargaining council, increasing government's allocation to training, and retaining the current moratorium on retrenchments. The unions said increases for management should be determined by the political office bearers to whom they were accountable.

Other unions have threatened to take government to court for allegedly reneging on the three-year wage deal by not allocating the required amount as stipulated in the agreement for increases this year.

Government allocated R3,375bn instead of R4,8bn for increases.

The Cosatu affiliates and unions affiliated to the Federation of Unions of SA rejected this offer. The Cosatu unions decided to cost its demands and put a counter-proposal on the table for negotiation in the bargaining council.

Sapa reports that 13 public servants' trade unions are to ask the Commission for Conciliation, Mediation and Arbitration to arbitrateoin their wage dispute with government. If this failed they might start "full-scale industrial action" to protect their interests.

Two weeks ago the unions gave Finance Minister Trevor Manuel and Public Service and Administration Minister Zola Skweyiya until Wednesday this week to confirm whether they intended complying with the terms of a three-year wage agreement, or face a high court action to have it enforced.

# Protest march by troubled Cape pensioners expose daring ghosts

By ANDILE NOGANTA

EASTERN Cape pensioners recently took to the streets again, only this time it looks set to backfire as "ghost recipients" allegedly cropped up amongst them.

About 300 pensioners braved severe cold for two days last week, blocking the entrance to the legislature buildings in an action reminiscent of the days that led to the axing of Nomsa Marasha as the province's Welfare MEC.

Hundreds of desperate pensioners who had not received their payouts, camped outside the legislature when the department ran out of funds earlier this year. Central government had to bail out the province's Welfare Department with a sum of R801 million.

But the latest protests lacked the might of the previous [illegible] instead they revealed a number of fraudulent [illegible].

And now Welfare MEC Nomsa Jajula has promised [illegible] action against those identified as fraudulent welfare recipients, some of whom allegedly include former civil servants.

Most of the pensioners last week claimed they had not been paid their grants since 1996 when the pension system omitted their names after the re-registration of pensioners.

Jajula admitted that certain applications had been lying around in offices since 1996 and had only been admitted into the welfare system.

She said the department would start paying out these applicants – numbering more than 55 000 – in the next months.

But Jajula fired back her own salvos at some of the protestors, charging that they were frauds while some had already been paid.

She told City Press she suspected that there was a force with a hidden agenda steering last week's protest.

"The majority of people who demonstrated at the entrance to the legislature according to our records have been paid. We have since identified people who have wrongly been getting cheques from the department and others from other departments," Jajula said.



*TALKING TOUGH . . . MEC Nomsa Jajula, determined to weed out fraudulent welfare recipients.* ■ *Pic: WILBERFORCE MDODA*

She added that the others are people who have been declared fit by doctors and so do not qualify for social grants.

Jajula said the Eastern Cape government would institute civil and criminal claims against the fraudulent ghost pensioners – some of whom were identified in last week's protest – to retrieve the money lost to them.

# Controversial bill 'has stringent rules'

ST (BT) 24/8/98

PENSION FUNDS

By LEIGH ROBERTS

DRAFT legislation which allows employers to pocket excess assets in pension funds was tabled in Parliament this week. The proposal is part of the Pension Fund Amendment Bill, and has sparked much controversy — trade union Cosatu has threatened national strike action.

The Bill grants employers the right to repatriate surplus assets from a private sector fund, but sets out stringent conditions to protect the rights of the fund members, before this can happen.

The Registrar of Pension Funds has to approve the repatriation, and can do so only once all conditions are met. Fund members must be consulted and at least two-thirds must approve.

The method of calculating the fund surplus is prescribed in the Bill. It is the fund's total assets less the "minimum assets", which is an actuarial valuation of future benefits due to members.

Employers will be tempted to dip into the surplus as it is a windfall (although they will pay tax on the money).

A surplus builds up in a fund for a number of reasons: The fund trustees were overly conservative in giving out increases to pensioners in years of high investment returns, and when employees resign from a company they are often not paid out the full amount of the employer's contributions to the fund.

An argument for the employer to take the surplus is that they contributed to the fund. But this also holds true for employees who contribute to the fund.

Sanlam Group Benefits senior actuary Marius du Toit says the Bill contains strict rules to protect members, and says that it will increase rather than decrease the security of fund members.

# Memo clouds MEC's denials

CT 25/5/98 (300) (285)

**PREMIER GERALD MORKEL** is to ask to see Department of Social Services correspondence about aid for Helen Bellinganhof House, Political Writer **KARIN SCHIMKE** reports.

WESTERN CAPE MEC for Social Services Arnold de Jager did order his department to investigate urgently the possibility of granting extra money to an old age home in which he had an interest.

This came to light in a document leaked to the *Cape Times* three days after De Jager told the newspaper: "There are criteria for every cent given out and I have nothing to do with the evaluation (of applications for state funding)."

De Jager reiterated yesterday that he had not made anyone give the home extra money.

Last week, he found himself at the centre of a furore over Helen Bellinganhof House, Oudtshoorn, the board of which is chaired by his wife, Diane.

Workers at the old age home are on a legal strike to press demands for minimum wages of R1 000 a month. Some earn as little as R350 a month. The home is run by the Afrikaanse Christelike Vroue Vereeniging (ACVV). Mrs De Jager is head of the ACVV in the southern Cape and one of the wings of the old age home is named after her.

The home recently received a special grant of R170 000 to train nurses working with the frail aged as well as a bonus of R58 000, according to De Jager. The bonus was one of several given to welfare institutions and paid from savings made within the department.

These grants have raised the ire of workers living below the breadline and led to accusations of nepotism against De Jager.

Interviewed on Thursday, De Jager told the *Cape Times* it was nonsense that he favoured Bellinghanhof.

"This is not the first time people have made false allegations against me," he said.

The *Cape Times* is now in possession of an internal memorandum that shows De Jager brought some pressure to bear on the allocation of the grant to Bellinganhof.

*The NP should be ashamed the MEC is party to a home that (has) place for only one coloured person*

The memo, written by the Western Cape director of social security, Dr W Terblanche, explained that De Jager had requested the department to "urgently investigate and consider" the possibility of funding the training of nurses working with the frail aged.

According to the memo, 10 such nurses are trained at Bellinganhof every year, but "the facility will have to close because of a lack of funds". The memo also says that the home would like to train 12 nurses a year.

It adds, however, that the home gets its funds for training from the student nurses, from homes for the aged that send the students for training and from the community.

The memo is addressed to the head of social services, Ms Virginia Petersen, and two other officials.

The final paragraph reads: "I explained our role and our subsidy criteria and that it will have to be investigated. If it is found to be outside our funding criteria and it is seen as a funding possibility and priority, treasury will have to be approached for approval. An amount of about R200 000 is required per annum."

De Jager yesterday said: "At no point did I put pressure on anyone to give Bellinganhof's application attention.

"All I did was ask Mrs Petersen what she thought of the training project and whether it stood a chance and she told me to leave it to her. If the training project didn't get money from somewhere, it would have had to close down.

"I don't understand what it is people think I did wrong. The training enriches people and creates opportunities for them. There is nothing at all abnormal going on."

Last week, Mrs De Jager had a run-in at the Oudtshoorn post office with a number of Bellinganhof workers. According to De Jager, she was sworn at and verbally abused because of the wage issue.

A motion was put forward in the provincial legislature that the confrontation be condemned and a fervent debate followed on Friday.

During this debate, the leader of the opposition, Mr Ebrahim Rasool — leader of the ANC in the province and the former MEC for Social Services — referred to the funding question.

National Party members said he should stick to the question of the confrontation between Mrs De Jager and striking workers.

"What (the NP) don't want me to say is that there are grounds for suspecting serious nepotism by the MEC of welfare," Rasool responded.

"What they are covering up is that Bellinganhof has a staff-to-resident ratio of one to one. That is, for every resident there is a staff member.

"Above all, the National Party should be ashamed that, in this new South Africa, the (MEC) of welfare is party to — and continues to support — an old age home that can find place for only one coloured person out of a total of 193 residents."

Western Cape Premier Gerald Morkel said yesterday he would ask De Jager to send him the correspondence.

It was not unusual for politicians to ask people to look into problems in the areas from which they came, Morkel said.

"Members of Parliament do it all the time.

"It is not outside the norm, but perhaps in (De Jager's) position it is questionable."



**'NOTHING ABNORMAL':** MEC for Social Services Arnold de Jager

# Pensions worry for Cosatu

(300) Sowetan 27/5/98

THE Congress of South African Trade Unions (Cosatu) expressed fears yesterday that the Pension Fund Amendment Bill would result in workers receiving smaller pensions.

"We have to ensure that people on pension are not paid less and that companies do not invest more conservatively in pension funds," Cosatu general secretary Mr Sam Shilowa told journalists in Pretoria yesterday.

Shilowa said the Bill could create an incentive for employers to increase pension fund surpluses to the detriment of beneficiaries.

Surpluses that accumulate in pension funds should be used to improve workers' benefits so that they do not become a burden to the state when they retire.

Instead, employers also have access to these surpluses under the proposed legislation, Shilowa said after a meeting with Finance Ministry's director general Ms Maria Ramos and members of the Financial Services Board to discuss the Bill.

In a document released at the meeting, Cosatu said the source of surpluses should be kept in mind when deciding who should be given access.

In the past many pensioners received annual increases below the inflation rate, while pension assets performed above inflation. Surplus funds could also be the result of unfair dismissals causing employees to lose their pension benefits, or because employers increased their contributions to avoid paying tax.



**Cosatu general secretary Sam Shilowa**

The document said members in the past were not represented on many pension fund boards of trustees.

"This created an environment conducive to a situation where employers were in a position to accumulate surpluses in the pension funds, to which they now wish to lay claim," Shilowa said.

He said it was agreed at yesterday's meeting that the Financial Services Board would look at the Bill again to identify possible amendments addressing the sort of concerns Cosatu is raising.

"This matter must be dealt with in a way that does not lead to waves of protest and/or differences about something that can be easily resolved," he said.

It was hoped the ministry would consult Cosatu on the way forward "so that by the time the parliamentary process starts, enough consensus will have been reached allowing labour to broadly support the legislation".

Ramos said she would brief Finance Minister Mr Trevor Manuel and his deputy, Ms Gill Marcus, about yesterday's meeting.

They would then decide whether an interim step was needed to address concerns before the Bill is submitted to Parliament, probably during the second half of this year.

Such interim measures could include setting up a task team, she said.

Ramos said it was possible that the Bill could be further amended.

"After all, our emphasis is on getting a good piece of legislation that protects the rights of the workers.

"We have to ensure that there are no unintended consequences." – *Sapa*.

# Nehawu wants restructuring of state pension

PD 27/5/98 (R200)



**Reneé Grawitzky**

THE National Education, Health and Allied Workers' Union (Nehawu) yesterday formally tabled its wage demands with government, the total package of which is equivalent to that committed by government in a three-year wage deal for the public service.

The union's total package — which included minimum increases in the region of 20% or R200 a month for the lowest paid workers — amounted to about R4,8bn. This was the amount government was supposed to allocate for this year's increases in the public service in terms of the wage deal struck between government and public service unions in 1996.

Government instead set aside R3,37bn in the budget.

At the time, the Congress of SA Trade Union's public service affiliates rejected this but indicated that they would table costed demands.

The Federation of Unions of SA public service affiliates had already declared a dispute against government at the end of March. These unions planned to submit demands to government next week and intended to fully participate in the wage negotiations. This would not, however, prejudice their initiatives to take government to arbitration over the interpretation of the agreement.

To boost service delivery, the union is to focus on intensifying education and training and will call on government to set aside 5% of the wage budget for competency based training.

The union also called for the restructuring of the state pension fund to save government billions.

Nehawu proposed a shift away from a fully funded method of payment by government to a "pay as you go" system. This, the union argued, could reduce government deficit repayments to the fund by two thirds and release assets to be used for other initiatives.

Nehawu agreed to government's proposal, outlined in the budget, to reduce the employer contribution to the pension fund from 17% to 15%. It called for the employer contribution to be reduced further to 13,5%. The unions believe this could save government R3bn, to be used to finance "public service transformation". Meanwhile, the parties in the public service co-ordinating bargaining council have agreed to the financing of the council, as well as other structures, through contributions of 50c a month from employers and employees.

The parties also signed the agency shop arrangement which will ensure that between 300 000 and 400 000 public servants, who do not belong to unions, will be required to pay 1% of their salaries up to a maximum of R60 a month to the public service unions represented in the council, as part of an agency fee. The new Labour Relations Act grants unions the right to demand agency shop arrangements whereby the employer agrees to deduct a fee from nonunion members.

# Pension bill review averts Cosatu strike

BD 27/5/98 (300)

Reneé Grawitzky

THE Financial Services Board agreed to consider changes to the Pension Fund Amendment Bill tabled in Parliament last week as the Congress of SA Trade Unions (Cosatu) backed off from threatened industrial action.

This emerged yesterday after a meeting between Cosatu general secretary Mbhazima Shilowa, finance department director-general Marie Ramos and representatives of the Financial Services Board.

The meeting focused on the federation's strong opposition to the inclusion of a provision in the bill which gave employers the right to withdraw surpluses from pension funds.

Cosatu argued that the proposed legislation might "create an incentive for employers ... to increase pension fund surpluses to the detriment of members and beneficiaries".

Last week the federation threatened national strikes and accused the finance department of "unilaterally" tabling the bill.

Shilowa said it would be wrong, at this point, to embark on mass action. Cosatu did not want to create the impression that the bill had been a unilateral act by the department.

Financial Services Board representative Francois Jooste said the meeting had been positive with an undertaking given to review the bill. There were unresolved issues that would be examined with Cosatu's help.

The bill was tabled in Parliament at the finance portfolio committee's request. It was not meant to be final, he said. "It was always appreciated that the matter was controversial and that there would be further discussions and possible amendments."

Shilowa said he hoped sufficient consensus could be achieved ahead of the bill entering the parliamentary process. Labour, he said, was not opposed to reserves (social capital) being used for development. He questioned whether reserves should be made available for use by the private sector, the state or through union investment companies.

# Govt calls in global guns for crime battle

ORGANISED crime and corruption is such a problem that the government has called in private-sector consultants to help train its police and military intelligence agents.

Kroll Associates, the international business investigation and risk management agency, this week launched a year-long programme of seminars for the security forces on how to tackle the problem, which is worrying foreign governments and investors in SA.

"You've got somewhat disorganised crime in SA that's beginning to organise, and highly organised crime coming in from the outside," says Tommy Helsby, chairman of Kroll's London-based operations. Police said there were more than 190 organised crime syndicates in the country. Johannesburg and other cities had become trans-shipment points for the international drugs trade, with heroin and other drugs coming from Asia and Latin America and going to Europe and the US.

Criminal gangs were also involved

Continued on Page 2

BD 27/5/98

# Pensioners reap benefit as welfare fraud is cut back

(300) (282)

**David Greybe**

CAPE TOWN — Welfare Minister Geraldine Fraser-Moleketi announced in Parliament yesterday a two-step increase of 6,4% in social grants, including pensions, this year.

Fraser-Moleketi said during the welfare budget vote that social grants would increase by R20 — to R490 — on July 1, and by another R10 — to R500 — on October 1.

The increase would affect an estimated 2,8-million beneficiaries, who received various types of grants: old age, war veterans, disability, grant in aid, parent allowance, child care, foster care and care dependency.

Fraser-Moleketi said the welfare department had managed to provide for the increase due in particular to the continuing "clean-up" of the social welfare system.

For example, the department had saved nearly R160m by suspending payments to nearly 60 000 deceased beneficiaries. Another 20 249 grants, worth R11,3m, were suspended to beneficiaries who had reached the 18-year-old limit.

With social security an important pillar of poverty relief — providing livelihoods to the aged, disabled and poor children — the department remained under pressure to ensure full access to social security for all who qualified, Fraser-Moleketi said.

The department had completed investigations into the social security administration system. It now needed to complete its data clean-up and re-registration of beneficiaries to improve service delivery and to deal more effectively with fraud and corruption.

Fraser-Moleketi said the department was developing a business plan in consultation with provincial departments to improve the financial management of welfare.

She said R100m in the 1998/99 bud-

BD 28/5/98

Continued on Page 2

## Pensions

(300) (282)

Continued from Page 1

BD 28/5/98

get of the national welfare department had been set aside for the operation, with a similar amount to be provided in the following financial year.

Steps to be implemented under the business plan included: appointment of financial managers in provincial departments on two-year-contracts; strengthening the welfare management information system as a matter of urgency; fast-tracking the data clean-up and re-registration of beneficiaries; building capacity in provinces to undertake reconciliations of social security payments; establishing an asset management function, and; improving the information technology infrastructure within provinces.

The 1998/99 welfare budget for national and provincial departments amounted to R18,6bn, which represented an overall nominal increase of 16,2% from the previous year — "a real achievement because it brings us closer than ever to actual expenditure".

# Social grants for pensioners, veterans and disabled to go up

## More funds made available through 'cleaning up' of department, minister says

Star 28/5/98

**By Andre Koopman**
Independent Parliamentary Bureau

Social grants for pensioners, war veterans and people with disabilities will increase by 4,3% from July and a further 2,1% in October, Welfare Minister Geraldine Fraser-Moleketi announced yesterday.

In her budget speech in the National Assembly, she said that from July 1 these grants would increase by 4,3%. Pensions and grants to war veterans, people with disabilities and care dependency grants would increase from R470 to R490.

From October 1 these grants would be further increased by 2,1% from R490 to R500.

Foster care grants would increase from R340 to R350 on July 1 and from R350 to R360 on October 1. Grants-in-aid would increase from R80 to R90 in July but there would be no further increase in October.

The increases exclude state maintenance grants, which are being phased out, and the child support grant introduced on April 1.

Fraser-Moleketi said the increase in social benefits had been funded through savings achieved in "cleaning up" the system.

Curbing fraud and improving efficiency was a priority in her department. Payments to 60 000 dead beneficiaries of welfare grants had been suspended, saving the taxpayer R160-million for the 1997/98 tax year.

The number of grants suspended for those who had reached the age of 18 and were still illegally receiving grants totalled 20 249, making up a value of R11,3-million in the 1997/98 tax year.

By December last year, 89 officials had either been suspended or prosecuted for fraud.

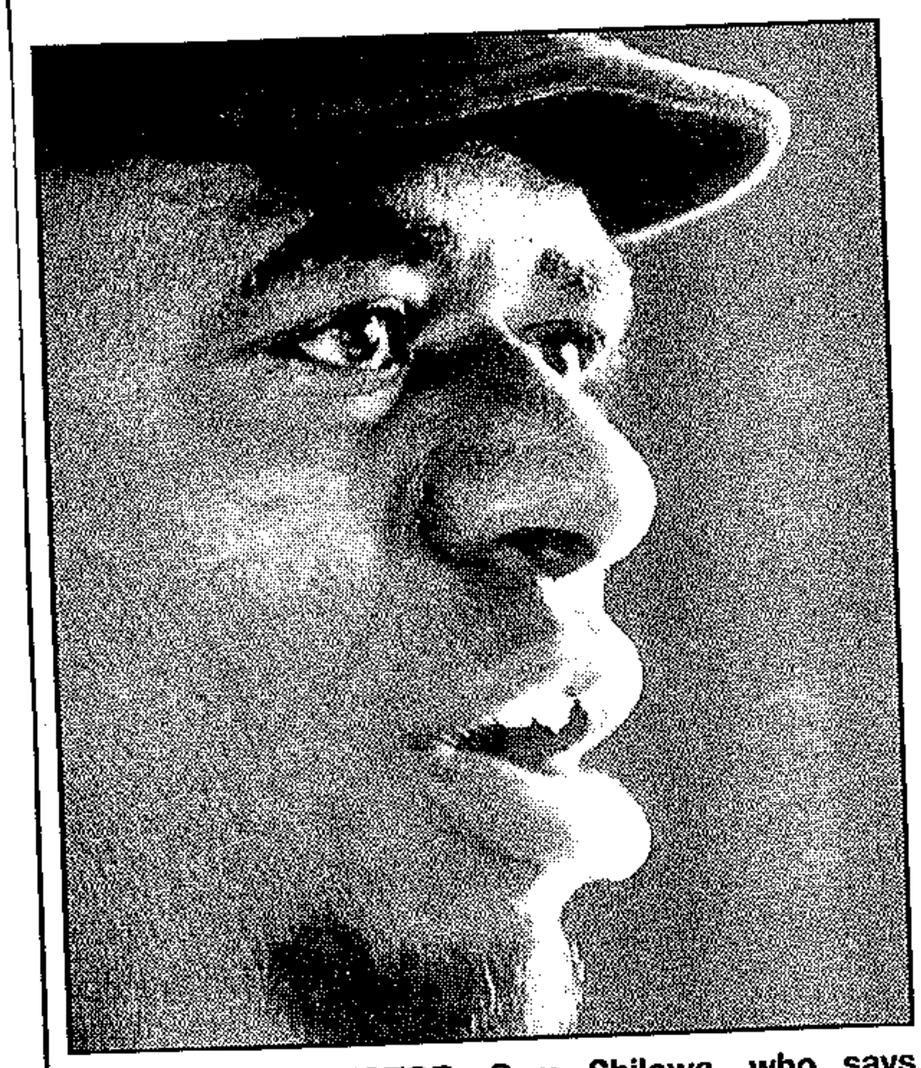
Speaking about abuses of the system by "ghost" beneficiaries, Fraser-Moleketi said: "We have made a serious effort to re-register beneficiaries in order to increase the accuracy of our database, so that we can pay each beneficiary who legitimately qualifies the right amount at the right time in the right place – every month.

"Our goal is to minimise the inconvenience of bona fide beneficiaries. We are making a deliberate effort to fast-track the re-registration of those who qualify and to address backlogs of applicants waiting for payments."

Minimum standards for the Child and Youth Care System, the first ever for South Africa, would be circulated within three weeks. The transformation of the system remained a priority and significant progress had been made in this regard.

"If we continue to work at this pace, and with positive outcomes, we will indeed have a fully transformed system for young people at risk within the next five years as planned," Fraser-Moleketi said.

She added that her department had provided financial assistance to 1 140 employment projects throughout the country, mostly in remote rural areas.



SAVINGS PROTECTOR: Sam Shilowa, who says money in retirement funds belongs to the workers

# Cosatu forces rethink over pension funds

ST 31/5/98 (300)

CAROL PATON

COSATU general secretary Sam Shilowa, who this week stepped in to stop the Pensions Funds Amendment Bill from going ahead, said the union federation would be closely involved in drawing up an alternative proposal which would ensure that employees received better benefits if their retirement funds performed well.

The Bill, which for the first time would have allowed employers to gain access to surpluses in pension funds, is to be reconsidered by the Department of Finance and the Financial Services Board after Shilowa met them on Tuesday, threatening a general strike if it was not withdrawn.

"Pension funds are for those who belong to them. The money in these funds is a saving or a deferred wage. It is your money, not the company's money and any surplus that accrues belongs to you," Shilowa said.

Shilowa's intervention is likely to benefit all employees, both white- and blue-collar, who belong to defined benefit funds where employers and employees contribute a prescribed amount equal to a percentage of salary to pension funds as a condition of service.

Surpluses — funds over and above what is needed to meet the retirement benefits of all members — often arise, mainly because members who leave before retirement are often penalised and receive only their contribution while that of the employer remains in the fund.

The Bill proposes that employers be allowed to access the surplus under strict conditions, including the consent of members.

A source involved in drafting the Bill said this implied that employers would have to "cut a deal" with employees in order to get access to the surplus, he said.

With this proviso, employers would be able to use surplus funds for whatever they wanted.

They would have to put money back into the fund only if it became underfunded within seven years of the withdrawal.

Shilowa rejected the mechanism which allowed for cutting a deal because he said that, in principle, money in retirement funds belonged to employees. Putting the surplus up for grabs by employers or employees also had negative long-term consequences on the nation's savings.

"The law has to say that employers cannot lay hands on those funds. The minute the law says a surplus is there for use, workers will say they want to use it. I can't say no to workers if employers have access," he said.

In a country with low savings and no social wage, allowing the surplus to be used will put a greater burden on the state."

Ironically, the amendments to the Bill were motivated by the need to put a stop to the manipulation of surplus funds by employers.

Often when funds achieve surpluses, employers take a "contribution holiday" and do not pay their contributions.

Recently, a number of employers have liquidated funds with surpluses by transferring members to new defined contribution funds along with their benefits and then changing the rules of the old fund to allow them to take the surplus.

The same occurred when workers voted to withdraw their funds from pension schemes in favour of newer provident funds.

The source involved in drawing up the Bill said that this was a real risk and that there were a number of employers "sitting around waiting to do it".

"The best thing is to place the matter beyond doubt legally and either prohibit it or allow it.

"The proposal is to allow it under certain circumstances and then to negotiate over who gets what," said the source.

Shilowa said that surpluses should be used, firstly, to improve retirement benefits for members and pensioners and, secondly, to fund infrastructural development.

He said that a Cosatu proposal that pension funds should have a prescribed asset investment in infrastructure had been rejected by the Financial Services Board, although it had in the past been an acceptable mechanism for funding infrastructure.

13/6/08



**MIRIAM NJEJE:** her children spent her money on themselves before she moved to a Noah house

# Noah saves Khay

## Elderly are 'bearing the brunt' of housing shor

# Pension fund ordered to supply information

Reneé Grawitzky BD 5/6/98 (300)

FEDLIFE Assurance and the Cape Liquor and Catering Trade Pension Fund have been ordered to hand over information to assist fund members in forcing trustees to take a decision on the distribution of surpluses.

The order, handed down recently by Pension Funds Adjudicator Prof John Murphy, has major implications for the status of dormant members of pension funds. Dormant members are those who have ceased to make monthly contributions but have left their savings in the fund.

In this case these members made up more than 80% or 50 000 of the fund's total membership of 59 600, which holds assets of R180m. They have not received annual benefit statements because contact has been lost. It is understood Fedlife is uncertain what information it has on most of these members.

Hospitality Industry Pension and Provident Fund representative Allan Horwitz had argued that as a consequence of the dormancy problem the fund had developed huge surpluses which were not distributed for the benefit of active members or members wishing to transfer to other funds.

The dispute arose when a group of existing and dormant members — wanting to move over to another fund — requested certain information and a bonus in lieu of the fund's surplus.

Fedlife and the fund refused to grant the relevant information and agreed only to transfer existing savings from the fund. These members sought an order compelling the provision of certain information.

They also sought that certain unclaimed benefits, which had reverted to the fund, be used for the benefit of the remaining members of the fund.

The adjudicator ordered Fedlife and the fund to collate and present him with the required information by the end of this month. He will then reconvene the proceedings to determine what should happen to the fund's surplus.Horwitz said the decision had major implications in terms of information disclosure.

# Cosatu considers options for looking after

(300) BD 10/6/98

Reneé Grawitzky

THE Congress of SA Trade Unions (Cosatu) was contemplating setting up a financial services company or purchasing a company to administer members' pension and provident funds worth hundreds of millions of rands, federation deputy general secretary Zwelinzima Vavi said yesterday.

The federation had yet to finalise which route it would follow, especially after suffering a setback when its investment arm Kopano ke Matla failed to acquire Protea Assurance last year, Vavi said.

Cosatu's drive to develop inhouse administration capacity formed part of a broader plan to have more control over members' pension and provident funds and to ensure that benefits accrued from administering fees could be used to invest in job creation and other initiatives.

A number of unions had been able to negotiate union-controlled national provident funds. Some affiliates had also agreed in principle to shift their funds to a Cosatu-administered company.

It was anticipated that if more unions negotiated- similar arrangements, such funds could be brought under the umbrella of the administration company.

This matter and the establishment of union investment companies were likely to form the basis of intense debate at the federation's central committee meeting later this month.

The 450 delegates will have to decide on two opposing resolutions — one calling for the establishment of investment companies and the other opposing such moves. The Chemical Workers Industrial Union has called for a campaign to vigorously oppose investment companies and "all forms of co-option".

The negotiation of a social accord and an alliance transformation programme were also likely to form the basis of heated debate.

Cosatu expressed its opposition to the type of social accord proposed by the labour market commission.

That type of accord was intended to "commit Cosatu to mythical class peace as advocated in social democratic countries and to ideas such as labour market flexibility and wage restraint", the federation said.

A social accord between government, labour and business had to be founded on agreed principles and would be very dangerous in the absence of an agreement between Cosatu and its allies on a transformation agenda.

The central committee would also consider resolutions on public service restructuring, developments in education, health and housing as well as public works programmes.

Vavi said the federation had accepted that wages in public works programmes would not be the same as wages in formal employment as such programmes were not meant to be a permanent feature but aimed at kick-starting the economy.

PENSION FUNDS

# TIME TO TRACK DOWN THE MISSING MIGRANTS

FM 12/6/98

## Cash mountain built on contributions by 'lost' migrant workers

(300)

A Cape Town pension fund is holding assets worth an estimated R90m belonging to "dormant" workers with whom Fedlife, the fund's administrators, has lost touch.

Of 59 600 members of the Liquor & Catering Trade (Cape) Pension Fund, 49 700 are in the dormant category.

The lost members are mainly poorly paid migrant workers who flocked to the Western Cape from the old homelands of Transkei and Ciskei. They were forced to make pension contributions from low wages, but because of the pass laws were often unable to return to their jobs after their one-year contracts expired.

Confirmation of the fund's portion belonging to these workers is one of the answers sought by seven existing "live" members who are still employed in the liquor and catering trade. Their complaint to the Pension Funds Adjudicator alleges "improper exercise of powers" and maladministration by the trustees. They are seeking a payout from the unclaimed kitty.

Fedlife — now called Fedsure Life Assurance — charges a fee of R525 355 to administer the fund, paid out of contributions received.

The Financial Services Board says it has never received an actuarial report on the financial position of the fund, which was registered with the board in June 1986. Fedlife says it is not required to do so.

**»The scheme is conducting its affairs in a somewhat unusual manner.«**
*Pension Funds Adjudicator, Prof John Murphy*

To determine the amount of unclaimed benefits, the Pension Funds Adjudicator, Prof John Murphy, has ordered the fund's management committee and Fedlife to provide a full profile of the scheme's membership by June 27.

In his scathing determination, Murphy says the scheme "is conducting its affairs in a somewhat unusual manner. The fact that the fund is in possession of R170m on behalf of a membership of whom 80% are dormant, clearly constitutes special circumstances warranting the disclosure of further information for the purposes of further investigation and the commencement of a programme of remedial action.

"These lost members should form a very small component in a well-managed fund. When this category is swollen and exceeds the number of live and paid-up members, it is a clear sign that serious problems exist and need to be tackled.

"Fedlife's view has always been that the onus for securing a benefit lies with the member rather than with the fund or the administrator. In a country where illiteracy and lack of transparency and information were and stubbornly remain the norm, this obviously places many workers at an enormous disadvantage."

The Liquor & Catering Trade Pension Fund was one of several contribution-driven retirement funds set up by the Bargaining Councils — previously Industrial Councils — for the catering sector. Separate councils ran the funds until the


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The Indian Ocean in motion
PORT RÉUNION

Eighties, when their administration was taken over by professional insurers such as Fedlife which underwrote the funds and became co-trustees with the councils.

There were no independent principal officers, external auditors or independent actuaries. The insurance companies had sole investment rights.

Key evidence on the issue of dormant members was given to the adjudicator by Allan Horwitz, principal officer of the Hospitality Industry Pension & Provident Fund (HIPPF). This fund was previously the Bargaining Council's Johannesburg scheme, but became the HIPPF and in 1993 terminated its administration contract with Fedlife after a protracted legal battle.

**LOST PENSIONERS**
**Catering industry funds**

| | Live members | Dormant members | Total assets |
|---|---|---|---|
| Liquor & Catering Trade (Cape) Pension Funds | 9 000 | 49 600 | R170m |
| South Coast Provident Fund | 1 900 | 13 000 | R16m |
| Pietermaritzburg Provident Fund | 162 | 1 700 | R3m |
| Hospitality Industry Pension & Provident Fund | 6 000 | 22 000 | R140m |

HIPPF's administration was taken over by Southern Life, which embarked on a vigorous campaign to track down its 36 000 dormant members, who made up two-thirds of the membership. It reduced the number to 22 000.

Horwitz says that though he estimates the Cape fund's liability to dormant members at R90m, it could be as high as R140m. "Fedlife hasn't ever declared the dormant liability."

Rule 23 of the Liquor & Catering Trade (Cape) Pension Fund states that if a benefit is not claimed after five years it should revert to the fund and be used at the actuary's discretion for the benefit of live members and pensioners. "The fact is they've never implemented that rule and they've never made known the liability of dormant members," says Horwitz.

The live members consider it unlikely that the dormants will ever emerge at this late stage — and they want the surplus.

Fedlife maintains that they aren't entitled to the whole lot. "The unclaimed benefits are the property of the people who haven't claimed," says Barry Lipschitz, a senior legal adviser in Fedlife's benefits division.

"At any time these dormant members could come along and claim their benefit. Despite the five-year rule, there's a provision that says the trustees have a right to pay those monies to any of those unclaimed members who make a claim.

"We must be prudent and therefore we've made a prudent determination. We've never said we won't pay the surplus, but our actuary (Vivian Cohen) feels we should hold back a certain amount of it. That portion is trust money that belongs to those dormant members."

A pensions specialist pours cold water on this argument. "Ideally what should happen is the dormant members should be found. You can statistically work out the probability of dormant members coming forward and provide a contingency fund. And at the same time unlock some of the surplus to enhance the benefits of people who have incredibly bad benefits."

Fedlife's Lipschitz undertook to tell the *FM* the percentage of the fund's R170m assets that belongs to the dormant members, plus the total of the fund's surplus (balance between assets and liabilities).

However, earlier this week he said the figures were "not available right now".

Of total assets of R170m, Lipschitz said 23% was "potentially available for distribution in respect of those dormant members".

The Bargaining Council that has managed the Liquor & Catering Trade Pension Fund is in the process of being liquidated. But Fedlife continues to administer it. The trustees will decide whether Fedlife will continue its role, new trustees should be elected, or the pension fund should be liquidated altogether.

**Jack Lundin**

'Trust a Rooinek to

Upper Class Relax with a therapeutic neck and shoulder massage. To enjoy this complimentary service, simply lean forw

(300) ARG 13/6/98

DI CAELERS

They have been beaten, defrauded and neglected – but they are the lucky ones. They have found secure homes and warm companionship in the bright green houses that make up the Neighbourhood Old Age Homes (Noah) project in Khayelitsha.

The elderly live in their own homes in communities with which they are familiar and with which they have links.

At first, other than their distinctive paint jobs, the houses look like any others in Z Section of Khayelitsha's Site B, and that is exactly the way those behind the project want it.

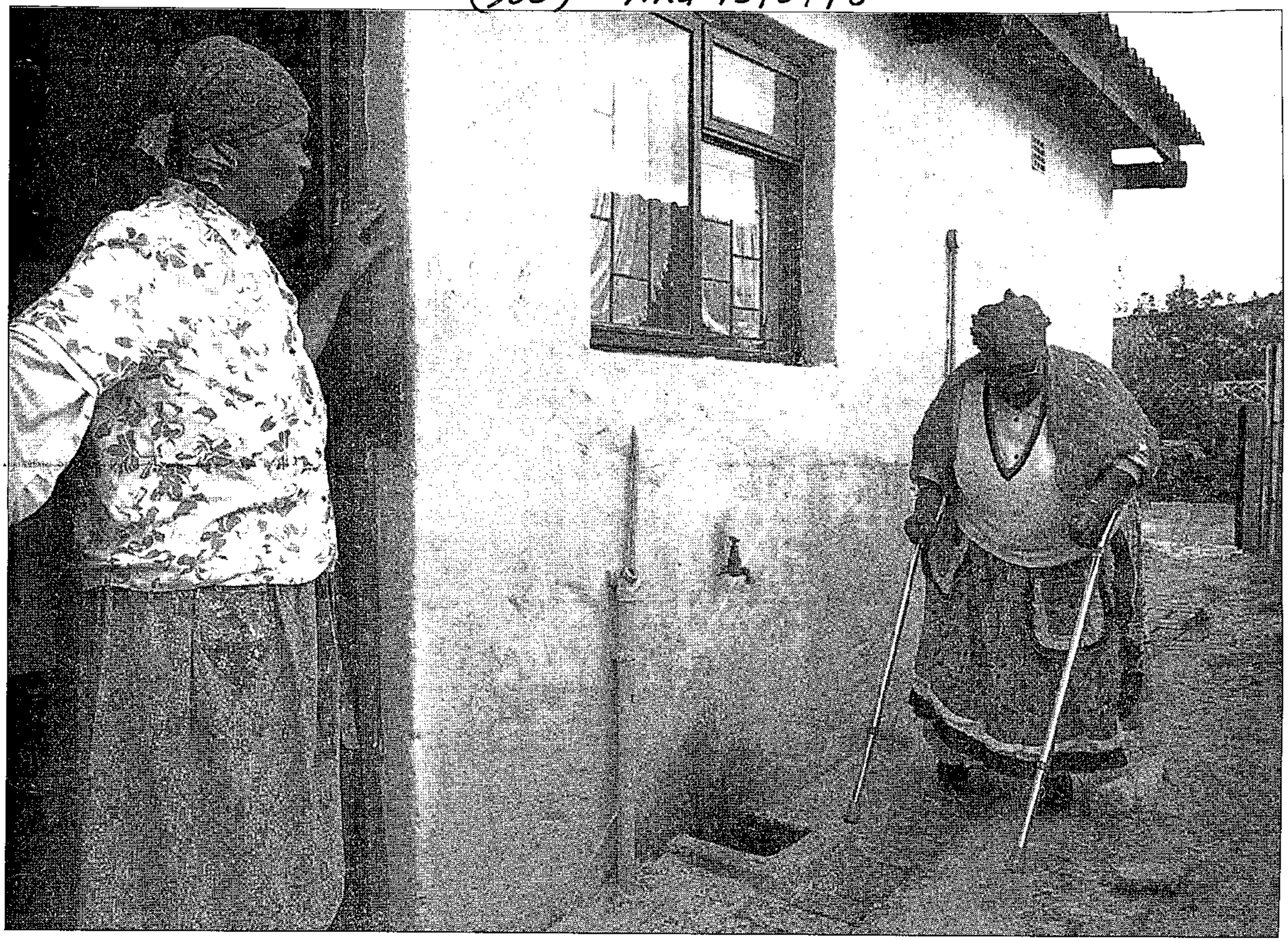
Inside, however, the 16 residents tell horror stories of the abusive situations they have escaped and of how happy and secure they are now.

Wilson Mboxa, 90, didn't bath for eight years while he lived, lonely and neglected, in an old burnt-out bus after the nephew he had lived with got married and moved away.

His housemate, Sidwell Sepuhle, was so badly beaten and kicked by his son that he spent four days in hospital. He had suggested his son contribute some of his earnings to the household budget. He finally became so frightened of his son that he had to move out.

Miriam Njeje saw all her pension money being spent by her daughter and cousin.

But, in spite of stories like these, research has shown that Khayelitsha's elderly still prefer to live in their own homes with their own families. And because of this, Noah is planning to take its Khayelitsha project forward.



**HOUSE-MATES:** Mabel Mshumphele and Lizzie Mjali, on crutches, live together in one of the Noah houses in Khayelitsha Pictures: BRENTON GEACH

Noah is a Catholic Welfare and Development initiative and its aim in Khayelitsha is to replicate its Woodstock model which started in 1981 with just one house. Today, there are seven cottages and a thriving community centre which allows for holistic care of many elderly people in the area.

Khayelitsha has five houses and work is being carried out on a community hall on land between the houses which will mark the beginnings of a fully fledged care centre.

Noah hopes Claremont Rotary will commit to a proposal to turn one house into a frail care centre, with ramps and grab rails, for people in need of 24-hour care.

Noah fundraiser Anne van Niekerk said the aged were bearing the brunt of the breakdown of all sorts of aspects of the old apartheid system.

She said this was due to severe housing shortages in the country and the Government making it clear that only old people unable to care for themselves should be admitted to old age homes.

Ms Van Niekerk said: "Residential

care of the elderly is no longer appropriate. No country can afford costs of large institutions, nor are they the appropriate place for the fit elderly."

Noah was an integral part of the move to community-based initiatives where the fit elderly remained in their communities but supported by families and structures put in place by local authorities.

She pointed to the research paper into the needs of the elderly in Khayelitsha, in which researchers Angela O'Brien and Lynn Gillis found most elderly people were keen to live with their families. There was concern the community would regard a family "as failing in its filial duty if it institutionalised an elderly relative".

The elderly welcomed their role of caring for grandchildren or sick relatives as it made them feel needed and integrated. But while the family unit was an important source of social support for the elderly, some respondents said they could not cope with the expectations their families had of them.

Service providers were concerned that elderly family members were sometimes so involved in attending to the household that their own needs were neglected.

They believed families were often ambivalent about looking after elderly relatives, who were an asset only because they provided income and assistance. Their pensions were often the family's primary source of income.

"Situations were alluded to where families provided accommodation for pensioners purely in order to access their pensions; the family did not attend to the physical care and well-being of the pensioner concerned."

Ms Van Niekerk said the Khayelitsha Noah residents paid R95 a month rent and paid for all their own food. House mother Nobulali Tolofane helped them open bank accounts although most still gave financial support to their families.

"We have realised we cannot only be responsible for accommodation; we need to move to holistic care.

"We need to provide support services too, like counselling and medical backup," said Ms Van Niekerk

***'We have realised that we cannot only be responsible for accommodation, we need to move to holistic care'***

At Noah's other centre in Woodstock, the clinic is staffed by University of Cape Town medical and paramedical students.

Ms Van Niekerk said the organisation was hoping for the same commitment from UCT for Khayelitsha.

As soon as the community hall in Khayelitsha was complete, clinics could start operating, as well as literacy classes and skills workshops. A daily lunch would then also be cooked for all residents.

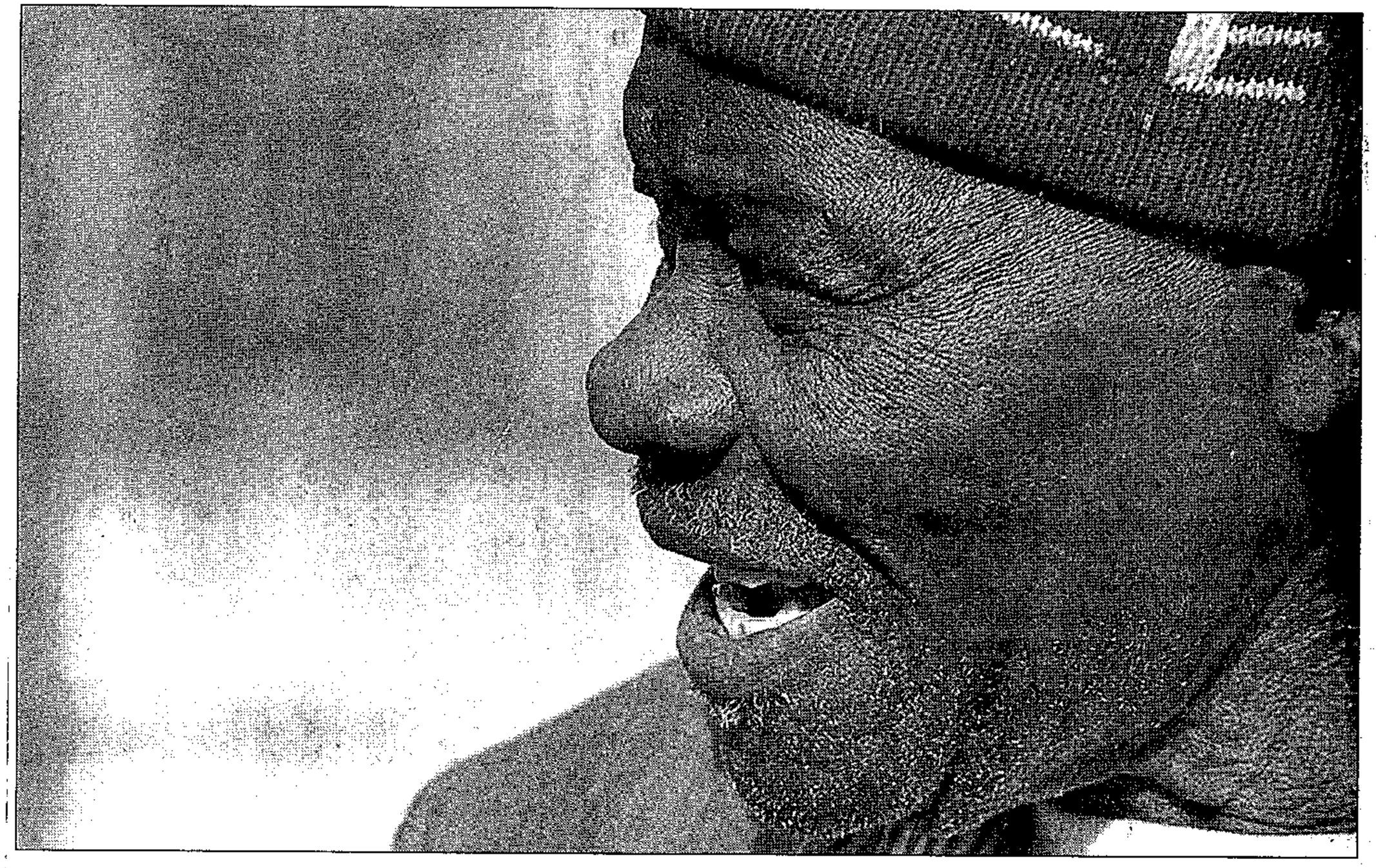
In the afternoons, the hall could be used by other community groups.

Noah is also taking over an existing lunch club at nearby Monwabisi, where they intend setting up a weekly health care clinic and offering cooked lunches to the wider elderly community.

"People have been clear they want to live with their families as far as possible so we need to respond by offering day-care," said Ms Van Niekerk. "The Noah hall would be the mini community centre and the one at Monwabisi the big centre that will reach out to the broader elderly community."

AR 9
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**WILSON MBOXA:** lived in a burnt-out bus and had not bathed for eight years

# 'elitsha's old folk

## tages but some are too fit for old age homes

/S

*Low rate of increase and contribution holiday are of central concern*

# IBMSA pensioners to lodge fund complaint

(300) CT (MPR) 15/6/98

ANN CROTTY

Johannesburg — IBMSA pensioners are preparing a formal complaint to the pensions funds adjudicator detailing areas of concern relating to the management of the fund and its surplus. These include the low rate of increase granted to pensioners each year and the contribution holiday the company has been enjoying for some time.

> *"Most of the pensions are now between 20 percent and 28 percent below CPI"*

IBMSA, the information technology company, is currently the object of a contentious buy-out offer from controlling shareholder IBM Corporation.

Pension increases for 1996 and 1997, of 5 percent and 5,8 percent respectively, were considerably below the inflation rate in those years. As a result of low levels of increases most of the pensions are now between 20 percent and 28 percent below the consumer price index.

It appears that for several years IBMSA has been using the pension fund surplus as a general fund to finance company retrenchment programmes. In 1991 the then chief executive Brian Mehl stated in an in-house magazine: "The pension fund is a general pool of money that has surpluses that can be used to fund programmes like the early retirement offer to employees."

In 1994 and 1995 significant "excess" funds were transferred from the IBMSA pension fund surplus to the newly formed ISG provident fund for the benefit of those members of the IBM pension fund who transferred to the provident fund.

The excess consisted of funds that exceeded the defined actuarial reserve required to cover the sum of all individual pension liabilities on transfer to the provident fund. Employees were offered a bonus as an inducement to exit the IBM pension fund into the new provident fund.

The bonus represented about 25 percent of the actuarial reserve, which in turn represented a tiny percentage of the surplus that had been accumulated by the pension fund. No bonus was offered to employees who opted to remain members of the pension fund.

All of the trustees of the pension fund are management appointees. Legislation due to come into force late this year requires that 50 percent of the trustees are appointed by members of the pension fund.

IBMSA sources believe that IBMSA is now trying to terminate the fund and assume control of all of the surplus before trustees appointed by members can exert some influence on the management of the fund and this surplus.

A document recently distributed to members by the IBM Pensioner Action Group noted that many pensioners agreed with the plans to terminate the fund, "provided this termination is carried out in full consultation with the trustees who have been elected by the members of the pension fund".

IBMSA has not responded to the numerous requests for a meeting with the Pension Action Group despite the widespread support from members enjoyed by the group.

Jim Tennant, the principal officer of the IBM pension fund, was not available to return calls on Friday. Robin Jarman, who is chairman of the IBM Pensioner Action Group, confirmed that the group was preparing a formal complaint for the pension funds adjudicator. He did not want to comment on the issue.

# Stricter law to protect senior citizens from maltreatment

(300)

CLIVE SAWYER

ARG 10/6/98

Stricter protection for people in old-age homes, often the victims of physical and financial abuse, could be in the offing if Welfare Minister Geraldine Fraser-Moleketi goes ahead with plans for new legislation criminalising elder abuse.

Her next moves will be watched carefully by James Selfe, a Democratic Party delegate from the Western Cape to the National Council of Provinces, who this year put to Parliament his own legislation on protection for the elderly.

Mr Selfe proposed the legislation after the Government had failed to revamp ineffective 1967 legislation.

Mr Selfe's bill has been in the doldrums while the majority party pondered whether to let it go ahead into the parliamentary process.

Last week, Ms Fraser-Moleketi told the National Council of Provinces that present legislation dealing with the elderly was inappropriate and a new act was needed.

But given the urgency of the issue, she intended tabling an amendment to the 1967 Aged Persons Act to introduce two key changes.

These were to democratise the governance of institutions providing care for the elderly, and to ensure the protection of the aged in these institutions. Abuse of the elderly would also be looked at.

Mr Selfe said Ms Fraser-Moleketi appeared to have hit the bull's-eye in her goals for the new legislation.

"This represents a significant victory," he said, adding that she had told him that the bill would be introduced before the end of the year.

But he said he would decline to remove his private members' bill from Parliament's order paper until the committee on private members' legislation decided its fate.

Mr Selfe, when a senator, introduced legislation proposing a fund for victims of violent crime.

The bill was taken over by DP colleague Douglas Gibson and introduced in the National Assembly. But the assembly's committee on private members' bills kicked out the bill, arguing that Justice Minister Dullah Omar had said he intended tabling similar legislation.

"We're still waiting," said Mr Selfe.

# Dismay over demise of national retirement forum

(300) ST (BT) 21/6/98

The National Retirement Consultative Forum (NRCF) has been disbanded by the government.

The move has caused dismay in the industry, and it increases the uncertainty facing fund members, especially those nearing retirement age.

Gill Marcus, Deputy Minister of Finance, announced that the NRCF was formally disbanded at a meeting last month.

The apparent reason was that the forum could not make further progress as there were many related issues on which government still had to make decisions.

The major decision facing the government is whether or not to abolish the means test (the qualifying income) for the state old age pension. The abolition would mean a huge financial burden for the state.

The NRCF was set up in December 1996, on the retirement industry's initiative, with the aim of applying a holistic approach to changes in retirement funds and the industry.

For individual fund members, the NRCF's demise is a blow as it brings much more uncertainty to your retirement planning, especially on the thorny issue of income tax.

PENSION UNCERTAINTY

**By LEIGH ROBERTS**

The threat of harsher tax legislation looms brighter. In an early report of the Katz Commission of Inquiry into Taxation, it was recommended that there be a greater tax burden on retirement funds.

And for the retiring fund member, the Katz commission suggested that the existing tax formula be changed in favour of taxing the lump sum payout in full and leaving the ongoing pension payments tax-free. (The formula increased the tax payable on larger lump sum payments, but decreased that payable on low lump sum payouts.)

Industry sources voice the concern that the NRCF's demise will allow the government to make ad hoc changes to the retirement industry without the guidance of a holistic approach.

More problematic is that some industry sources see it as the government moving away from a consultative process of change.

Industry sources say the move smacks of electioneering, as the government does not want to deal with controversial issues in the run-up to the general election.

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*Rules will be set aside by Pension Fund Adjudication if they violate the Constitution or are unreasonable*

# Retirement funds are not outside the law

Pension fund rules will be set aside by the Pension Fund Adjudicator, Professor John Murphy, if they violate the Constitution or are unreasonable.

Murphy, speaking at the annual conference of the Institute of Retirement Funds, said he had received a flood of complaints from members about funds since he had set up office earlier this year. In the first five months he received about 450 complaints.

He anticipated that he could receive up to 1 300 complaints in a year.

However, his office was not big enough to deal with this volume and he believed his staff would have to be increased to 20 and the budget substantially increased to R5 million a year.

He said the purpose of his office was to investigate and determine complaints of maladministration, abuse of power, disputes of fact and law and employer dereliction of duty in relation to retirement funds in a procedurally fair, economical and expeditious manner.

Although retirement funds were private arrangements between employers and employees they perform "duties in the public interest".

It was easy to regard such funds as the extension of the social arm of the state.

"For this retirement funds receive advantageous treatment from a tax perspective and have considerable powers to legislate and to adjudicate in relation to the affairs of a significant section of the public".

Murphy said it was from this premise that Parliament "has decided to subject these apparently private law institutions to public law scrutiny at the instance of the adjudicator.

The effectiveness of the control over legality depended largely on the grounds of review.

Decision-making as a general rule should be tested for rationality and for a commitment to the values entrenched in the Constitution.

Murphy said until recently adminsitrative law doctrine limited grounds of review to testing the process followed to reach decisions.

"In a society constructed on a fundamental Constitution, including a Bill of Rights, this limitation is no longer valid." As a result the grounds of judicial review of a retirement fund decision were both procedural and substantive.

☐ Procedural grounds focused on the decision-making process and the participation of the affected parties. For example, was there a fair hearing and were the relevant issues taken into account?

☐ Substantive review involved challenges on the grounds that the decision was outside the letter or purpose of the conferred power or on the grounds that the decision was unreasonable.

Murphy said so far he had relied on the concept of maladministration and the ultra vires (outside the law) to review decisions of retirement fund trustees on grounds of unreasonableness.

The term maladministration was an open-ended concept and he expected it to be subject to debate.

The Oxford Dictionary defines maladministration as "to administer or manage inefficiently or badly or improperly".

Murphy said for the decisions of retirement fund trustees to be reasonable they must be motivated by the pursuance of a socially legitimate objective; and the means of giving effect to the decision should be proportional, in the sense of being carefully designed to achieve that objective and should be rationally connected to it.

The means of giving effect to a decision should impair the rights and legitimate expectations of affected parties as little as reasonably possible.

Examples of trustee unreasonableness included:

☐ Acting under dictation;
☐ Unlawful delegation;
☐ Passing the buck;
☐ The imposition of inflexible policy rules resulting in a fettering of discretion;
☐ Failure to take into account relevant considerations;
☐ Taking into account irrelevant considerations; and
☐ Exercising a power for an ulterior purpose which was not contemplated at the time the power was conferred.




Murphy said it did not necessarily follow that substantively unfair conduct by a retirement fund or the trustees would constitute maladministration.

"On a literal interpretation of the concept of maladministration, the question to be answered is whether 'the decision is bad or inefficient'.

"The conduct of a pension fund or its board of trustees, which is bad or inefficient and sustains prejudice to the complainant, can be set aside.

"Bad or inefficient conduct prejudicial to the complainant almost always will be considered to be unfair if it bears no logical rationale or has no proportional relationship to the overall objectives of the fund."

Murphy said the consequence of this was that although certain conduct may be permitted by the rules of a retirement fund, if the conduct is unfair by virtue of being discriminatory or manifestly unjust, then it was likely to constitute maladministration.

Murphy said there had been a few recurring themes since he had taken up his position. These themes included:

☐ A complainant's right to a hearing.

Murphy said that complainants do have al right to a hearing by his office but a "very real practical problem" lay in that complainants often had no legal representation and little experience in formulating complaints. As a result he was often required to "champion their cause" with a pension fund or an employer.

> *Bad conduct by pension funds, which is prejudicial to the complainant, can be set aside*

The consequence was that he had recently been threatened with legal action because of bias.

The Supreme Court of Appeal had previously laid down in a question of bias that if "bias is reasonably suspected" then it would be sufficient to prove bias.

The court had rejected a challenge that there should be "a real likelihood of bias".

Murphy said if his decisions were challenged on the basis of bias "it may be necessary to argue that the real likelihood test is the appropriate test to apply in the case of the Pension Fund Adjudicator".

☐ Disclosure of information. Murphy said that although the Constitution gave people the right to access information that was required for the exercise or protection of their overall rights this was currently limited to information held by the state.

However, retirement fund members still had a right to information derived from common law fiduciary duties which were also defined in the Financial Institutions Act. The Constitution could also be used for interpreting common law and statutory rights.

"It would seem to be just and equitable that the boards of management of pension funds, in terms of their duty to act in good faith, should be expected to disclose such information as is reasonably required for the exercise or protection of any right".

☐ Remedies the adjudicator may grant. Murphy said the pension Funds Act is unspecific about remedies.

There were two controversial grounds. The first was whether he could set aside the rules of a fund on the grounds that they violated the constitution or were unreasonable.

He was asked the question repeatedly and his response was unequivocal: "Yes, I can, and where appropriate I shall do so".

The second issue was whether he should "correct unreasonable decisions".

Murphy said the courts were reluctant to substitute their own decisions for those of another authority. The ordinary course was to refer the matter back to the original body to reframe the unreasonable decision.

However, relying on a number of other arguments, he had on a number of occasions substituted his decision for an unreasonable decision made by trustees.

These arguments included: the end result would be a foregone conclusion; further delay would cause unjustifiable prejudice to the applicant; such bias or incompetence had been exhibited that it would be unfair to require the applicant to again submit to the same jurisdiction; and the adjudicator was in a good position to make the decision.

# Only over-contribution allows employer to enjoy fund surplus

ET (MR) 23/6/98 (300)



The basic rule on the division of the surplus of a pension fund is that the surplus belongs to the fund with any employer entitlement limited to the extent of proven over-contribution.

And it will remain so until the Supreme Court of Appeal rules otherwise, says Pension Fund Adjudicator, Professor John Murphy, pictured right.

Murphy told the annual conference of the Institute of Retirement Funds that his view was based on the recent Tek court case in which a judge found that an employer could not raid a pension fund surplus unless it could prove over-contribution.

He said he was dealing with a number of fund surpluses cases and he expected to give decisions within the next two months that would "hopefully add acceptable substantive guidelines to trustees who have to exercise their discretion in this regard".

He told the conference he had been drawn into the "11th hour spat" over the draft legislation that will enable employers to access the surplus in pension funds after negotiations with members. (Objectives have been made to the legislation by some trade union organisations). He would be willing to assist "within the limits of my experience and expertise".

However, he saw the legislation as having great virtue in the context of the move towards defined contribution funds in that it would serve to shift the resolution of the issues of surplus division away from the adjudication process. The issues included improved benefits for members, redressing past discrimination, and re-investment in the employer's business in the interests of sustainability.

"Perhaps these problems are best resolved by consultative joint problem-solving and negotiation, rather than through the direct engagement of the adjudication process," Murphy said.

(500) CT(BR) 25/06/98

INSTITUTE OF RETIREM

# Educating members, t

There could be serious consequences for employers and retirement funds unless more was done to educate both retirement fund members and their elected trustees about how funds work and the different decisions that fund members face.

Abel Sithole, chief executive of the Eskom Pension Fund, which has won a number of Personal Finance/Liberty Life communication awards, told the Institute of Retirement Funds annual conference that many members, including well educated people, had no idea of the ramifications of the decisions that they faced or made on retirement provision.

Sithole said it was in the self interest of employers to ensure members and trustees were properly educated.

With the changes in the Pension Funds Act, members could now make complaints to employers and to a Pension Fund Adjudicator.

"To avoid unreasonable complaints and demands based on misinformation, it will be important to inform and educate members on all aspects of their retirement and related benefits.

"Retirement funds will not only have to be transparent, they will have to ensure that the benefits provided and the rationale for such benefits is clearly communicated and understood by members."

Sithole said, because trustees will need to have the trust and confidence of employees, as well as knowledge and understanding of retirement provision issues, unions and shops stewards, together with the employer, would be best placed to educate and communicate with members.

But employer and member representative bodies could only communicate with members on generic retirement issues.

"The current shift towards defined contribution funds requires a level of communication and education far beyond what employers or member representative bodies can provide".

Sithole said this was because the shift was characterised by benefit structures where the member was given the freedom to choose the appropriate benefits and investment vehicles through a board of trustees or investment managers.

"With the freedom to choose, members also get, directly, the risk inherent in the volatility of investment returns, the risk of increased taxation of retirement fund assets and the risk that the benefit structure chosen is inappropriate for their circumstances and will therefore not be sufficient to meet their needs.




# Pension fund issues put on backburner

(300) CT(BR) 23/6/98

Five major issues affecting retirement funding have been left unresolved by the government's decision not to go ahead with drafting a policy white paper on the retirement industry.

Deputy Minister of Finance, Gill Marcus, has told the industry that resolution of the issues is unlikely to come until well into the next century.

This was revealed by Maurice Harding of Alexander Forbes at the Institute of Retirement Funds annual conference in Johannesburg.

The five issues are: State old age pensions; compulsory membership of a retirement fund; the wider provision of retirement funding; the preservation of retirement funds when people changed or left employment; and the taxation of retirement funds.

The issues were before the National Retirement Consultative Forum (NRCF), which has been disbanded by the government.

Harding said Marcus told the forum that it was impossible for government to make the kind of decisions the industry was seeking. She felt it was appropriate for the NRCF to be disbanded until such time as the input was required.

She explained that the issues which were affecting this were numerous, including the social welfare situation in South Africa,which was impacted upon by the high unemployment rate.

There were clearly heavy demands on government funding in the areas of healthcare and education which could well come before additional expenditure on social old age pensions.

The NRCF had identified five areas where no agreement had been reached by the time it was disbanded.

Harding said progress on all the outstanding issues depended on agreement on the State Old Age Pension (Soap).

It appeared there were two options for Soap. The first was to retain the "means test" in its current form.

The second was to scrap the means test and to pay social old age pensions to all South Africans.

When Marcus was approached on the issue she announced her decision to delay the process indefinitely.

INSTITUTE OF RETIREMENT F

*Rules will be set aside by Pension Fund Adjudication if they violate the Constitution or are unreasonab*

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"Perhaps these problems are best resolved by consultative joint problem-solving and negotiation, rather than through the direct engagement of the adjudication process," Murphy said.

*As from the middle of next year, South African companies will probably be forced t*
*This is likely to have a dramatic effect on profits. Against this, the Department of H*
*young and the healthy subsidise the old and the unhealthy, is opposed to this move*
*Turnbull, managing director of Specialised Retirement Fund Services and a member*
*at funding health*

# Divided views on pre-fu

The need for pre-funding of post-retirement medical aid contributions stems from two requirements, according to Graham Turnbull, managing director of Specialised Retirement Fund Services.

The first and most pragmatic requirement was that pensioners needed to be able to afford medical aid contributions during their retirement if they wished to continue enjoying the healthcare services they had during their working lives and would probably have greater need for these services during their retirement.

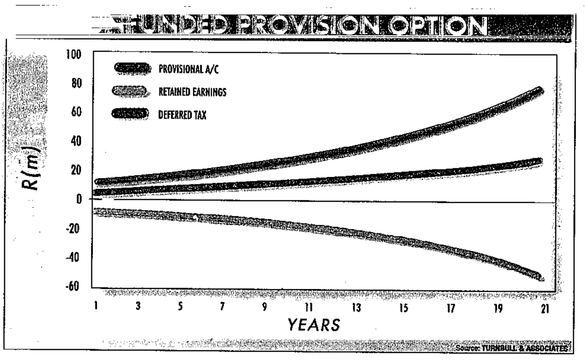
The second requirement was that companies, which subsidised their pensioners medical aid contributions, needed to disclose the liability created by this practice. This had a significant impact on the structure of their balance sheet and the "net worth" of the enterprise.

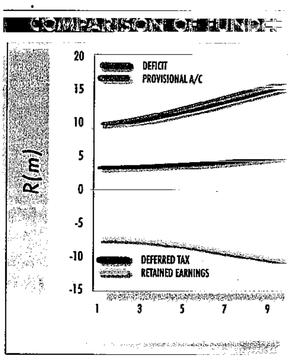
Turnbull says the National Retirement Consultative Forum theme committee which dealt with medical aid provision and the interface with retirement arrangements had to examine several issues. These included:

- ☐ Proposals on the need for pre-funding of medical contributions of pensioners;
- ☐ The potential vehicles for pre-funding;
- ☐ Any regulatory framework required for pre-funding vehicles; and
- ☐ Tax considerations of such vehicles.

The Department of Health submitted a discussion document which expressed the view that there was no need for a separate pre-funding vehicle and that pre-funding was not necessary as the quantification of the future liability to pay for pensioners medical aid contributions was uncertain.

It felt that, as this liability was uncertain, a company had no obligation to reflect any liability in its balance sheet. The department felt that continuing on a pay-as-you-go basis was adequate and that employers had to absorb the cost increases of aging em-




# Options of funding i

From the middle of 1999 companies will have no choice about disclosing future health care funding liabilities for employees on their balance sheet, Graham Turnbull, managing director of Specialised Retirement Fund Services told the Institute of Retirement Funds annual conference.

He said the only choice a company would have was whether or not to fund the actuarial liability of medical care contributions created by employment contracts.

"In the long term it would appear to be more beneficial for an employer to pre-fund for this contingent liability."

When a company's accounts were audited, the auditor's report has to state whether the accounts produced were a "fair representation" of the financial state of the company. If hidden liabilities were not disclosed then the value of the financial statements as a reporting tool are impaired.

In the United States companies saw dramatic cuts of between 20 and 50 percent in profits and significant falls in net worth after being required to determine the value of the obligations in employment contracts for health care contributions for pensioners and make provision for them.

Over the past couple of years some companies in South Africa have attempted to reduce obligations created by employment contracts by altering contracts to remove obligations.

Turnbull warned this practice may come under attack if tested in terms of the Labour Relations Act and Employment Equity Bill. It was also possible that certain employee benefits relating to provision for retirement and medical aid may be legislated.

He said there were two options for post-retirement medical aid contributions. These were:

**THE UNFUNDED OPTION**

**A simplified example:**

**Balance Sheet of ABC Ltd is:**

| | |
|---|---|
| **Capital Employed** | **R m** |
| **Shareholders Funds** | **10** |
| **Retained Earnings** | **100** |
| **Total** | **110** |
| **Represented by:** | |
| **Fixed Assets** | **40** |
| **Net Current Assets** | **70** |
| **Total** | **110** |

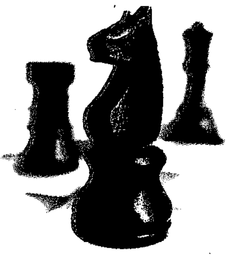
In the case of the unfunded option, the bookkeeping entries initially made are:

- ☐ Credit a provision account with R10 million;
- ☐ Debit deferred tax with R3,5 million (corresponds with 35 percent company tax); and
- ☐ Debit retained earnings with R6,5 million (after tax).

The balance sheet structure now changes to:

**Balance Sheet of ABC Ltd is:**

| | |
|---|---|
| **Capital Employed** | **R m** |
| **Shareholders Fund** | **10** |
| **Retained Earnings** | **93,5** |
| **Provision account** | **10** |
| **Total** | **113,5** |



Think.

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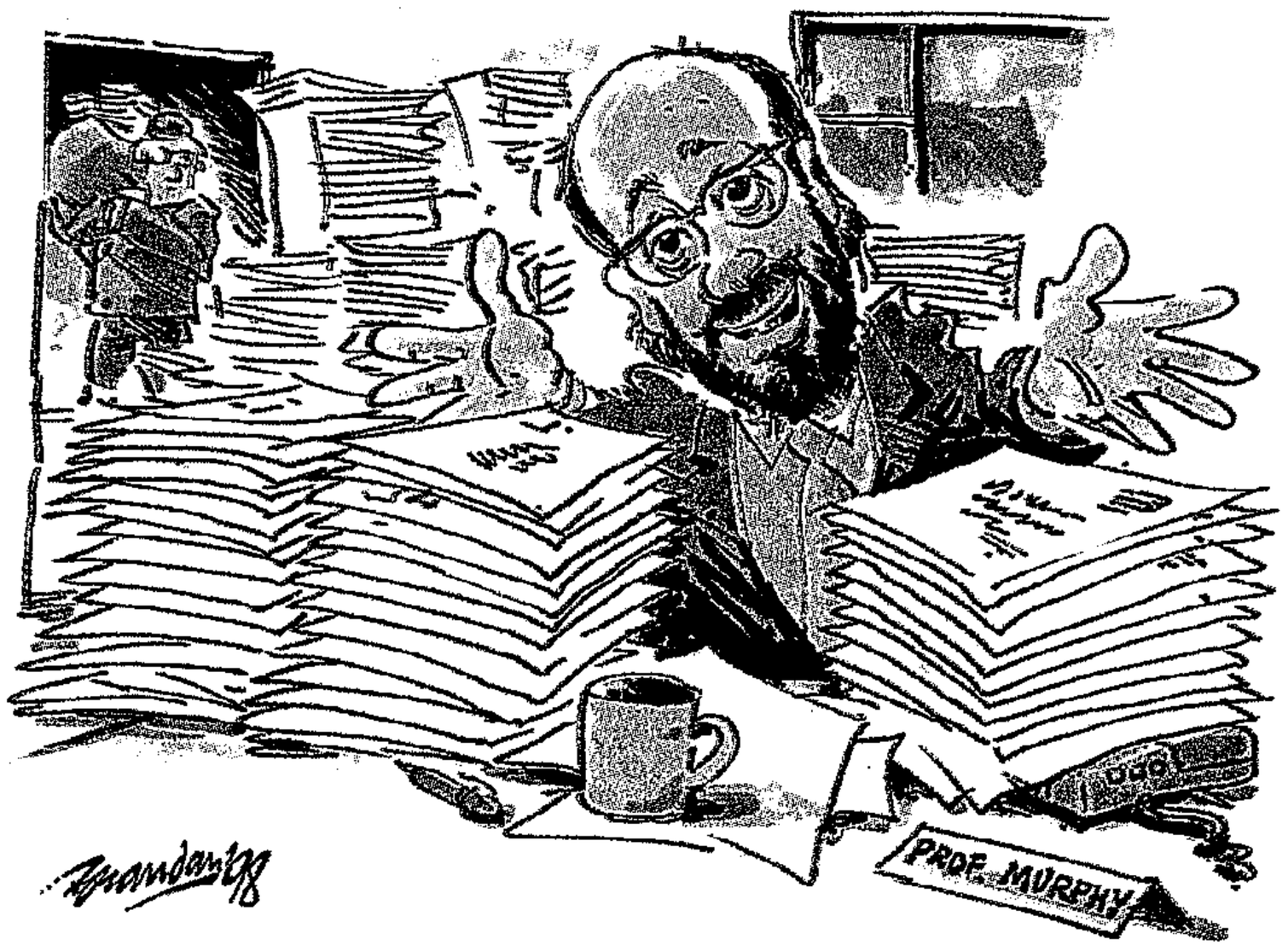
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cf (nl) 23/06/98 (300)

# not outside the law




ulterior purpose which was not contemplated at the time the power was conferred.

Murphy said it did not necessarily follow that substantively unfair conduct by a retirement fund or the trustees would constitute maladministration.

"On a literal interpretation of the concept of maladministration, the question to be answered is whether 'the decision is bad or inefficient'.

"The conduct of a pension fund or its board of trustees, which is bad or inefficient and sustains prejudice to the complainant, can be set aside.

"Bad or inefficient conduct prejudicial to the complainant almost always will be considered to be unfair if it bears no logical rationale or has no proportional relationship to the overall objectives of the fund."

Murphy said the consequence of this was that although certain conduct may be permitted by the rules of a retirement fund, if the conduct is unfair by virtue of being discriminatory or manifestly unjust, then it was likely to constitute maladministration.

Murphy said there had been a few recurring themes since he had taken up his position. These themes included:

☐ A complainant's right to a hearing.

Murphy said that complainants do have al right to a hearing by his office but a "very real practical problem" lay in that complainants often had no legal representation and little experience in formulating complaints. As a result he was often required to "champion their cause" with a pension fund or an employer.

*Bad conduct by pension funds, which is prejudicial to the complainant, can be set aside*

The consequence was that he had recently been threatened with legal action because of bias.

The Supreme Court of Appeal had previously laid down in a question of bias that if "bias is reasonably suspected" then it would be sufficient to prove bias.

The court had rejected a challenge that there should be "a real likelihood of bias".

Murphy said if his decisions were challenged on the basis of bias "it may be necessary to argue that the real likelihood test is the appropriate test to apply in the case of the Pension Fund Adjudicator".

☐ Disclosure of information. Murphy said that although the Constitution gave people the right to access information that was required for the exercise or protection of their overall rights this was currently limited to information held by the state.

However, retirement fund members still had a right to information derived from common law fiduciary duties which were also defined in the Financial Institutions Act. The Constitution could also be used for interpreting common law and statutory rights.

"It would seem to be just and equitable that the boards of management of pension funds, in terms of their duty to act in good faith, should be expected to disclose such information as is reasonably required for the exercise or protection of any right".

☐ Remedies the adjudicator may grant. Murphy said the pension Funds Act is unspecific about remedies.

There were two controversial grounds. The first was whether he could set aside the rules of a fund on the grounds that they violated the constitution or were unreasonable.

He was asked the question repeatedly and his response was unequivocal: "Yes, I can, and where appropriate I shall do so".

The second issue was whether he should "correct unreasonable decisions".

Murphy said the courts were reluctant to substitute their own decisions for those of another authority. The ordinary course was to refer the matter back to the original body to reframe the unreasonable decision.

However, relying on a number of other arguments, he had on a number of occasions substituted his decision for an unreasonable decision made by trustees.

These arguments included: the end result would be a foregone conclusion; further delay would cause unjustifiable prejudice to the applicant; such bias or incompetence had been exhibited that it would be unfair to require the applicant to again submit to the same jurisdiction; and the adjudicator was in a good position to make the decision.

ET (BR) 23/6/98 (300)

There were currently no perfect ways in which to pre-fund medical scheme contribution liabilities of pensioners who were former employees of a company, Graham Turnbull, managing director of Specialised Retirement Fund Services, told the Institute of Retirement Funds annual conference.

He added that the option of a separate pension or provident fund to house pre-funding for medical aid contributions at retirement seemed to be most widely supported.

However, this would require changes to the Income Tax Act as well as amendments to the Pension Funds Act.

A number of pre-funding vehicles had been considered by the National Retirement Consultative Forum committee dealing with post-retirement health care. These were:

**A Special Reserve Fund within a Medical Scheme.**

Advantages of this option included:

☐ Accumulated funds would be used to pay medical aid contributions;

☐ If benefits were over-funded, the employer could redress the situation as the cash would not be in the hands of pensioners;

☐ Funds would be available only to members and dependants who were continuation members of the medical scheme; and

☐ The fund rules could allow for transfer of funds to another medical scheme.

The disadvantages included:

☐ The Medical Schemes Act would need significant amendment to deal with supervision of these additional activities in a medical scheme;

☐ The control of funds inside a public/multi-employer scheme would be tricky;

☐ Currently there was no mechanism available to protect these funds inside a medical scheme in the event of insolvency; and

☐ A medical scheme was effectively a pay-as-you-go setup.

This option was not strongly supported by the forum's health care committee.

**Using an Existing Pension or Provident Fund.**



**GRAHAM TURNBULL,** *MD of Specialised Retirement Fund Services*

Turnbull said this was an attractive option especially when there is a large surplus in the fund and the employer wanted the fund to take over its obligation for funding pensioners' medical aid contributions.

The problem for this option was that the nature and method of determining the actuarial liability relating to the payment of post-retirement medical aid contributions and the liability relating to the funding of pensions were not the same. The result was employers would have to run two funds within one, with the consequence that, over the long term, provisions could become blurred, resulting in inadequate provision being created for each risk.

**A Separate Pension or Provident Fund.**

Advantages included:

☐ A separate fund could be set up specifically to cater for medical aid pre-funding under the current regulatory framework;

☐ There was a high degree of security for member's benefits and the financial condition of the medical aid did not put member's savings at risk;

☐ Member's vesting rights and transferability of funds to another scheme could be easily accommodated;

☐ Contributions could be tax deductible; and

☐ The regulators of retirement funds (the Financial Services Board) would consider transferring the surplus from a pension fund to a pre-funding health care fund under certain conditions.

The disadvantages included:

☐ Pensioners could not be forced to use the pension generated from a special pension or provident fund to pay medical aid contributions as legislation does not specifically make provision for these types of funds;

☐ Should the new tax proposals for retirement funding of the Katz Commission be implemented, it could be difficult to determine up front how much tax would be due at retirement on a pensioner's benefit; and

☐ Currently, the system is not tax neutral for retirees under the age of 65.

# 'Disclosure still a topic and not a practice'

ET (BR) 23/6/98 (300)

Exclusion and secrecy in the retirement fund industry has created an environment of mistrust and scepticism, according to Frans Mahlangu, principal executive officer of the Mineworkers Provident Fund.

Speaking at the annual conference of the Institute of Retirement Funds, Mahlangu said that disclosure and communication "are still a topic but not the practice"

He also said the Institute itself did not reflect the demographics of the country, which resulted in people not seeing it as a transparent, communicating and disclosing body.

He warned that there had been too much discussion on the issue of transparency and disclosure. The stage had now been reached where the position was becoming dangerous.

"If one speaks about disclosure, one must not expect negative statements like 'not all information can legally be disclosed'."

Limitations in disclosure caused bottlenecks and half-truths.

Mahlangu said members of funds were still confused about basic issues, such as what was due to them and when they could claim. To make it worse, there were still people who deliberately continued "to sow this confusion with ease because very little information is disclosed".

This view had been confirmed recently by the Pension Funds Adjudicator, Professor John Murphy, who said that a high level of the complaints he received were a result of inadequate disclosure of information to members.

He said communication with members was not a matter of compiling "beautiful and expensive" brochures.

It was in the interests of employers to educate members properly about their funds.

This should be done when a person was newly employed and on leaving employment, with ongoing information provided in between.

Well prepared and updated material should be used, as well as person-to-person disclosure.

The process should also be checked to ensure it was effective.

# No perfect way to pre-fund medical aid contributions

CT (BR) (23/06/98

300

# 'Pension fund surplus belongs to fund members'

BD 23/6/98 (300)

**Pat Sidley**

PENSION fund surplus, "in a real" sense, belonged to members of pension funds both past and present, Labour Minister Tito Mboweni told the Institute of Retirement Funds yesterday.

In a speech read on his behalf by his adviser Jeremy Baskin at the opening of the institute's annual conference, Mboweni cautioned trustees of funds to act in the longer-term interests of funds and "not only to consider short-term possibilities of improving benefits or repatriating monies to the company".

The conference dealt with labour issues, the law and its impact on pension funds. While several speeches touched on important labour issues which affected pension funds, the issue of who owned the surplus was not dealt with in detail.

Noting changes in the industry which would democratise funds, Mboweni said in some funds administrators had been "less than enthusiastic in tracing the most vulnerable former members and ensuring they are paid".

"In this regard it is gratifying to note the findings of the pension funds adjudicator in respect of the many migrant workers in the catering sector who have never received the payments due to them," he said.

He was referring to a recent adjudication by Prof John Murphy which dealt with the liquor industry and the need to distribute a surplus to many former members who were migrant labourers and did not know they had funds due to them.

By year end, all pension funds would have half the trustees of their boards drawn from member ranks and this placed responsibilities on the parties to work together by avoiding logjams and the need to "veto anything they object to".

Mboweni said: "If the system creates continual logjams and deadlocks then it will not be effective. And eventually the interests of the members will be compromised, and their hard-earned savings will not produce the returns they deserve and the benefits they expect."

It was crucial to see the difference between "joint decision-making and collective bargaining", he said.

"Collective bargaining is about cutting up the cake, and negotiating about who gets what share. It takes place every year. It is sometimes turbulent. Occasionally a strike or lockout is used to demonstrate muscle and seriousness to the other side.

"The joint governance of pension and provident funds is different, and needs to be. It is about taking a long-term view. It is about looking after members currently employed, but also about protecting the interests of past members (dead and alive), and the needs of future members.

"It is about ensuring the long-term viability of the funds and the long-term interests of members, unionised or not. It is about seeing that the employer has a long-term future and runs a viable business and can therefore be a long-term contributor to an ongoing fund," he said.

Sapa reports that Fedsure's Andrew McGinn said at the conference that the job of co-managing investment portfolios and making investment decisions was a very responsible one and efforts should be made to train elected member trustees.

Giving an employers' perspective on the recent amendment to the Pension Fund Act, McGinn said it was encumbent upon employers to ensure the employees elected to the pension management board were empowered.

According to the changes in the act, there should be equal representation on the board by employers and employees.

Among its responsibilities, the board ensured the timeous payment of contributions, the monitoring of investment performance, the administration of funds and the protection of workers.

INSTITUTE OF RETIREMENT

# Lack of clarity sows seeds of uncertainty

CT (MM) 24/6/98 (300)

The government should, as soon as possible, give clarity on what it was planning for retirement funds in both the short- and long-term, Chris Newell, out-going president of the Institute of Retirement Funds told its annual conference.

Newell was responding to a recent announcement by Gill Marcus, deputy Minister of Finance, that the National Retirement Consultative Forum, which was looking at all aspects of retirement, was to be disbanded before making a final report.

However, the new tax structures of retirement funds would probably be put in place in next year's government budget.

"After all the expectations that were created by the formation of the National Retirement Consultative Forum it is disappointing that nothing has happened and nothing will happen, probably for some time.



**CHRIS NEWELL,** *out-going president of the Institute of Retirement Funds*

"What is even more disconcerting is the lack of certainty that has been introduced to those involved in planning and providing for their retirement.

"I believe it is unfair to tell people halfway through the game that the rules have changed. We won't know the new rules for a while and yet people must continue to play the game as though nothing has happened."

Newell said certainty was needed, particularly about changes to retirement taxation, and the impact this could have on benefits over a long period.

"I believe it is only fair for people to know, with some degree of certainty, what they can expect and how they can plan their activities to cope with what may be a substantial transformation over a reasonable period of time."

Newell said a letter had already been sent to Marcus asking her for clarity on this issue.

He also sounded a warning that new regulations, including the complaints structure set up under the Pension Funds Adjudicator, could become excessively costly for retirement funds.

The cost of the adjudicator's office should fall on the government, and not on the retirement funds, he added.

"Not to do so will put more and more pressure on the state to relieve the financial, and ultimately the real physical needs, of people in their old age."

Newell said there was an increasing work load on the adjudicator.

This would mean a need for more resources which would result in additional costs for retirement funds.

Newell warned that these costs could be the last straw that would break the backs of retirement funds.

He said many of the complaints were trivial and he did not see why the members, who did not make trivial complaints, should bear the costs of those who did.

# Unwise to give retirement fu

Retirement fund decisions could not be thrown open for every member to make all their own decisions, André Swanepoel, deputy Registrar of Pension Funds, told the annual conference of the Institute of Retirement Funds.

Swanepoel, who was speaking on empowerment of retirement fund members, said members of funds were demanding a far larger say in the affairs of the administrators, institutions and funds to which their money was entrusted.

The regulators were in favour of the empowerment of members as far as possible, but empowerment could go too far, to the detriment of members.

A long process of consumer education and training lay ahead before members could be given full choices.

A consequence of greater empowerment of members was the growth in collective investment schemes, such as the linked product companies, which gave investors greater flexibility in transferring their assets from one unit trust to another.

Swanepoel said the problem for regulators was knowing where to draw the line in permitting member empowerment while still retaining regulatory responsibility.

There was a case for conservatism in matters like investment, delegation of decision-making, and employees rights and responsibilities.

The regulators had to take cognisance of creating a balance between a stable and efficient industry, which protected the interests of members, yet allowed market mechanisms to innovate, develop and allow fit and proper players to earn a fair living and fulfill the reasonable benefit expectations of members.

Swanepoel said although consumerism was on the rise, questions had to be asked if consumer negotiating bodies were really speaking on behalf of members, many of whom were still on a steep learning curve.

"Even some of the intermediaries advising consumers are still on a learning curve."

Government would like to see people retiring with sufficient capital to at least "keep them away from its door for handouts.

'UNDS CONFERENCE

Editorial: Bruce Cameron
Design and editing: Carol Gey Van Pittius
Advertising: Gabrielle Gildea

# Bonds, equities best bet in face of looming recession



## New IRF president

Jan Groenewald, above, chief executive of Fund Administration and Operations at MPF Management Services, is the new president of the Institute of Retirement Funds (IRF).

He is also chairman of the IRF's legal and technical committee. He replaces Chris Newell as president of the body, which represents more than three million retirement fund members.

Groenewald says the IRF will need to reassess the relevance of its mission and future direction if it wants to remain the main body representing the broader retirement industry.

The mission of the IRF is to be a non-political body, which represents and promotes the retirement industry to the ultimate benefit of the members of retirement funds.

A recession could be on the way as interest rates continue to rocket, Hendrik du Toit, chief executive of Investec Asset Management told the annual conference of the Institute of Retirement Funds.

However, funds could expect to take-off in equity markets as soon as there was a turnaround in the current upward spiral in interest rates.

In the meantime, the best policy for retirement funds was to balance portfolios between equities and bonds and to place money offshore, Du Toit said.

Until the end of the century the South African market, with "our low savings rate and rigid labour market, will render the currency vulnerable to external crises and speculative attacks. Know and live with it".

Du Toit said capital flows, mainly foreign short-term portfolio investment, would drive the capital account of the balance of payments in the immediate future.

He believed that the current, unexpected and rapid turnaround of interest rates may be reversed, but "later than generally expected".

However, the drop in share prices, as a result of the soaring interest rates, would bring with it a buying opportunity.

"The expectations of lower domestic interest rates, based on renewed stability in the value of the rand and, very importantly the identification of a floor in Asian asset prices, will trigger the next run of South African share prices."

Before this happened the renewed pressure brought on the economy by the rising interest rates meant that the "possibility of a recession could not be discounted".

Du Toit said if there was a recession bonds would be the place to be. In recent years the bond market had been able to match the returns of shares, but "history teaches us that equities drive long-term portfolio performance".

A balanced portfolio could lower risk without sacrificing much return in times of falling inflation and macro-economic stability.

"In times of disinflation and greater freedom to invest abroad, portfolios need to be well balanced. The bond and foreign portions of a portfolio will significantly diversify risk but equities will remain the key asset class."

The great expectations in the United States and European markets were not entirely unrealistic.

The current United States market may be expensive "but it is far from a bubble. As long as the dollar rises, we can expect the bull trend to continue in the United States.

"Danger signals to look for are a rapid and sustainable strengthening in the Japanese yen combined with a strong rise in long- term interest rates."

Asia remained a dangerous place but "assets are starting to look cheap" and could provide buying opportunities within a year.

# nd members full powers

(300) CT (MR) 24/6/98

"Only fit and proper people should therefore be involved in decision-making. One cannot throw the doors wide open for each and everyone to take his or her own decisions."

Swanepoel said there were also costs involved in allowing members to make too many choices that only a few members would use.

"The result will be that other members will, knowingly or unknowingly, most probably subsidise these administrative systems for the benefit of the few.

"People must be safeguarded against themselves with regard to difficult decisions, greed, and understanding the concealed surprises of financial contracts.

"Popular sentiment, misselling and making wrong investment decisions when everyone is panicking necessitates a careful attitude from the regulator in allowing too much freedom of choice."

The most important area where full empowerment was requested was that of investments and investment choices.

"It is debatable whether each member should have the full range of investment choices available."

He said evidence showed that most members would make buying decisions at the top of the market and selling decisions at the bottom.

Swanepoel said it may be that in some areas regulators were too paternalistic. The correct approach should be to ensure minimum standards or norms, but simultaneously not prohibiting those members who understood the trade-off between risk and return to break out at the top to arrange their own affairs.

An alternative was to have compulsory provision for a pension and compulsory preservation of retirement funds up to a certain minimum level and then allow retirement fund members to do what they wanted thereafter.

Swanepoel said he was opposed to the deregulation of commissions paid as, in many instances, members themselves were not in negotiations.

He was afraid that because of the large amounts of money involved, fraudulent activities and kickbacks could take place.

PENSION FUNDS

# UNDER A MOUND OF COMPLAINTS

Though his office has only been open five months, Prof John Murphy, the academic-turned-Pension Funds Adjudicator, has collected nearly 500 complaints from pension fund members who think they have been cheated by trustees, actuaries or their employers.

And more complaints are flowing in daily, at the rate of 120 a month. "I've got three filing cabinets full," Murphy groans from his Cape Town office.

He is appointed by the Finance Minister. His function is administered by the Financial Services Board (FSB) but he retains independence. The new office was a Mouton Commission recommendation .

The former professor of public law at the University of the Western Cape is an attorney who has practised privately as a labour arbitrator. As Pension Funds Adjudicator Murphy's got a budget of under R1m a year and the support of his secretary.

"Each complaint takes about eight hours to determine," he explains. "If I work a 50-hour week, which I do, I'll determine about 250 complaints a year.

"If the current rate continues I'm going to have a backlog of about 1 000 complaints by the end of the year."

Murphy is looking for three or four more staff and wants to set up a panel of adjudicators — consists of experienced actuaries and lawyers. **Jack Lundin**



# Battle for pension

## *Funds face crisis as victims of discrimination set to claim*

ARG 2/7/98

(300)

ALIDE DASNOIS
BUSINESS EDITOR

**Billions of rands could be at stake as employees who were victims of discrimination in retirement funds prepare to claim compensation.**

Among those who are ready to claim are married women teachers, barred from permanent employment in the past, who may have lost millions in pension benefits as a result.

A study commissioned by the Cape Teachers' Professional Association has alleged that the provincial department of education was guilty of salary and retirement fund discrimination against women teachers. The association is now debating the issue at its Upington conference.

In a ground-breaking case in the private sector, the Labour Court has already awarded compensation to black employees of a small Gauteng tobacco company, Leonard Dingler, who were prevented from joining the pension fund.

Johannesburg pensions and labour lawyer Peter Strasheim said today a financial crisis could face many retirement funds as compensation claims gather momentum.

A single court award could financially cripple an employer and affect the future of the retirement fund, he said.

Anthony Asher, professor of actuarial science at the University of the Witwatersrand, said compensation to victims of pension fund discrimination in the public sector could cost up to R2-billion, "at a wild guess". Taxpayers would have to foot the bill.

The constitution laid down that discrimination must be shown to be fair, and where employees had been victims of race or gender discrimination, "employers are on a highway to nowhere," Professor Asher said.

The financial damage suffered by victims could be precisely calculated, he said.

"There is no doubt that we should compensate where feasible."

In the private sector there might be some funds which could not afford to pay.

Pensions adjudicator John Murphy, who tackles complaints from members of retirement funds in the private sector, said he was surprised that so far no cases of race or gender discrimination in retirement funds had been brought to his attention. The trade unions had not yet taken up the issue, Professor Murphy said.

Claims for compensation could be linked to bargaining between employers and employees over the ownership of any surplus in the retirement fund, he said. Employers' rights to surpluses in retirement funds have been the subject of debate between Cosatu and the industry.

Mr Strasheim said compensation claims were likely to multiply when the Employment Equity Bill was passed, and a "crisis" was looming for the retirement fund industry.

In the United Kingdom, legislation had been passed to limit the compensation paid to 60 000 women who had successfully pleaded gender discrimination.

**Teachers furious, page 8**

# Call for inquiry into pension funds

## *Probe urgent, says lawyer*

(300) ARG 3/7/98

ALIDE DASNOIS
BUSINESS EDITOR

**A commission of inquiry into retirement funds has been called for as people claiming discrimination gear up to claim compensation.**

Married women teachers, barred from permanent employment in the past, and claiming to have lost millions in pension benefits as a result, are among them.

Pensions and labour lawyer Peter Strasheim said today a commission of inquiry was urgent. A crisis was looming for retirement funds.

Kobus Hanekom, a member of the legal and technical committees of the powerful Life Offices' Association and of the Institute of Retirement Funds, welcomed the call for a commission of inquiry.

"Talk of a crisis may be a little sensationalist, because not every claim will be successful, but we are taking the matter very seriously."

Mr Strasheim said victims of discrimination in retirement fund rules could include black workers denied permanent employment and full pension benefits, women forced to resign when they married or fell pregnant, employees dismissed because they were ill, people denied equal access to fund membership and job applicants forced to sacrifice pension benefits in order to get the job.

The sums of money involved in compensation could be huge, he said.

It was not desirable for the courts to grapple with the issue on a case by case basis, Mr Strasheim said.

"Financial certainty as soon as possible is critical to retirement fund members, trustees, employers and the industry."

Mr Hanekom said a key issue would be the extent to which compensation would be made retrospective.

"Compensating retirement fund members for being discriminated against over 20 years, for instance, could cripple the industry and do more harm than good.

"It may be necessary to rule that there was unfair discrimination, but that it is not possible to compensate people in full."

The issue would be discussed at a conference of the Pension Lawyers' Association in Stellenbosch later this month, Mr Hanekom said.

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Mild
Blondes
GAL 208/1 27E

# New means test slashes pensions for thousands

## *Payout cut by R30*

(300) ARG 10/7/98

JENNY VIALL
HEALTH REPORTER

**Thousands of old-age pensioners were shocked this week to find their pensions were less than they expected, in spite of a 4,3% increase in social grants.**

A woman who asked not be identified said her parents and many others were paid only R440, compared with the R470 they usually received and the R490 they expected when the increase came into effect this month.

"My mom telephoned me saying she and her friends were shocked to find they had been paid only R440. They didn't know why, nobody told them anything.

"Their first thought was that there was fraud in the department."

Waldie Terblanche of the Social Services Department said legislation passed earlier this year made provision for a new means test, which had resulted in some grant beneficiaries getting more money and some less.

A person's income and assets were taken into account when determining the grant.

Dr Terblanche said figures were not available for the number of pensioners who would get less money, but a "few" thousand of the 320 000 pensioners in the Western Cape would be affected.

"We did make a press statement and notified our offices to inform people," he said.

The Western Cape would be spending an additional R1,8-million each month on grants, he added.

The woman said: "My parents are dependent on the grant. They have no income, no savings and while R50 is not a lot, for a pensioner it is something. They do own their house, but if they penalise them for that, it would be cruel. They've worked all their lives for that house.

"They were removed from their Plumstead house under the Group Areas Act three months before they had finished paying for it. The house they now own was paid off two years ago. This is a form of discrimination."

Old-age pensions and disability grants increased this month from R470 to a maximum of R490, and foster-care grants from R340 to R350 a month.

The 4,3% grant increase does not apply to maintenance grants, which are being phased out over three years.

These grants are payable for the first two children under the new law. In cases where the grant is still paid for more than two children, it will be reduced to payment for only two from September. Dr Terblanche said the 6 900 beneficiaries affected by this would be informed this month and next month.

Grants to the 540 beneficiaries who have been getting less than R100 a month because they have other income will be cancelled, as they are no longer entitled to payments in terms of the new means test.

# Let workers decide — viva pension, viva profits!



New laws will see members (300) having a say in the future of their retirement funds, writes LEIGH ROBERTS

ST (BT) 12/7/98

A NEW age dawns for members of pension and provident funds as changes in legislation bring more freedom — and a lot more risk.

The momentous changes soon to be thrust on retirement funds stem from amendments to the Pension Funds Act which aim to make a fund less the domain of management and more that of workers.

Indeed, industry talk is that the amendments confer vast power to fund members unsurpassed elsewhere in the world.

The most far-reaching amendment to the Act is that, come December this year, at least half a fund's board of trustees must be elected by its members.

This board is responsible for the day-to-day management of the fund, the pension benefits payable to members and, in most cases, how the fund invests its assets.

The amendments to the Act will give members a meaningful say in their funds which, in the past, have been widely viewed as the property of the employer.

The new joint decision-making process between workers and management could, however, result in some stormy board meetings. It is not inconceivable that in industries where tension runs high between unions and management, the pension fund and its wealth could be pulled into the bargaining process — which certainly won't be in the best interests of fund members.

Another concern, loudly voiced at the recent annual conference of the Institute of Retirement Funds, is the probable lack of education and experience of the elected "worker" trustees.

It is an understandable, albeit arrogant, concern. After all, the tea lady may be called upon to decide whether the fund's investments are carrying too high an alpha risk, and whether the Japanese yen is the best currency to invest in.

Overall, the amendments will usher in a new mode of operation; one which will topple funds from their "ivory tower" stance.

Fund members can look forward to better communication from the fund — for example meetings with fund trustees at exit and induction interviews, and, as suggested by one speaker at the IRF conference, mass meetings of members!

The influence of worker members on the board of trustees will hopefully mean correspondence to members written in everyday language, rather than in jargon.

The amendments are expected, however, to significantly increase the administration costs of funds, especially in smaller funds. Part of this burgeoning expense will be from sending the worker trustees on training courses to get them up to speed on financial know-how.

This cost will ultimately be borne by fund members in the form of lower pension benefits.

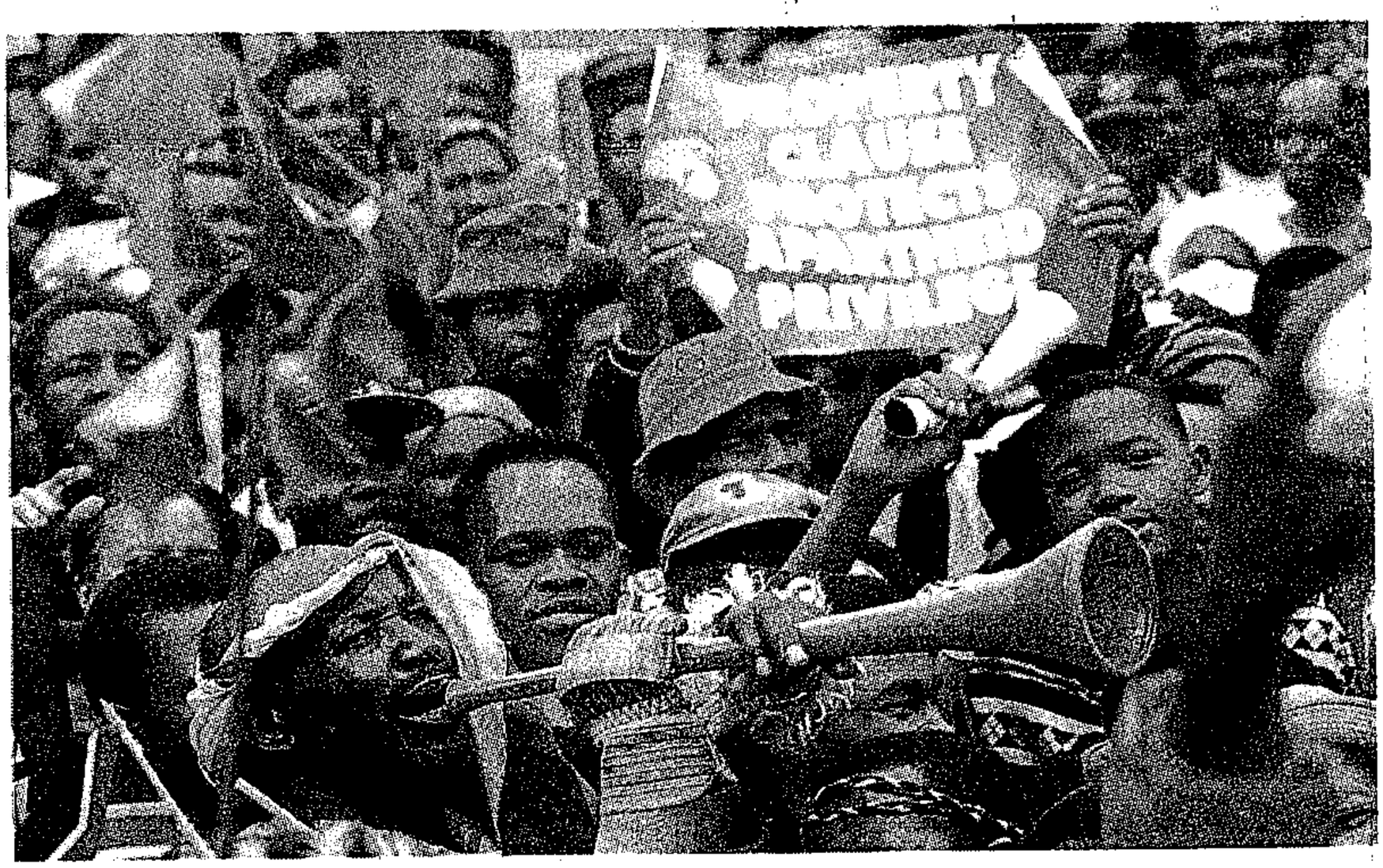
Fund members face another great risk in the new age of retirement funds — the risk of making a poor investment decision.

A rising trend in the local and global retirement industry is allowing fund members to decide how and where to invest the money in their pension fund.

If you invest too conservatively in low-return assets — and experience has shown most fund members do this — you risk not building enough of a nest egg for a comfortable retirement. If you invest too aggressively, you risk losing your pension money.

One of the great responsibilities of the boards of trustees will be to guide members through these important decisions about the nation's retirement savings.


BOARD OF TRUSTEES MEETING
Mark Twain



Trade union federation Cosatu has some questions it wants answered regarding pension fund surpluses

# Cosatu enters great surplus debate

(300)

*Pat Sidley highlights Cosatu's watchdog role*

BD 24/7/98

PENSION fund members and insurance policy holders may not know it — but Cosatu is their biggest public interest advocate.

The trade union federation has stepped into a vacuum of public debate and consumer interest on two important issues: pension fund surpluses and who owns them, and demutualisation.

The pension fund surplus issue involves the rights of many millions of pension fund members and the obligations of fund trustees administering the funds.

As things stand, Cosatu is proposing several amendments to the proposed legislation dealing with the repatriation of pension fund surpluses, which would see the funds staying in members' hands, and which would outlaw contribution holidays by employers.

On demutualisation, the federation believes little has been debated around the issues of demutualisation and that these need to be properly addressed.

In other countries, the debates are vigorous, with some retaining many mutual societies, others moving away from them towards listing on stock exchanges and still others find other methods — notably in the US.

The pension fund surpluses arise when more money is in the fund than is being drawn out.

At the moment, many funds are moving from defined benefit funds (where the payouts are stipulated) to defined contribution (where a member gets out what she put in plus its growth) or to provident funds. In this move, the surplus is often divided between employers, employees and pensioners. Until recently employers have believed they have an unfettered right to the surpluses — and there is a suspicion that this is what has motivated fund advisors to suggest the moves to defined contribution funds.

However, recent court cases have suggested that this "right" does not exist. One landmark judgment states emphatically that the surplus belongs to the fund.

The Financial Services Board designed legislation intended to deal with the repatriation of a surplus and how to divide it equitably. It was silent on contribution holidays, which is a way of putting surplus funds into employers' hands, but is legally an entirely separate concept from repatriating surpluses.

Cosatu, which had been consulted in the process, decided the law was wrong and threatened a general strike if it went through.

It is now in the process of proposing changes to the law which would enshrine the principals its members hold dear: surpluses would belong to members (rather than funds), contribution holidays would be outlawed and a mechanism would be found to deal with the equitable calculation and distribution of surpluses as they arise.

Demutualisation will require a different set of principals and negotiations. The union federation's interest was aroused after Old Mutual made the decision to list on the London stock exchange after demutualisation takes place instead of here.

While the regulators, in this case the Financial Services Board, cannot see how anybody except a policyholder can have any say in the process of demutualisation, the board also has a blind spot on whether or not any debate should take place around the issue.

This has been seized on by Cosatu which believes there are issues to be sorted out that do not involve only policyholders.

(705)

# Running costs of many pension funds double

(300 ET(MR)31/7/98

ROY COKAYNE

Pretoria — General administrative expenditure by self-administered pension funds in South Africa rose 93 percent to R1,8 billion in 1996 from R969 million in 1995, said Richard Cottrell, the executive officer of the Financial Services Board (FSB).

The 17 percent income tax on the net rental and interest income of funds, which was introduced in 1996, accounted for the major increase in administration expenses, Cottrell wrote in the latest annual report of the registrar of pension funds.

But he said it should be noted that many employers subsidised the funds, bearing all or part of the administration expenses of the funds.

The report said the affairs of 39 retirement funds and one retirement fund administrator were inspected in 1996; only five of these inspection reports contained no adverse comments.

It said 15 of the 40 transgression related to contributions not paid to a fund in contravention of the Pension Funds Act.

"A common feature of most transgressions revealed by the inspections was a lack of due diligence on the part of trustees and administrators, accompanied by varying degrees of poor administration," it said.

The report also noted that the investment diversification by value in different asset categories, and the investment pattern of self-administered funds changed. It said investments in shares and unit trusts increased from 26,6 percent in 1992 to 47,3 percent in 1996, while investments in insurance policies decreased from 30,8 percent in 1992 to 26,8 percent in 1996.

Other points highlighted in the report were that:

- Total membership of all self-administered pension funds in South Africa rose by 2,5 percent from 9,39 million in 1995 to 9,63 million in 1996; of these 8,1 million were active members and 1,52 million were pensioners, deferred pensioners and dependants;
- Net assets of self-administered pension funds increased by 22,5 percent from R204 billion in 1995 to R250 billion in 1996, the increase being partially due to the fact that a greater number of funds accounted for their assets at fair value;
- Total contributions received by all pension funds increased by 36 percent from R29,57 million in 1995 to R40,18 million in 1996, with employers' contributions rising by 6,7 percent and members contributions by 13,3 percent; and
- Benefits paid increased by 10,8 percent from R39,88 million in 1995 to R44,17 million in 1996.

# Double-pensions scam uncovered

(300)

CLIVE SAWYER
POLITICAL CORRESPONDENT

ART 6/8/98

**The Department of Welfare has uncovered almost 24 000 cases where retired Government employees are being paid civil and old-age pensions simultaneously, costing about R11,5-million a month.**

And more than 1 000 people are getting Unemployment Insurance Fund payments and state grants simultaneously, costing R477 138 a month.

Provincial welfare departments are investigating the cases, said national Minister for Welfare and Population Development Geraldine Fraser-Moleketi today.

She said the duplicate payments had emerged from a data clean-up aimed at weeding out fraud and corruption.

"Should it be discovered that any of these people received state benefits illegally, his or her grant will be suspended and the overpayment recovered," she said.

She said re-registration of all social security beneficiaries was a priority.

# Payment plan set up for elderly

BD 6/8/98 (300)

PIETERSBURG — The Pietersburg city council said yesterday it would make alternative arrangements for pensioners who had been unable to pay for municipal services following the suspension of all pension payments more than seven months ago.

City secretary Simon Maropa said all pensioners in Pietersburg and Polokwane who were unable to pay for municipal services should contact the council to make alternative arrangements.

At least 92 000 pensioners have not received their pensions since January.

At the time the health department started a campaign to seek out people who were illegally claiming pensions eight months ago.

A total of 36 762 ghost pensioners have already been removed from the system. — Sapa.

# Convince me of unfair discrimination before I consider changing the rules

(300)

CHARLENE CLAYTON,

ARG 8/18/98



THE PENSION FUNDS

**Adjudicator**

CONTACT NUMBERS: Tel (021) 45 4051;
Fax (021) 45 4046 or write to PO Box 1041
Cape Town 8000

Pension fund adjudicator, John Murphy, says he will think carefully about cancelling the rules of a fund because they may constitute unfair discrimination.

Any cancellation of a rule could place "substantial additional financial obligations" on pension funds.

And he says great care will have to be taken on issues such as claims for part of a surplus by members who resign from a fund rather than retire from a fund.

In a recent case Murphy was asked to make a decision that the same rules should apply to retirement as to early withdrawal from the fund (voluntary early retirement or resignation) and to set aside rules that did not treat both cases equally as unfair discrimination.

He says to cancel a rule as being unfairly discriminatory, he would need "to be convinced that the rules unfairly discriminate on arbitrary grounds or are contrary to public policy in some other way.

"It does not follow from the fact that the rules allow for differential treatment that they are unfairly discriminatory or contrary to public policy."

The complaint dealt with the entitlement to benefits of a member of the Johannesburg Municipal Pension Fund who argued that he was entitled to full benefits if he should buy back pensionable years and then retire early.

He stated that the rules regulating early withdrawal from the pension fund were unfair because they discriminated against those people who took early retirement.

Murphy said if he could be persuaded that such differential treatment constituted unfair discrimination he could rely on the Constitution for support.

But he declined to uphold the interpretation of the rules as requested by the complainant because he was not presented with the "necessary and appropriate evidence".

"Any determination into the constitutional validity of legislation usually will require some evidence of the purpose and effect of the law that is being challenged.

"When dealing with a pension fund rule granting specific entitlements to benefits, evidence on the manner and effect of an interpretation is absolutely essential."

Before he can order the rule to be made less discriminatory, Murphy says he needs to know what the financial consequences would be.

He also requires a complainant pleading discrimination and requesting particular relief, which the complainant had not done.

The complaint would have to be supported by evidence showing that payment of benefits to members in a different way is prejudicial.

In support of his argument that he was entitled to full benefits in terms of the rules of his pension fund if he should buy back pensionable years and then retire early, the complainant said that retirement referred not only to compulsory retirement, but to voluntary retirement.

Murphy said that the complainant based his argument entirely on the mistaken assumption that a resignation and retirement are treated in the same way in terms of the rules of the fund.

# Pensions board fails to meet

BD 11/8/98

300

PRETORIA — The hopes of more than 20 000 former liberation struggle activists and their dependants, who have been waiting for pensions since 1996, were shattered when a pensions board that can sanction their grants failed again to assume office in Pretoria.

The five-member Special Pensions Board, constituted in terms of the Special Pensions Act of 1996, was expected to replace the previous board that was dissolved at the end of its two-year contract on March 31 for its alleged failure to fulfil its mandate of considering 25 000 applications.

The applications were mostly for struggle pensions for former political prisoners and returnees from exile.

The board was dissolved along with its entire staff of 40 and its acting chief executive officer when fewer than 2 000 pensions were paid out.

It is uncertain whether the new board exists. Finance department officials refused to comment on the issue late last week.

According to the act, the board's full-time or part-time members are appointed by the finance minister in consultation with the president. In turn, the board can appoint the chief executive officer, whose duty it is to control the board's budget.

Meanwhile, a private sector task team has taken over the reins from the previous board.

Team head and project manager Anton van den Heever, who described the files of the previous administration as "an absolute shambles", said on Friday it was "all systems go" for his staff of 17. The team had processed its target of 6 000 applications since its inception in April and had verified proof of political service of more than 5 000 applicants. About 2 500 failed to meet the criteria.

Van den Heever said relatives of the deceased, the disabled and people over 65 years had priority for payouts.

People who had made personal sacrifices and served the public interest to help establish a democracy in SA qualified for the special pension. — Sapa.

# Pension perk for MPs over 50

KERRY CULLINAN

CT 14/8/98 (300)

A PENSION fund is to be set up for MPs after four years of deliberations on how to structure it.

Since 1994, pension contributions of 7,5% of MPs' salaries have been deducted and paid into a trust fund until there was consensus on setting up a parliamentary fund.

A report tabled in the National Assembly yesterday recommends that the state pays an amount equal to 20% of an MP's salary for members over 50.

Those under 50 get 17% from the state, while those who were part of the tricameral parliament and are covered by that pension scheme get 10%. The pensionable salary is defined as the MP's basic salary plus constituency allowance, but excluding the car allowance.

MP Peter Hendrickse, who headed the pensions committee, said the figure of 20% was recommended for those over 50 "in recognition of the transitional nature of this Parliament. Many MPs were in exile, imprisoned or detained and did not have an opportunity to accumulate savings".

The recommendations will now be sent to the Finance Ministry for approval.

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S.T. Bus. Times 16/8/98

# Long-serving civil servants still qualify for big tax breaks



**LUCIENNE FILD**
Looks at recent amendments to the Income Tax Act

CIVIL servants used to be wrapped in a protective cocoon by the state and showered with perks such as tax exemptions and preferential treatment on home loans. But not any more.

One by one their perks are being removed. The latest to go — one of the truly great advantages of being a civil servant in the past — was removed in last year's budget and came into effect earlier this year. Lump sums payable on retirement by a state pension fund after February 28 this year are no longer tax-free.

Beric Croome, tax partner at Grant Thornton Kessel Feinstein, says the Income Tax Act was amended so that lump sums payable by public and private pension funds would be treated equally for tax purposes from March this year.

To civil servants this means the portion of their lump sum payout which accrued before February 28 this year remains tax free, while the portion accrued from March 1 is taxable.

Another change for civil servants is the application of the tax-free formula on retirement lump sums. This rule has always applied to lump-sum retirement payouts by private pension funds.

The formula, which determines how much of your retirement lump sum payout from a fund is tax-free, works like this: the tax-free amount is the greater of R120 000 or R4 500 multiplied by years of service.

The way the tax-free lump sum portion for retiring civil servants is now calculated is best illustrated by way of an example — set out in two steps, as it is quite complicated.

**Step one**

Say Ann Jones, a member of the Government Employees Pension Fund (or any other public sector fund), is due to retire on March 1 2000.

Jones has been with the pension fund for 40 years and her fund has informed her she is entitled to a lump sum of R400 000 on retirement. Her annual average salary over the past five years is R50 000.

Jones is therefore entitled to the following tax-free lump sum for her 38 service years completed on February 1998: 38 (years of membership before March 1 1998) divided by 40 (total years of membership), multiplied by R400 000, equals R380 000 tax-free.

Regarding her two years' service from March 1 1998 to retirement, the following applies: 2 (years of membership after March 1 1998) divided by 40, multiplied by R400 000, equals R20 000 (the taxable portion).

So only R20 000 of Jones's actual lump-sum benefit would be taxable in terms of the new tax regulations for civil servants.

**Step two**

However, this amount is now subject to the normal tax-free formula — R120 000 or R4 500 multiplied by years of service.

Croome says pension fund members often assume that they automatically qualify for the R120 000 tax-free lump sum no matter how long they've been a member of the fund.

But this is by no means the case, as the formula merely sets the *maximum* tax-free amount.

In our example, the tax-free lump sum due to Jones would be calculated as follows: 40 (total years of recognised membership) divided by 10, multiplied by R50 000 (actual annual salary over five years limited to a maximum of R60 000), equals R200 000.

But Croome explains that since this amount exceeds R180 000 (R4 500 multiplied by 40), the R180 000 would apply.

Since Jones is entitled to R380 000 tax-free when she retires — as this money was accrued before 28 February this year, and because the R20 000 lump sum due for the two years after March 1 is less than the tax-exempt lump sum — she will get the entire R400 000 tax-free.

Croome says this illustrates that state employees who have been members of their pension funds for many years and who are due to retire within a few years will not be affected in a big way by the tax law changes.

Another prime benefit afforded to civil servants is the favourable deduction regime for public funds, in which state employees can contribute as much as they like to pension and provident funds and deduct these amounts from tax.

Members of private pension funds, on the other hand, can only deduct from tax their contributions not exceeding R1 750 or 7.5% of retirement funding income (whichever is greater).

Croome says this will change from March 1 next year when the same limits will apply to civil servants.

This makes it possible, however, for civil servants, especially those very close to retirement, to increase their level of contributions before March next year to boost their lump-sum payout.

## Government pension fund windfall

GOOD news for members of the Government Employees Pension Fund (GEPF) is that a recent amendment to the fund's rules now gives civil servants who resign or are dismissed access to their full share of the fund.

This only applies if the full amount is transferred to your new employer's pension fund or to a retirement annuity.

Previously civil servants who left before retirement were paid a gratuity only. They lost the balance of their actuarial interest in the fund.

Members of private pension funds on the other hand are paid their contribution plus growth and, in most cases, also a portion of the employer's contribution.

Tiny Carroll, senior legal consultant at Old Mutual says the new rules state that if retrenchment or discharge is the fate of GEPF will be entitled to a gratuity and provided the gratuity is invested in another approved retirement fund to the balance of the actuarial value

# Workers' Fund offers options to low earners

CT (BR) 18/8/98 (300)

There was and still is a need to provide a retirement package that is affordable to both employer and their domestics as domestic workers still survive on very low wages. To address this, Fedlife began a scheme known as the Domestic Workers' Pension Fund. On Workers Day, 1 May 1994 Fedsure Life (then Fedlife) launched the Workers 'Provident Fund, initially aimed at domestic workers only.

The Workers' Fund was inspired by a need for a cost-effective retirement and risk fund. Research showed a need for a product that would fill the gap in the lower income sector.

Realising that this scheme could be of benefit to many other categories of workers, the Workers' Fund has since been widened to include agricultural workers, medical workers, self-employed people, low-income employees in small businesses and employees of community/non-profit organisations. It is also suitable for associations and labour bodies that employ a fair number of workers.

The Workers' Fund offers various options, including retirement benefits, death benefits, funeral benefits, disability benefits and collateral for housing purposes. The funeral benefits can be extended to direct family, such as a husband, wife or minor children and provides money for family funerals when the need is greatest.

Members can have access to their benefits before retirement. In other words, if the member leaves the employer, then the member has the following options:

- ☐ Receive cash accumulated;
- ☐ Leave the accumulated benefits in the fund until retirement;
- ☐ Transfer the fund to the new employer; or
- ☐ Preserve the benefits in a preservation fund.

At retirement age, members have the option either to receive a lump sum or a pension, or a combination of both.

The fund is designed to be both easy to understand and simple to administer. There is flexibility, but the options have been deliberately limited to avoid complication.

The monthly contribution is usually paid by the employer, but employees may share in the cost of providing the benefits. Payments are made by monthly debit order. The minimum premium is R30 per month. The premium can be increased as and when the worker's wages are increased.

The housing loan facility allows members the opportunity to use a portion of the accumulated benefits as a guarantee for a housing loan after two years of membership.

An additional feature is that if the employee is dismissed or resigns and does not choose to cash in his or her policy, then the death, funeral and disability cover continues for six months. This provides the employee with vital cover in times of need without requesting additional premiums during periods of unemployment.

"The move from defined benefit to defined contribution pension schemes has resulted in the individual carrying the greater part of the burden of risk associated with the far wider investment choice now available," says Gavin Williams, director of BOE Investment Administrators.

He adds: "Although individuals are now able to select from a choice of investment options, they cannot customise their risk benefits (death and disability) to any degree."

Williams says the growth in the number of gay relationships is just one example of the myriad changes within the traditional scheme which need to be accommodated. He points out that risk benefits generally cater for the "average" member.

According to Williams, providing flexible risk benefit structures creates a dilemma. He says: "If freedom of choice is given to members, then anti-selection phenomenon results — that is the benefits are taken only by those who need them. In time, the consequence of this is a loss of benefits to those members and their dependants. It is the fiduciary duty of trustees to ensure this does not happen and therefore the flexibility of benefit structures must be limited."



*Gavin Williams, director of BOE Investment Administrators*

Williams suggests that an alternative might be a pooling of insured risk benefits through compulsory initial membership at the outset for a minimum term. After a certain period, individuals may be permitted to withdraw from the risk benefits entirely and place all cash in the investment portion of their fund. On the other end of the scale, he says, individuals may elect to take additional risk benefits over and above the obligatory minimum.

This level of flexibility in insured benefits is currently unavailable. Williams cautions that a fund offering such flexibility would require access to management information in order to be able to provide information to members and also to keep track of the scheme's complexity. He adds: "The back office would also have to be configured and individual fund members would need to be given the best advice."

"What it would require," he concludes, "more than ever, are specialised consultants to assist in the setting up of pension funds."

## Fulfilling requirements in trustees' hands

Most trustees believe their primary responsibility is to select that fund manager who has the greatest chance of providing top performance.

In truth, the real responsibility of trustees is to identify that investment solution that has the highest probability of fulfilling the requirements of the fund's policy

Multi-Manager Management(tm) is an investment approach that has superseded traditional split fund approaches.

It was developed by m3 Capital Asset Management to maximise a fund's exposure to those investment risks that have the highest probability of being rewarded and minimise exposure to those investment decisions that contribute to the volatility of the performance outcomes.

m3 Capital believes, however, that trustees need to have a clear understanding of what Multi-Manager Management(tm) is.

Not all managed multi-manager solutions have the same potential to control all levels of investment risk. A multi-manager solution may go some ways in terms of counterbalancing the underlying style biases of the managers, but there is still no control over the asset allocation outcome when one aggregates these different balanced managers into the larger fund.

In the case where the underlying balanced manager is allowed to actively manage the asset allocation decision, the net effect is that any performance outcome at the aggregate level is effectively random.

m3 Capital's Multi-Manager Management(tm) solution, in contrast, is a quantitatively driven investment process that provides the blending of an array of specialist portfolios.

Typically this blend would then be actively managed over time to maintain the specific funding and risk targets of the pension or provident fund. More importantly, though, the investment solution is structured to minimise the impact of the asset allocation decision on the fund's performance and maximise the contribution that can be made by selecting the right shares.

Academics have typically argued that to provide added value, fund managers need to time the asset allocation decision "right" at least 70 percent of the time to cover the considerable transaction costs involved in shifting between asset classes.

"We believe this is unachievable for most managers," states David Wakerley, an actuary at m3 Capital Asset Management.

"As such, the m3 Capital multi-manager process passively weights the asset allocation decision to the benchmark asset mix and effectively pushes the performance driver at the aggregate fund level to the stock selection level.

"This shift in emphasis is key. We believe that by selecting the top stock pickers within their area of specialisation, we can concentrate the portfolio on a 'bet' that has a significantly higher probability of being rewarded."

CT

BA 18/08/98

309

Specialised consultants will be needed

Need for cover in lower pay brackets

SOWETAN Tuesday August 18 1998

# Pensions clean-up progressing apace

By Khangale Makhado

Sowetan 18/8/98

THE Ministry of Welfare and Population Development is engaged in a data clean-up operation aimed at improving delivery of social pensions to about three million beneficiaries.

This was said by Minister Mrs Geraldine Fraser-Moleketi in response to an inquiry by *Sowetan* about disability grants that were terminated by the ministry.

A number of disabled persons throughout the country have had their grants terminated or suspended, some for more than a year, and efforts to have them reinstated have so far failed. (306)

Fraser-Moleketi said the termination of grants was part of a re-registration process of all social security beneficiaries and urged every beneficiary of a grant or pension to get directly involved "for the re-registration to be successful".

"The campaign aims to improve service delivery to beneficiaries as well as weeding out fraud and corruption. The clean-up mainly uses data mining technology to cross-check information on our own and is an ongoing process that will take up to 18 months to complete.

"I want to assure beneficiaries that we will make every effort to minimise any possible inconvenience to them. For a start we now have in place uniform procedures that will be followed by all provinces when re-registering beneficiaries," Fraser-Moleketi said.

She said her ministry had also completed an initial investigation into the provision of disability grants as part of their social security programme.

Some of the issues explored by the investigation included:

- The move from a welfare and health perspective on disability to one of empowerment and development;
- Considering the role of the ministry in providing social assistance within a broad social security framework where other government departments as well as the private sector are crucial in providing comprehensive social security;
- Critically looking at the issues of poverty and disability and how they relate;
- The costs associated with disability and linked to these disincentives for people to come off the grant and
- Fair and equitable criteria for determining eligibility to receive social assistance and budgetary considerations.

# PROVIDENT FUND REVIEW

**Editorial:** Gwen Watkins
**Advertising:** Anne Benjamin

# Fund insurance a required response to fraud

(300) CT (BR) 18/8/98

A recent guideline issued by the Institute of Retirement Funds (IRF) and Pension Lawyers Association (PLA) stipulates that it is essential for all pension funds to have valid insurance cover in place in accordance with Section 302(4) of the Pension Fund Act.

This development is in response to an industry concern that pension fund contributions should be protected from fraud and the professional negligence of its officers.

This has recently been highlighted by the alleged irregularities at the CAF Pension Fund, totalling in excess of some R30-million.

Similar provisions apply to medical aid committee members and in both sectors, individuals are exposed to unlimited personal liability.

*Trustees and medical aid committee member carry onerous fiduciary duties*

"Trustees and medical aid committee members carry onerous fiduciary duties in their personal capacities and they can be held jointly and severally liable," warns John Austen, deputy managing director of Glenrand-MIB Financial Markets.

"In the case of trustees, liability includes the loss of assets of the trust as a result of fraud and negligence and, although pension fund trustees are rarely remunerated, their personal assets are exposed to the liabilities of the fund. The result is personal, unlimited liability with little or no protection. In response to this situation, the IRF drafted insurance guidelines regarding both the scope of cover and the limit of indemnity.

"The Institute drafted a table, referred to as the Honesty Index, which determines the minimum insurance requirements of a fund.

The Honesty Index is the aggregation of the percentage of a fund's assets and contributions and is applied to determine appropriate limits of indemnity. Utilising this table, the Institute recommended that the minimum limit of indemnity for a fund is R500 000 or twice the Honesty Index, whichever is the greater.

"In the case of medical aid committee members, as pointed out, liabilities are also borne in the personal capacity of the Committee members. Exposure in this instance is also far reaching. A committee member can abrogate authority but cannot abrogate responsibility and could therefore be held responsible for losses sustained to the scheme, through the doctrine of vicarious liability.

"Nor is there choice in the matter — the Medical Schemes Act Model Rules make it a condition to ensure the scheme against loss from negligence, dishonesty or fraud and the Act states that fidelity cover has to be maintained by all schemes for their committee members and officers.

"In fact, so comprehensive is this requirement that the failure to implement adequate insurance could constitute negligence on the part of trustees/committee members.

"Moreover, existing insurance modus operandi is often inadequate as it seldom provides dedicated customised cover for the individual schemes. Cover taken out on a blanket basis could be exhausted by a claim from an individual scheme, leaving the balance of the schemes without cover.

*The policy covers any financial loss sustained as a result of fraud or dishonesty*

"Glenrand-MIB Financial Markets is ideally positioned to provide protection to trustees and medical aid committee members.

"In the case of trustees, our policy is structured to provide protection to the assets under management and against the trustees' legal liability for not meeting their fiduciary duties.

"The policy is unique in that the assets under the trustees' trust are protected against third parties defrauding monies from the trust, thereby protecting the trust as well as the trustees' liability. With a competitive premium, the policy is also a cost-effective option.

"In addition, the policy covers any financial loss sustained by the fund as a result of fraud, dishonesty or the intention to cause loss to a third party or trustee which results in loss to the fund.

This differs from other market wordings which requires the perpetrator of such fraud to receive person financial gain. Should, for instance, a dishonest act divert fund contributions to a third party (for example a family member) conventional policies would not respond.

"In the case of medical aid committee members Glenrand-MIB Financial Markets provides full Errors and Omissions insurance, including full Fidelity Guarantee Cover, cover for First Party Computer Fraud, protection against losses by the fund's administrators and protection against agents and third party providers.

"Our company specialises in the insurance and risk management of entities managing third party funds. This expertise places us in an ideal position to meet the insurance needs of pension fund trustees and medical aid committee members," concludes Smith.

# Non-residents' state pensions to be withdrawn

(300) ARG 18/8/98

MAUREEN MARUD
ARGUS ACTION

**Old age pensions and all social assistance grants are being withdrawn from more than 2 000 Western Cape residents who are not South African citizens.**

Final cut-off date would be some time in April, said Waldie Terblanche, director of social security at the Western Cape Department of Social Services.

In terms of the Social Assistance Act of 1992, which became operational in 1996, only South African citizens could apply for government assistance, said Dr Terblanche.

This meant about 2 172 old age pensioners and recipients of grants in the Western Cape were no longer entitled to their monthly payments.

"We have started with a programme in the Western Cape specifically to review all these cases. We will send their names to the Department of Home Affairs to check against the register whether these people have since become South African citizens and whether our records are correct."

According to a statement last year by Geraldine Fraser-Moleketi, Minister for Welfare and Population Development, social assistance for permanent residents had to be "restricted" because of problems of affordability and the principle that the country should provide for its citizens first.

The lack of financial resources at the disposal of the government was complicated by the fact that most of the country's workforce was unemployed or did not enjoy the same level of workplace insurance benefits as their counterparts in more advanced industrialised countries, Ms Fraser-Moleketi said.

"Over the years many people have found a way to survive in the informal sector where they are not able to make provision for a pension."

**Pension panic, see Argus Action**

# Uncertainty over pensions board

(300) Sowetan 24/8/98

THE special pensions board with powers to sanction liberation struggle pension payouts will not assume office until an amendment had been made to legislation, the Department of Finance has announced.

Ending two weeks of speculation on whether or not the board had been appointed, the department said on Friday that the appointmens would only occur when the Special Pensions Amendment Bill, introduced in Parliament earlier this year, was passed by law.

The five-member special pensions board, constituted in terms of the Special Pensions Act 1996, was expected to replace a previous board dissolved at the end of its two-year contract on March 31 when fewer than 2 000 pensions out of 21 000 applications had been paid out.

The board was suspended, along with its entire staff of 40 and acting chief executive officer.

It is uncertain whether the incoming board exists. Officials and staff of the Department of Finance have remained tight-lipped on the issue over the past two weeks.

Department operations director Mr Thozamile Magwaza finally asked all media to submit written enquiries on the issue.

In a written reponse to Sapa, pensions administration chief director Mr Piet Maritz said: "The incoming special pensions board and their appoinfments have not been finalised. The finalisation of the appointments of the board is subject to the promulgation of the Special Pensions Amendment Bill as introduced in the National Assembly."

Maritz said no chief executive officer had been appointed.

According to the Act, the CEO, who is to control the special pensions budget, is chosen by the board, while the board of part-time or full-time members is appointed by the Minister of Finance.

The mostly ex-political prisoners, exiled returnees and dependents of dead revolutionaries have been waiting for the pensions since 1996.

Uncertainty about the existence of the incoming board triggered a flurry of enquiries from frustrated applicants. Maritz was reluctant to speculate on when the first payouts would be made.

People eligible for special pensions are those, or their dependents, who due to their sacifices and service in the establishment of the new democratic order have been unable to apply for other pensions.– *Sapa.*

# Pensions not easy to get, says Marcus

**Linda Ensor**

CAPE TOWN — The criteria for granting pensions to people engaged in the liberation struggle were so stringent that at most only 1 800 of the 6 000 applications already processed were likely to qualify, Deputy Finance Minister Gill Marcus said yesterday.

Marcus was motivating proposed amendments to the Special Pensions Act at a meeting of Parliament's finance committee.

The act was passed in terms of the interim constitution to cater financially for those who made sacrifices in the struggle against apartheid.

Marcus noted that the act, promulgated in December 1996, had been "extremely difficult to implement" and its administration had proved inadequate. So far about 27 000 applications had been received, 2 122 pensions had been paid out and 2 815 people had applied to have decisions reviewed by the still-to-be constituted review board.

Before the 6 000 processed applications could be decided upon, a new board would have to be set up, Marcus said.

The documentary proof required under the act was so demanding that many of the most deserving people had not been able to acquire the pensions due to them.

# 2 000 foreigners draw SA welfare cash

(3007)
ARG 3/9/98

POLITICAL CORRESPONDENT

A probe has been ordered into the drawing of old-age pensions and social grants in the Western Cape by 2 172 people who do not qualify for them because they are not South African citizens.

This was disclosed in the National Assembly by Welfare Minister Geraldine Fraser-Moleketi in reply to questions by Gora Ebrahim of the Pan Africanist Congress.

The Western Cape welfare department had been supplied with a list of the 2 172 recipients by the national department, she said.

This would be passed to the Department of Home Affairs so it could verify the information.

The investigation would take about six months. Before any grants were suspended or cancelled, recipients would be notified in writing by the Western Cape welfare department.

# Employees urged to (go°) take interest in pensions

Star 4/9/98

By Ryan Cresswell

As the economic downswing takes its toll, workers can help ease the pressure on their pension funds by taking a personal interest in how their trustees are investing their money and by limiting any withdrawals.

Johannesburg pension consultant Mike Ronne said members who paid fixed contributions that were matched by companies should encourage trustees to look at "rand hedging", where money was invested with concerns that dealt, at least partly, in foreign currency.

Ronne said it was more important than ever for pension members to put forward "investment suggestions" to trustees. This would be made easier in December, when new legislation would make it compulsory for management boards representing members to run funds.

He said people who needed to withdraw part of their pension should take out only the portion they had in guaranteed money market funds and gilt funds because these were fairly impervious to market fluctuations; the rest should probably be left until there was an upswing.

Ronne said most good pension portfolios would be balanced and would have some impervious investments.

Old Mutual senior consultant John Cranke also said it was important for pension members to find out just how trustees were investing money.

"Trustees should have policies that accumulate benefits, especially for people approaching retirement," he said.

He said members should not sell or withdraw too much in the near future.

But Cranke also warned against too much panic and explained that pension funds were long-term investments and there had been many ups and downs in the economy over the past 10 years.

# Time of struggle for pensioners

CT 10/9/98 (300)

*SOUTH AFRICAN pensioners are faced with a shrinking rand, a stringent means test for the state pension and fixed incomes with no hope of relief from the government. Even for outwardly comfortable pensioners, the luxuries have gone. DIANE CASSERE spoke to them. These are their heartbreaking stories.*

KAY ALTMAN was 82, feisty and still fighting for people's rights. The Cape Times interviewed her two weeks before the tragic car accident in KwaZulu-Natal which took her life (see obituary).

With a history in trade unionism going back to the 1940s, Altman found herself on the losing side of life: in other words, she was a retired person with no pension, a small fixed income and no more investments.

This is the interview she gave us last month, on the plight of pensioners today.

"Every time an investment or an annuity has matured, I have had to use it. Either the roof needed fixing or the car conked in, there is always something. I have now used up my last annuity, there is nothing more."

There are millions of people like her. Because they have a home and a car, they fall outside the means test for a social pension.

I called the Association for Retired Persons and Pensioners (ARP&P) and was put in touch with Altman who is a director on the national board and heads the Western Cape division of the association.

My request was the go shopping with a pensioner to find out what luxuries have been casualties of their shrinking income.

With characteristic frankness, Altman asked me what "kind" of pensioner I was talking about: "If you mean the social pensioner who gets R490 a month, those people seldom if ever have the luxury of going shopping.

"Because they can't afford accommodation, they live with their families and give them the money."

However, she agreed to go shopping with us to establish how the shrinking rand has affected people with a fixed income.

Altman was widowed 18 years ago. She and her husband had bought a small, council house in the 1960s in the "new" area of Pinelands, "not the champagne section". By the time her husband died, the house was paid for.

When Altman retired nearly 20 years ago she received an amount of money from a provident fund — but no pension. Her earlier investments have now all matured and been used.

She receives an honorarium of R1 800 from the ARP&P, which has remained the same for the last three years and will continue to do so because if she earns more she will lose her right to be a "Dr Zuma" patient and attend the day hospital for medication. If she needs to be hospitalised, she has to go to Tygerberg Hospital.

"We had a house in Hermanus which I sold. I gave it away for a song. How could I know prices would go up so much there?"

Altman says pensioners are caught "at every turn".

"At my age, I'm still struggling and working as I've always been doing."

Altman was a trade unionist from 1944 to 1980, working with among others the Shop Workers' Union, the Commercial Distributors' Union and the Commercial Travellers' Union.

She was with the Hairdressers' Union for 25 years and, at one stage, worked for three unions simultaneously. "I've always loved working for the underdog."

Altman is not bitter, but feels South Africa does not look after its senior citizens.

"They tell you to look after yourself, so you get a house, you pay for it and now, because you own a house, you can't get a pension," she said.




**BEWILDERING CHOICE:** Kay Altman at the supermarket, faced with a choice of cereals — she can afford only the cheapest brand. *PICTURE: ALAN TAYLOR*

4

# Senior citizens club together to face life's ups and downs

CT. 10/9/98 (300)

DIANE CASSERE

WE are at the Umzi Omhle club for senior citizens in the eKuphumleni home for senior citizens in Guguletu.

The club was founded by Wynand Zantsi, 78, in the early 1960s. In those days, the club was in a shack and the home only opened in March 1996.

Residents of the home and members of the community attend the club every weekday for company, porridge, a bit of breakfast and a light lunch. They also sing, play games such as cards and swop horror stories about rising prices.

These people receive a monthly income of R470 (it goes up to R500 on October 1) and this has to pay for everything they need. Often they support a grandchild or contribute to a household as well.

Residents in the home give their pensions to the management and if there is a small amount left over, this is most often claimed by their families.

Feisty Grace Siyo, 62, is furious on the day we visited.

During an encounter with the SA Police Service in July and an altercation about ownership of the club premises, Siyo broke her glasses. "Just look at this, my darling, look at this price for my glasses," she fumed. She showed me an account for R919,80.



**WE ARE DESPERATE:** Maria Lucwaba, state pensioner, who is also a volunteer worker among TB sufferers in Guguletu.



**HOW CAN WE AFFORD IT?:** Grace Siyo, left, with Eunice Madikane, both state pensioners in Guguletu. *PICTURES: THEMBINKOSI DWAYISA*

"How can I afford this? I am a pensioner receiving R470 a month."

In the same encounter, another woman, Maria Lucwaba, 68, also lost her glasses for which she has to pay just less than R500.

The women I have come to meet are Siyo, Lucwaba and Eunice Madikane, all members of the club, living in Guguletu.

Later we are joined by Sylvia Nkata, a resident of eKuphumleni. The name means to rest, or the place to rest.

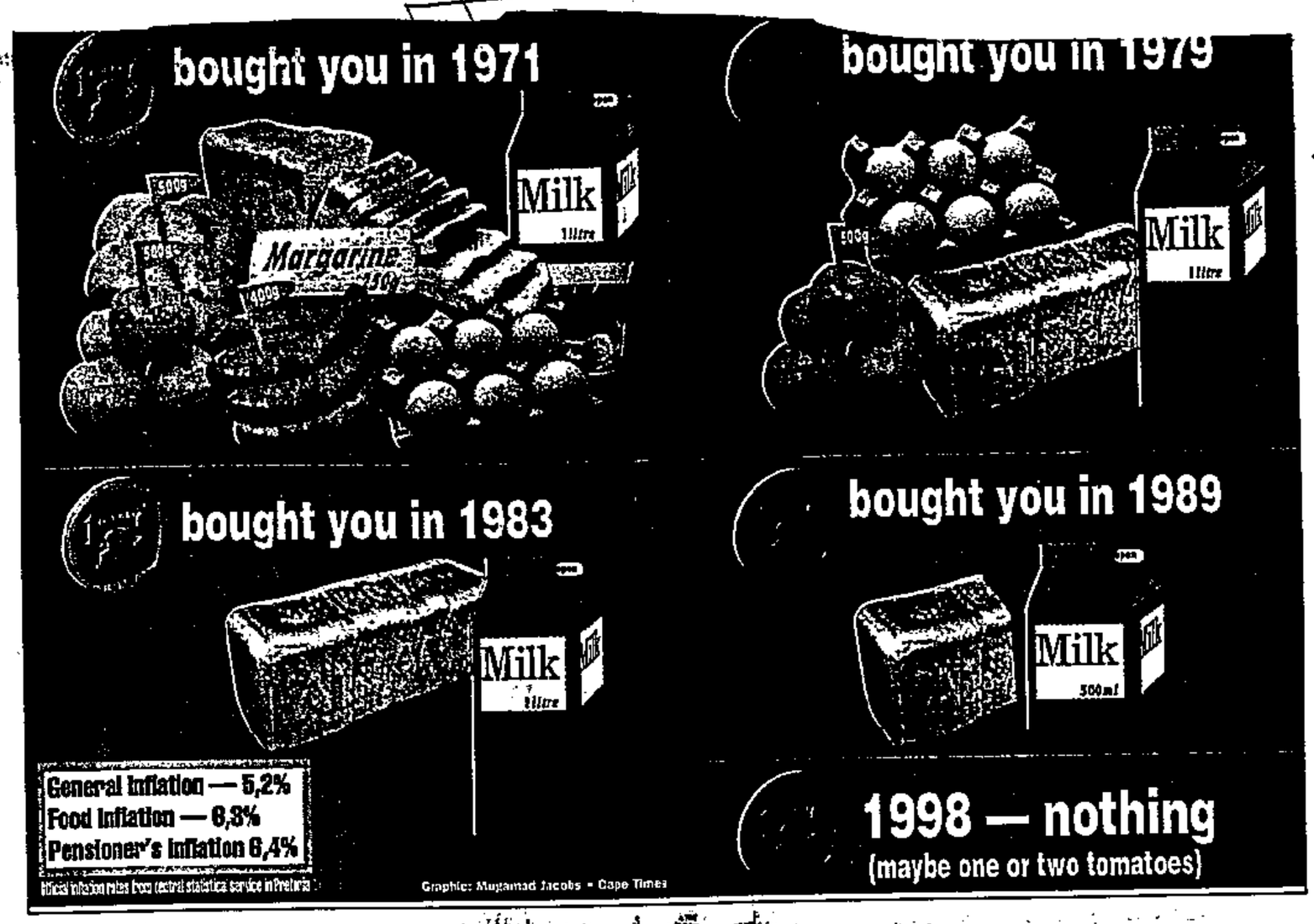
Zantsi is busy in the home and he joins us occasionally. Douglas Majikela looks on, but it is Siyo who emerges as the spokesperson.

She has taken my request seriously and has brought all her accounts with her. She lives in Guguletu with a grandson who is at university. He has no bursary and, between them, they struggle to pay his fees.

Siyo pushes forward a phone bill for R696,69 which she is allowed to pay off at R50 a month. She and her grandson are also struggling to pay a R250 a month bill to a furniture store. She also has a bill for R70 a month for clothes she bought her grandson.

She pays R20 in rent. "What can you do? You have to eat and dress. The stomach doesn't hear you when you say no. It wants food."

Siyo has high blood pressure and gets her pills free from the clinic. If she has to go to the hospital, she has to pay a nominal amount.




What does she spend per month on food? "Two hundred rand," she says. "What can you get for that, my darling? Nothing. You can't just eat bread, that's a snack. You need protein, food for the blood, otherwise you get sick. It's really a disaster."

Lucwaba says they can seldom eat nutritious food, which is what they need. She too has high blood pressure.

"My youngest daughter is in matric and now she wants a dress and shoes and all that for the matric ball," Lucwaba says. "I pay about R2 000 a year for school fees.

The women say "soft porridge" and samp are staples in their diet. "We don't like it, but we must eat it."

They all said they paid about R10 a week in transport, getting to and from the home and shopping. Siyo still rides her bicycle and sometimes walks from Guguletu to Claremont and back.

All praised the anti-crime campaign and rough justice of the taxi drivers. "My sister's son was killed by gangsters. The taxi men are helping us now and we can walk peacefully, even at night."

The people who stay in eKuphumleni do so because they are safe there from their families, who often abuse the elders and take their pensions.

Nkata, 72, who has lived there since it opened, said her family did not ill-treat her, but she was tired of their fighting.

Zantsi is "Tata" to everyone in the club, which now has 72 members.

He has fought for the rights of the elderly for more than 30 years, liaising with the Association for Retired Persons and Pensioners and other groups that can assist them.

The opening of eKuphumleni was the realisation of a dream.

He pays out of his own pocket, the state pension, for items the club needs. "My biggest expenditure every month is for the club."

# The old-age pittance delivers nought but government loaf

(300) CT 10/9/98

A *CAPE TIMES* reporter visited the supermarket with Kay Altman, who died last Wednesday.

While she had eliminated all luxuries from her grocery list, Altman said she had sleepless nights thinking about how those who receive between R470 and R490 a month can survive.

The first casualty of Altman's shopping list was coffee, which she could no longer afford.

"As for the meat counter, I just look, but sometimes I end up with a bit of mince.

"Corned beef is now out — too expensive — and so are sausages at R9/kilo. I used to get a bit of tinned salmon, which I loved, but now it's about R12 a tin."

She named a brand of rusks she used to get but at R8 a box, she felt they were too expensive. She also had to forgo mushrooms and asparagus.

"I am a diabetic," she said, "so shopping takes so long because I also have to look at the contents, not just the price.

"Shopping is no longer a pleasure, it is hard work. I can also never get out of the shop without paying at least R50."

At nearly R25/kilo (sometimes more), cheese was out of the question, so macaroni and cheese, a former staple, had to be removed from the list. So had a favourite brand of breakfast cereal at R14 a box.

Pensioners, said Altman, will buy one or two tomatoes and potatoes when they shop.

Bananas, which are nutritional, were R3,99/kilo at the time we went shopping. Most seasonal fruit is out of a pensioner's price range.

Most pensioners buy frozen vegetables because they last longer. But they are not as nutritious as fresh vegetables. Similarly, said Altman, blocks of margarine are cheaper, but not as healthy as the tubs.

It is ironic, she said, that at an age when nutrition is vital, you can least afford it.

"Today you can get nothing with a rand, not even a sweet."

What did Altman eat during a typical day? "I have a slice of brown bread for breakfast and some oats. If I have a spread, it is peanut butter.

"I can't eat jam and the sugarless kind is out of the question because it is too expensive. For lunch I have a roll."

Altman sometimes bought inexpensive meals, such as curry and rice or stew, for about R8 from a nearby shop. "It is cheaper to buy these for dinner than to buy chicken or vegetables," Altman explained.

A good neighbour also used to take her a hot meal once or twice a week, and she spent Sunday night with her family.

"As for going to a restaurant, it's out of the question," she said.

"How do the state pensioners manage? I have sleepless nights thinking about how little they can buy on R490 a month.

"The government loaf of bread costs about R2,55. I think they must have to buy dog bones and scraps."

"It's terrible."

# Altman fought for underdog up to the end

**DIANE CASSERE**

KAY ALTMAN, who died in a car accident in KwaZulu-Natal on Wednesday last week, was still fighting for the underdog at the age of 82.

Tragically, she lost her only child, Denise Bittkau, to cancer only two months ago, but Altman was still battling for peoples' rights.

She was a director on the national board of the Association for Retired Persons and Pensioners (ARP&P) and head of the Western Cape division.

Altman was a trade unionist from 1944 to 1980, working with, among others, the Shop Workers' Union, the Commercial Distributors' Union and the Commercial Traveller's Union. She was with the Hairdressers' Union for 25 years and at one stage, worked for three unions simultaneously.

She was first spotted by the Shop Workers' Union in 1944 when as a young shop assistant she took part in a strike. "The workers in Johannesburg had gone back to work, but I said no, we hadn't got what we asked for.

"We stood in the picket line for two weeks and the union organisers asked who I was. Then they asked me to come and work for them, which I did, starting on April 4 that year," she said last month.

Altman and the national chairman of the ARP&P, John Visser, were travelling from Durban International Airport to a national meeting in Pietermaritzburg on August 26 when the accident occurred.

Visser was later released from hospital, but Altman was sent to Addington Hospital where she died of her injuries a week later.

Grieving colleagues at the local offices of the ARP&P in Pinelands said Altman would be sorely missed by everyone who came into contact with her. The association assists retired people in all areas of their lives, from practical and legal help to organising outings and holidays.

She is survived by her son-in-law Joachim Bittkau and granddaughter Karen.

A memorial service will be held today at 10.30am at Pinelands Methodist Church. Donations can be sent in lieu of flowers to the Groote Schuur Cancer Unit Appeal Fund.

# More vets of struggle set to get pensions

ARG 11/9/98 (300)

**A bill to broaden eligibility for "struggle" pensions to all disabled veterans, and those between 35 and 50 who are battling to support themselves, was approved by the National Assembly.**

The only opposition yesterday came from the Freedom Front, whose finance spokesman, Willie Botha, said the bill aimed at rewarding members of the African National Congress and Pan Africanist Congress who were never in the service of the state nor contributed to a pension fund.

This should be an internal matter for political organisations or parties, he said.

Many of these pensioners had lived overseas in great luxury, and had received enough funds from foreign governments and other organisations to provide for their old age.

Deputy Finance Minister Gill Marcus said it was clear Mr Botha had no understanding of the pain suffered by millions of South Africans.

"I think it's regrettable ... that there are people who feel that what happened over the past decades, and the toll and the suffering, are a joke," she said.

The Special Pensions Amendment Bill extends pensions to all totally and permanently disabled South African citizens who made sacrifices or served the public interest in the struggle. Under existing legislation, only disabilities resulting from full-time service with a political organisation, or political imprisonment or detention, count.

The bill will also allow people to get pensions before they turn 50 if they have a terminal disease. People between 35 and 50 years old who are unable to provide for themselves will also get a basic pension. – Sapa

# Bill clears way for struggle pension applicants

ET 11/9/98 (300)

LEGISLATION to make it easier for those who served in the struggle for democracy to obtain pensions was passed in the National Assembly yesterday.

Deputy Finance Minister Gill Marcus said the Special Pensions Amendment Bill was intended to provide pensions for the thousands of people who, due to their "full time active service" in bringing democracy to SA, were unable to provide for their old age.

Speaking in the National Assembly, she said the bill was also intended to make it easier for eligible people to obtain pensions and to broaden the eligibility base.

It extends pensions to all "totally and permanently disabled South African citizens who made sacrifices or served the public interest" in establishing democracy in SA.

An amendment in the bill enables people who have not yet reached the pensionable age of 50 but who qualify in terms of set criteria, to obtain a full pension if they can prove that they suffer from a terminal disease. — Parliamentary Bureau

# Loan windfall for black old age homes

ET 11/9/98 (300)

**KARIN SCHIMKE**
POLITICAL WRITER

HOMES for the black elderly are to get unexpected financial breathing space as the Western Cape administration writes off loans of about R50 million.

During investigations into the running of old age homes, Western Cape ministers Cecil Herandien and Peter Marais found that, although welfare money was being equally distributed among old age homes, white residents were living in far better conditions than black pensioners.

Before the 1994 election, loans to those homes under the House of Assembly were written off. Black old age homes, however, are still using a major portion of their capital budgets to pay back loans to the province.

This resulted in what Herandien called "a shifting around of poverty": The money given to the homes by the welfare department ended up being paid back to the housing department.

The investigation was the result of media attention on an old age home in Oudtshoorn which appeared to be benefiting financially because welfare MEC Arnold de Jager's wife had an interest in it.

Marais told a press conference that the money could now be spent to improve the living conditions of black pensioners in old age homes in the province.

"There will be far more money left in their coffers to pay staff and train health workers. They will be able to upgrade and refurbish their buildings. And we hope there will be an improvement in the quality of food."

The homes will, however, be put to the test to see whether they are deserving. Their management must be sound and they must be providing a good service to their old people.

Within six weeks, the provincial exco will have laid before it a formula for writing off the money.

# Costly fix for city pension mix-up

CT 15/9/98 (300)

**KARIN SCHIMKE**
POLITICAL WRITER

A MISUNDERSTANDING about a new, employee-friendly pension package being offered to city of Cape Town workers is going to cost the council at least R20 000 to fix.

Rumours that a change-over to the new pension package by October 10 would entitle people going on early retirement to a huge cash bonus payout were mentioned in a weekend newspaper, causing confusion among the council's 13 000 staff members.

This comes despite the council's best efforts to convey the full meaning of the choices available to staff and which pension fund best suits them.

Now pamphlets will have to be printed and circulated to quell the rumour and this will cost the council at least R20 000.

The process of setting up the option of going from a defined benefit pension (which allows staff members to take only their own contributions plus a small percentage should they resign before retirement age) to a defined contribution pension (which allows staff members to take their own and the employer's contribution when they decide to leave) has been going on for a year.

Now that the process has been finalised, the council has received 145 applications in the past month from people wanting to resign or retire early.

This did not, however, constitute a crisis for service delivery in Cape Town, city manager Andrew Boraine said yesterday.

"We're monitoring the retirement applications to make sure we don't develop any skills shortages. And the people applying are not only those from management structures. Labourers that have been with the council for 20 years are also applying."

The council had been expecting several resignations when the package was finalised because retirement-age employees had been waiting to see which pension fund would benefit them most.

All employees have until October 10 to state which fund they wish to belong to.

City corporate finance director Philip van Ryneveld said yesterday he suspected someone had confused the deadline date for the fund with a deadline date to apply to go on pension.

"People are being given a choice. Through the old pension fund, we were tying people to their jobs through their pension arrangements and they felt they had to stay on even if they were unhappy. We are ending what some have described as the time of 'golden handcuffs'."



**'WIN/WIN' SITUATION:** City manager Andrew Boraine

Van Ryneveld added that the council's pension fund was in an excellent shape at the moment because all its bonds and shares had been sold in March this year before the market crashed.

"We decided to sell even though the market was still climbing at the time because we wanted to be sure of what we could offer our employees.

"If we hadn't (sold), we could have lost R1,3 billion. That's two years' worth of rates for the whole of the city of Cape Town."

A financial advisory service for all employees is being offered by the city pension fund to help staff make informed choices.

At the same time, Borraine said, it was important to make it clear that the new pension package options were not part of a grand strategy to rid the council of people.

"That wasn't the motivation. The motivation was simply to save money on the pension fund and the consequence of that is that staff who had wanted to retire early and couldn't, now can.

"In Tygerberg this system has already been implemented."

Borraine added that the new system had produced a "win/win" situation.

"Local authorities are very rigid employers. We are overstaffed in some areas and this way we avoid having to retrench people.

"So there is more chance for promotion and right-sizing.

"It frees up an organisation which is very inflexible, but it is by no means an attempt to get rid of some people."

# Be sure to get your share of the billions

## Bosses must negotiate, says Murphy

ARG 12/9/98 (300)

**ALIDE DASNOIS**

Employers will not be able to snatch the billions of rands lying in surplus in retirement funds from your pocket - they will have to negotiating a fair deal with you.

That's the message which John Murphy, the Pension Funds Adjudicator, is sending to members of retirement funds in his latest ruling on one of the major current issues between employers and employees.

In a complex 48 page ruling on a dispute between a group of pensioners and the South African Petroleum Refineries Pension Fund (Sapref) over the distribution of a surplus in the fund, Murphy has sent the two parties back to the table to talk.

Employers, he says, claim that surpluses should be used for contribution holidays or even refunds, arguing that all surplus in a defined contribution fund is because employers have paid in too much. Members see things differently: they see any contribution holiday by the employer as cutting down their pensions.

So who does "own" the surplus?

The question is badly posed, says Murphy, because until a pension fund is wound up, any surplus in the fund is not a collection of assets but merely an actuarial opinion.

Whether or not a surplus exists depends on how conservative the actuaries have been in the assumptions they use to determine whether the fund can meet its future liabilities or not.

This is why Murphy says arguments will best be resolved by negotiation.

"You wouldn't go to a judge for a wage increase, except in exceptional circumstances. Wage increases are the result of negotiation and this is the same. Rather than rule on who is entitled to what, I will compel the parties to negotiate."

Murphy says he will also ensure that everyone has enough power to negotiate.

"If I conclude that there is manifest injustice because one party has no bargaining power, there may be justification for intervention by the adjudicator."

In the Sapref case, which is a closed fund with only 20 members and 300 pensioners, Murphy has called on the employer to show why it is entitled to a contribution holiday of R4,9 million from the fund. He has asked the actuaries to provide information on the source of the fund's R192 million surplus, but he does not really expect this to settle the question of how it should be distributed. In the end, he says, the issue must be resolved through negotiation.

The courts and the adjudicator, says Murphy, must simply be the guardians of the negotiation process.

Meanwhile, Murphy has blocked the employer's attempt to save another R5,4 million by passing on the costs of administering the fund onto the fund itself.

Though he thinks the employer probably will be able to justify a contribution holiday of about R10 million from the fund's surplus of more than R190 million, he has not approved the way this was done, which was through a unilateral amendment to the rules of the retirement fund, cancelling the employer's obligation to pay administration expenses.

Murphy has set aside the amendment, which he considers was intended to give the employer unilateral access to the surplus.

And he has warned that he will not hesitate to strike down unjust rules or amendments to rules even if they have been registered by the Registrar of Pensions.

# New law aims to protect elderly

ARG 18/9/98 (300)

**Draft legislation aimed at improving measures to protect the aged against abuse was tabled in Parliament today .**

A memorandum to the Aged Persons Amendment Bill said a range of problems facing the elderly – particularly those in residential care and in homes for the aged– pointed to the abuse of, and the poor quality of service to the elderly.

Among other things the bill provides for a system of reporting on the abuse of aged persons and keeping a register.

It also provides for the issuing of regulations by the minister of welfare on measures to prevent and combat abuse, and to set minimum standards for homes for the aged. – Sapa

# Cape pensions cracked down

## Medical re-register

## Pension fraud crackdown

### Weeding-out under way today

All those receiving social grants will be sent letters notifying them when re-registration will take place in their areas.

Pensioners will have to supply documentation, and those on disability grants will also have to have medical examinations to ensure they qualify for grants.

A pilot re-registration project starts today in the Swartland and West Coast. The process then moves to other areas.

Social grant beneficiaries will have the right to appeal if their grants are withdrawn.

Re-registration has been ordered by the Department of Welfare to bring all beneficiaries in line with national criteria.

ART 12/10/98 (300) ~~R47~~

GLYNNIS UNDERHILL
SPECIAL CORRESPONDENT

**About 320 000 pensioners and beneficiaries of disability and other social grants in the Western Cape will have to re-register as the authorities move to crack down on fraud.**

More than 497 cases of social grant fraud in the Western Cape have been reported to police for prosecution in the past two years and disciplinary hearings involving six officials are under way.

The process to re-register social grant beneficiaries in the region was started two years ago, but never completed, said Jacob Boonzaaier, provincial deputy director of social security.

Those who went through the process then would have to register again to meet the national criteria for grants and for authorities to check whether they qualified for benefits, he said.

"During the previous process, two years ago, we concentrated on updating our information, but now we also will be determining whether people qualify for their grants."

Those receiving social disability grants would be required to have medical examinations, which would be paid for by the Department of Welfare, said Mr Boonzaaier.

Re-registration will take place over the next 18 months.

A pilot re-registration project starts today in Atlantis. More than 14 000 social grant beneficiaries from the Swartland and West Coast have been notified they must take part in the process. Social grant beneficiaries would be notified in writing when the re-registration process moved to their area, said Mr Boonzaaier.

Information on all social grant beneficiaries is being checked again and an internal inspectorate has been established to investigate fraud and irregularities.

Pensioners in Khayelitsha and other townships have complained about long

To page 3

From page 1 (300) ~~R47~~

delays in the processing of their pension applications.

Some desperate pensioners had collapsed at pay points when told their pensions were unavailable or could not be processed, said the chairman of the Western Cape Pensioners' Forum, Bennett Mpofu.

When pension officials were asked to a meeting at Nyanga community centre to enable pensioners to air their grievances, they failed to arrive, said Mr Mpofu.

But Waldie Terblanche, director of social security in the Western Cape, claimed Mr Mpofu had failed to turn up at two scheduled meetings with his department to discuss the issue.

Mr Mpofu described the situation as a crisis, while Dr Terblanche said he could not find any flaws in the system. There was no shortage of funds to pay the pensions and there were no obvious delays in processing, he said.

The Department of Welfare is responsible for paying the 320 000 social grant beneficiaries in the Western Cape.

"The payment amounts to R155-million each month. On average, the Department of Welfare receives 4 000 new applications every month. Some applicants do provide the department with false information to secure social grants," said deputy director of social services Henry Degrass.

Most of the fraud occurred with maintenance and disability grants, he said.

ART 12/10/98

Sowetan
BUSINESS

Real power is economic

# Retirement funds undergo change

Beeldan 14/10/98 (300)

By Shadrack Mashalaba

SOUTH Africa's retirement fund industry is undergoing a major revolution, with more people swinging from defined benefit funds to defined contribution funds.

According to the ninth biennial survey conducted by Sanlam, retirement benefits in fixed benefit and fixed contribution funds have stabilised in the last two years with few trends developing.

The survey found that funds have improved withdrawal benefits in recent years and generate market-related returns.

Sanlam employee benefits senior consultant Chris Bösenberg said many funds have a relatively high interest rate – 75 percent of funds have an interest rate in excess of eight percent, with 37 percent offering more than 12 percent per annum.

This would be harder for them to pay in future, especially with the present uncertainty in the markets.

Bösenberg said: "The Bill of Rights, Labour Relations Act, Employment Equity Bill and the Pension Fund Adjudicator regard the individual as paramount.

"This is contrary to the rules of most retirement benefits and can lead to many instances of indirect discrimination since the survey shows that most retirement funds have a long way to go before they comply with such legislation."

The survey was conducted among more than 800 retirement funds over a two-year period. The study provides all the necessary information that would allow trustees or fund members to determine whether their current benefits meet market requirements.

The latest survey also comes at a time when amendment to the Pension Funds Act is to be enacted in December, which requires that a retirement fund be managed by a board of trustees of at least four members, of whom at least half must be selected from employees.

Whilst it was impossible to make accurate estimates regarding the magnitude of the Aids problem in the future, the survey found that according to projections, about 25 percent of the economically active population could be HIV positive within 10 to 15 years and this could have a marked effect on retirement funds unless a cure is found.

In redesigning benefit structures, it was important for trustees to find a balance between those who run the risk of contracting Aids and those who are not at risk, said the survey.

Another issue was the surpluses of the funds and how they should be used. The survey finds that there was an agreement that surplus belongs to the fund, however, the main question is how they can be applied.

# Manuel won't raid state pension fund

CT (BR) 23/10/98 (300)

LYNDA LOXTON
PARLIAMENTARY CORRESPONDENT

Cape Town — Trevor Manuel, the finance minister, and Maria Ramos, his director-general, yesterday dismissed calls for the government pension fund to be restructured to reduce debt and increase social spending.

They said South Africa did not face a debt crisis and it would be foolish for it to change from a funded pension fund to a "pay as you go" fund so that it could divert more money to short-term, job creating programmes.

"Whose money is it anyway?" asked Manuel, adding that the pension fund was ring-fenced and could not be used by the government.

"We will not find each other based on suggestions that say we should wipe out savings in a country where savings are much too low."

The finance department had faced a barrage of submissions in the national assembly's portfolio committee on finance from Cosatu and non-governmental organisations, he said.

Suggestions included, among other things, restructuring debt, declaring an interest holiday on government bonds and shifting funds from the Public Investment Commissioners (PIC) to fund social spending.

Lesetja Kganyago, the chief director of public debt in the finance department, said there was a tendency to confuse debt with the reform of the government pension fund, when they were in fact two separate issues.

He said he was glad that "rationality has eventually prevailed" and no one had called for debts to be written off.

Of South Africa's R340 billion debt, 90 percent was held in bonds, giving South Africa a deep and liquid financial market that had stood it in good stead during the recent Asian contagion.

Of the R141,6 billion in public funds under management by the PIC, about 70 percent was from the government pension fund, which would have to approve any bid to write off the PIC's assets to pay debt. Kganyago said he doubted whether the fund would do so.

He said the international trend was away from "pay as you go" schemes to full or partly funded, defined-benefit schemes or defined contribution funds.

Ramos said the government pension fund was now 60 percent funded and any attempt to reduce this temporarily to shift funds to social spending would place a long-term burden on the fiscus to get back to the present level again.

The department had been trying to persuade the civil service bargaining chamber to accept a cut in the government contribution to pensions from 17 percent of salaries to 15 percent, but this had not been accepted, she said.

If there was to be a cut, the unions argued, the funds saved should be pumped into higher salaries rather than into social spending.

If the government did that, it would be making "a fundamental mistake and put the country and the fiscus at risk", Ramos said.

# Pension fund bias exposed

ARG 24/10/98

## Many falling foul of the law

(300)

CHARLENE CLAYTON

You could be losing out on thousands of rands in retirement benefits if your retirement fund, like many in South Africa, is discriminating against you in one way or another.

Shock findings in Sanlam's latest survey of 200 retirement funds show that about one fund in 10 still discriminates against members on the basis of race, gender, marital status or religion.

Though they do conform to their own rules, the rules themselves are flawed, says Chris Bösenberg, a senior consultant at Sanlam Employee Benefits. This is because they have not kept pace with post-apartheid changes in legislation.

The survey found that:

◆ Nine percent of funds offered unequal benefits for men and women;

◆ One quarter had different retirement ages for the two sexes or for senior management and other employees;

◆ Eleven percent of funds tested individuals for HIV before admitting them as members. Nine percent of these excluded individuals from membership if they tested positive for the virus; and

◆ Sixty-two percent of funds did not offer members free choices when it came to choosing between the different funds offered by the company.

Bösenberg says many of the funds are falling foul of the Bill of Rights, the Labour Relations Act, the Employment Equity Bill and the Pension Funds Adjudicator's decisions. Transgressions by funds which are very likely to amount to an unfair labour practice are:

◆ Different benefits for men and women based on the statistic that women live on average five years longer than men. Overseas this has been ruled discriminatory because a pension is regarded as an extension of your salary. Since men and women are paid equal salaries, this should extend to retirement benefits;




◆ Offering widow's pensions only instead of offering spouse's pensions. Thirteen percent of defined benefit funds and 10 percent of defined contribution funds discriminated between men and women in this way;

◆ Excluding same sex partners and common law partners from receiving a spouse's pension; and

◆ Not offering retirement benefits to part-time employees.

Trustees should not rest on their laurels and should re-examine their retirement fund rules, benefits, practices, procedures and decisions to ensure there are no unfair labour practices or discrimination, Bösenberg says.

As a fund member, you can and should do something about it.

"Many people typically only show a casual interest in their retirement fund and do not fully exercise their rights and choices within their fund," he says.

Your retirement nest egg represents a major portion of your wealth and you should be playing an active role to ensure its protection. Remember what may be fair when applied to a group may not be fair when viewed within the context of a particular individual.

New legislation, which comes into effect on December 15, will give you greater powers. From then, at least half the board of trustees of retirement funds must be elected by members.

Other findings revealed in the survey were:

◆ One in 10 defined benefit retirement funds still does not provide for any increases in pensions;

◆ More than one quarter of employers still do not subsidise pensioners' medical aid contributions;

◆ One quarter of defined benefit retirement funds surveyed said they were considering converting to a defined contribution fund and 42 percent said they offered new members a defined contribution option, where you carry the investment risk; and

◆ Funds have improved withdrawal benefits to incorporate market related returns, but almost a third of funds still exclude your employers' net contributions at withdrawal. Of the rest, about 60 percent phase the employer's net contributions in after about five years.

# Fedusa opposes pay-as-you-go funding system for state pension

BD 27/10/98 (300)

**Reneé Grawitzky**

THE Federation of Unions of SA (Fedusa) expressed its continued opposition yesterday to a proposal by the Congress of SA Trade Unions (Cosatu) for the implementation of a pay-as-you-go system for funding the state pension fund.

The federation has opposed to the proposal since it was first tabled by Cosatu when preparations for the presidential job summit, which takes place on Friday, started early this year.

Fedusa's latest objection comes in the wake of indications that government has agreed to investigate restructuring the state pension fund to reduce its debt burden.

Sources said government would set up a committee after the job summit to consider various options on the appropriate level of the state's contribution to the pension fund.

However, the pay-as-you-go system —as proposed by Cosatu — would not be on the table at the summit.

Fedusa said it was opposed to increasing the tax burden on individuals to raise additional funds to finance job creation initiatives.

At the same time, Fedusa and the National Council of Trade Union (Nactu) warned that the success of the summit would depend on whether government ensured proper management and implementation of projects and programmes to boost job opportunities.

Nactu assistant general secretary Mahlomola Skosana said that, in view of the state's failure to implement the reconstruction and development programme, government "should be careful not to raise people's hopes and not properly implement agreements" reached at the summit.

Fedusa general secretary Chez Milani said "in many ways the summit signals the start of an ongoing process".

In its original proposals, government outlined mechanisms to ensure that all agreements reached at the summit were carefully monitored.

Trade and Industry Minister Alec Erwin said various structures would be established to co-ordinate the post-summit process.

Milani said "only time would tell whether the summit and subsequent processes have been successful in creating the required jobs".

He believed the summit presented the perfect opportunity for all the social partners — government, labour, business and the community — to present a united front in addressing the country's unacceptably high levels of unemployment.

Skosana said the test would come next year when school leavers entered the job market.



# Employee benefits

*Government's ad hoc tampering with retirement funds has significantly reduced benefits for the private sector.* ***LYNN CARLISLE*** *reports.*

## Erosion of concessions blunts urge to save

BD 27/10/98 (300)

TO ENSURE that more people are self-sufficient at retirement, government and SA's retirement funds must jointly address issues such as compulsory membership of funds and the preservation of benefits on withdrawal.

Maurice Harding, chairman of the Institute of Retirement Funds' (IRF) education committee, says this need arises particularly since government disbanded the National Retirement Consultative Forum (NRCF) in May.

He says the IRF has always maintained that a holistic approach needs to be taken on retirement fund issues.

It is most disappointed that the NRCF, which has been looking at the matter holistically, has been disbanded.

"The IRF is concerned that government will be tempted once again to make ad hoc changes to the taxation structure of retirement funds that are not in the long-term interest of retirement fund members."

Harding says that in most countries it is accepted that income-tax concessions motivate people to contribute to their retirement.

"Unfortunately, in SA these concessions have been steadily eroded to such an extent that they have ceased to be retirement saving incentives."

Changes that have affected tax incentives are:

- ☐ The erosion of the tax-free lump sum concession (R120 000) at retirement due to inflation;
- ☐ No adjustment to the threshold of the maximum marginal rate of tax to compensate for inflation;
- ☐ The change in the average rate used for taxing lump sum retirement benefits from the year of retirement to two years — introduced in September 1995;
- ☐ The introduction of a 17% tax, and then increasing it to 25%, on interest and rental income on retirement funds.

He says the ad hoc tampering with retirement funds, and the approach taken in the Katz Commission's report, clearly show that government has lost sight of the long-term nature of retirement funds.

Once an employee is a fund member he cannot access the benefits except on withdrawal from service, retirement or death.

"The member is locked in and is unable to change his retirement planning should the situation change, such as with tax incentives that are no longer attractive," Harding says.

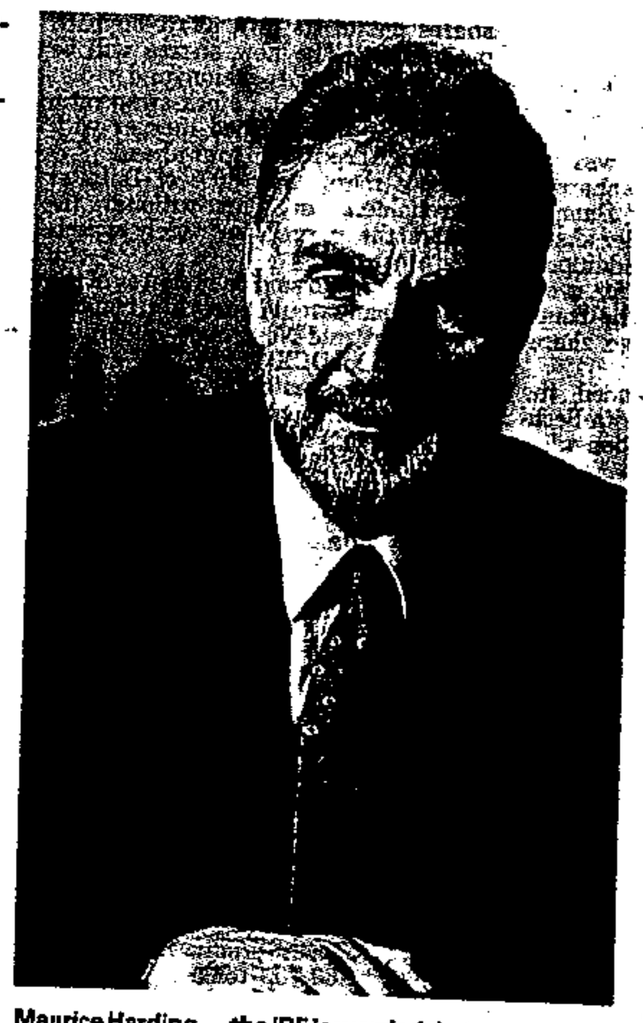
"It is essential, therefore, that in retirement planning there is a long-term certainty that the member's expectations may be realised."

Harding says it is significant that in the case of members of public funds the tax-free status of their gratuity has been protected and a formula put in place so they can plan ahead to ensure that retirement expectations are realised.

This is not the case in the private sector, where the formula for the tax-free lump sum at retirement has not been adjusted since 1985. Had it been, the tax-free amount of R120 000 in terms of Formula B should be closer to R500 000 at present.

In its submission to the Katz Commission, the IRF saw the solution as taking the formula used in the public sector and applying it equitably to the private sector.

This could be in terms of a salary cap being set in the private sector based on the maximum salary applicable in the private sector. It would then automatically take care of inflation, says Harding.



Maurice Harding ... the IRF is worried that government will change the taxation structure of retirement funds.

## Communicate the risk

RETIREMENT fund members should not expect to receive regular annual increases from so-called "guaranteed funds" that are contributing to their pension funds because financial market values having fallen so badly this year.

Dave Steere, executive director of Momentum Life, says many defined contribution funds invested in guaranteed funds have made implicit promises to members that their individual account balances are guaranteed and will never reduce from year to year.

But Steere says such an expectation from members is clearly inappropriate, as guaranteed funds do not fully guarantee all their bonuses.

This downside risk needs to be properly communicated to members, especially those members close to retirement age.

Members also need to be given the option of protecting their retirement fund capital by investing in an appropriate money-market vehicle.

Pensioners will be particularly hard hit by the crash because pension increases are funded mainly out of investment earnings.

Many pensioners who have their pensions secured by profit insurance products that are backed by guaranteed funds have grown accustomed over the past few years to annual increases in excess of their pension targets, Steere says.

However the effect of the market crash on guaranteed-fund bonuses means that pensioners may be faced with zero pension increases this year.

The prospects for next year's increases are not looking too good either.

Steere says Old Mutual set the ball rolling recently when it declared a much lower final bonus rate for 1998 — a 7% non-guaranteed bonus.

It also warned that if the current market conditions persist, non-guaranteed (or capital) bonuses that have previously been declared may have to be reduced.

"Other insurers may well follow their lead in future, and this could have severe consequences for many retirement funds and their members," says Steere.

Therefore, when deciding to outsource pensioner liabilities to an insurer, trustees should realise that the investment risk still resides with the pensioners: poor investment performance effectively equates to lower pension increases.

"Trustees should therefore pay particular attention to whether the investment vehicle backing the pensioner product is suitably matched to the liabilities," Steere says.

"Such a matched portfolio needs to be balanced on a regular basis and ideally should hold a fair proportion of guaranteed inflation-linked investments," he says.

## A team approach to workplace disability

THE introduction of far-reaching abour regulatory and legislative hanges have prompted Sage Life's mployee benefits division to introuce a comprehensive new approach to corporate disability mangement.

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Only when it becomes clear that the employee cannot handle the same work, and there is no other suitable work in the organisation, is termination of service and the training of a replacement permissible.

"This can lead to a costly drain on company funds and executive time. In fact many companies make the mistake of underestimating the large direct and hidden costs involved in replacing a disabled staff member," says Tomsett.

"Certainly, the new employment scenario increasingly requires a multidisciplinary team approach to disability, and this is precisely why Sage Life has developed its new active disability insurance scheme."

Under the scheme, which Tomsett says is "a full service to assist in managing incapacity to the benefit of both employer and employee", the employer can turn to Sage for assistance with the problem of managing incapacity in the workplace.

Replacing a disabled member is a problem, with many facets and judgments that need to be made on a professional and equitable basis.

### Extent

Tomsett says the first judgment is the extent of disability, whether due to an accident, injury or disease. It must be determined whether it is total and, if not, its extent.

"At this very first step we send in occupational therapists to assess the disability in conjunction with doctors. The findings are communicated to the employer and employee.

"As the assessment process continues, the original team of occupational therapists and doctors is joined by other health-care professionals and technical, actuarial and legal advice is made available."

Tomsett says the need for thorough and professional assessment is all the more important as disablement can be either temporary or permanent.

If disablement is not total, an appropriate course of action and/or payment of a partial benefitis recommended. If disablement is total the policy pays an appropriate income replacement benefit.

Thorough assessment is also called for where the disabled worker can reasonably be expected to resume his job, but will require either adjustments to the work station or a transfer to another job in the same organisation. This assessment is based on the employee's standard of education, training, experience, ability and, where applicable, potential for re-training.

An expert will be sent to the workplace to investigate the situation and make appropriate recommendations.

When a disabled employee cannot be accommodated in his own job or any other job, benefits are paid for the first 12 months to give the employer an opportunity to consider the options available to meet obligations under the Labour Relations Act. Among many other benefits, the scheme provides a recovery benefit and a monthly income for the disabled employee to normal retirement date or, if earlier, the date of recovery or death.

## Constitutional factor addressed

TOUGH times loom for retirement funds and their trustees following the recent appointment of a pension funds adjudicator whose prime task is to deal with increasing dissatisfaction with the way retirement fund members are treated.

Strong support for the rights of employees seems possible, says Erich Potgieter, a director of Fifth Quadrant Actuaries & Consultants.

Although pension funds are private arrangements between employers and employees, they can be viewed as an extension of the "social arm" of the state. As such, government has decided to subject pension funds to public law scrutiny at the instance of the adjudicator.

Because the Constitution protects individual rights it can be used for the interpretation of common law and statutory rights.

Potgieter says this means that if a pension fund's rules, or decisions taken by trustees, infringe on the member's constitutional rights the adjudicator will declare them to be invalid.

"Trustees therefore need to look at the social context of their decisions and actions and act in good faith to ensure that individual rights are exercised and protected."

Besides the effect of the new Constitution, it is clear that pension and provident funds are bound by their own rules, setting out what they can and cannot do.

However, where the rules grant discretionary powers to the trustees, these powers must be properly exercised.

Since his appointment as adjudicator early this year, John Murphy has received more than 450 complaints.

# Employee benefits



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BD 27/10/98 (300)

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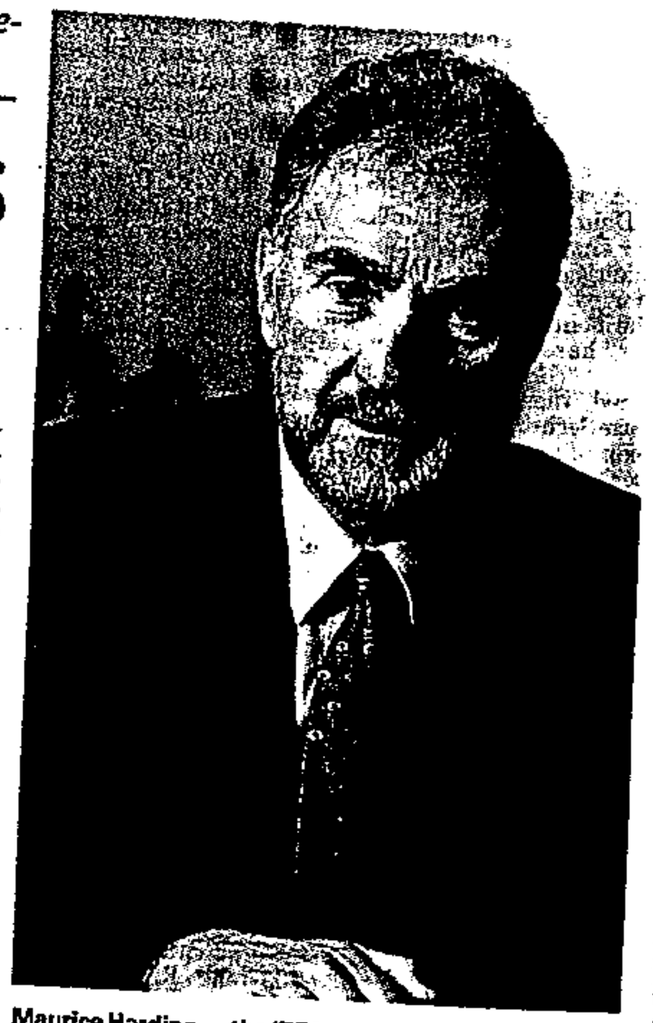
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Wherever possible, the employee has to be retained in the same or other work with, perhaps, some adjustments to the work station. A rehabilitation period is mandatory.

Only when it becomes clear that the employee cannot handle the same work, and there is no other suitable work in the organisation, is termination of service and the training of a replacement permissible.

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Thorough assessment is also called for where the disabled worker can reasonably be expected to resume his job, but will require either adjustments to the work station or a transfer to another job in the same organisation. This assessment is based on the employee's standard of education, training, experience, ability and, where applicable, potential for re-training.

An expert will be sent to the workplace to investigate the situation and make appropriate recommendations.

When a disabled employee cannot be accommodated in his own job or any other job, benefits are paid for the first 12 months to give the employer an opportunity to consider the options available to meet obligations under the Labour Relations Act. Among many other benefits, the scheme provides a recovery benefit and a monthly income for the disabled employee to normal retirement date or, if earlier, the date of recovery or death.

## Constitutional factor addressed

TOUGH times loom for retirement funds and their trustees following the recent appointment of a pension funds adjudicator whose prime task is to deal with increasing dissatisfaction with the way retirement fund members are treated.

Strong support for the rights of employees seems possible, says Erich Potgieter, a director of Fifth Quadrant Actuaries & Consultants.

Although pension funds are private arrangements between employers and employees, they can be viewed as an extension of the "social arm" of the state. As such, government has decided to subject pension funds to public law scrutiny at the instance of the adjudicator.

Because the Constitution protects individual rights it can be used for the interpretation of common law and statutory rights.

Potgieter says this means that if a pension fund's rules, or decisions taken by trustees, infringe on the member's constitutional rights the adjudicator will declare them to be invalid.

"Trustees therefore need to look at the social context of their decisions and actions and act in good faith to ensure that individual rights are exercised and protected."

Besides the effect of the new Constitution, it is clear that pension and provident funds are bound by their own rules, setting out what they can and cannot do.

However, where the rules grant discretionary powers to the trustees, these powers must be properly exercised.

Since his appointment as adjudicator early this year, John Murphy has received more than 450 complaints.

PENSION FUNDS

### Adjudicator has a big job to do on a tiny budget

# Justice on a shoestring

*Val Pienaar examines the overworked lot of the pension funds adjudicator, and finds his resources wanting*

BD 30/10/98 (300)

THE Pension Funds Adjudicator is responsible for dealing with complaints from about 11-million members of 16 000 retirement funds with a total capitalised value of R480bn.

Yet his budget is less than that of the students' representative council at the University of the North.

"I love this job. It is interesting and satisfying; every lawyer dreams of being an adjudicator. But it is like trying to clear all the sand off a beach with a teaspoon," says John Murphy.

Almost a year into the job, he has confirmed that the need for his services is far beyond the budget allocated to the post.

"I need a staff of 24. I need lawyers, investigators, administration staff, a messenger — I am tired of fetching the mail. I have asked for a staff of seven, including myself ... and I do not know whether I am going to get it," he says.

Meanwhile, he has one secretary ... and both of them are becoming pretty demoralised.

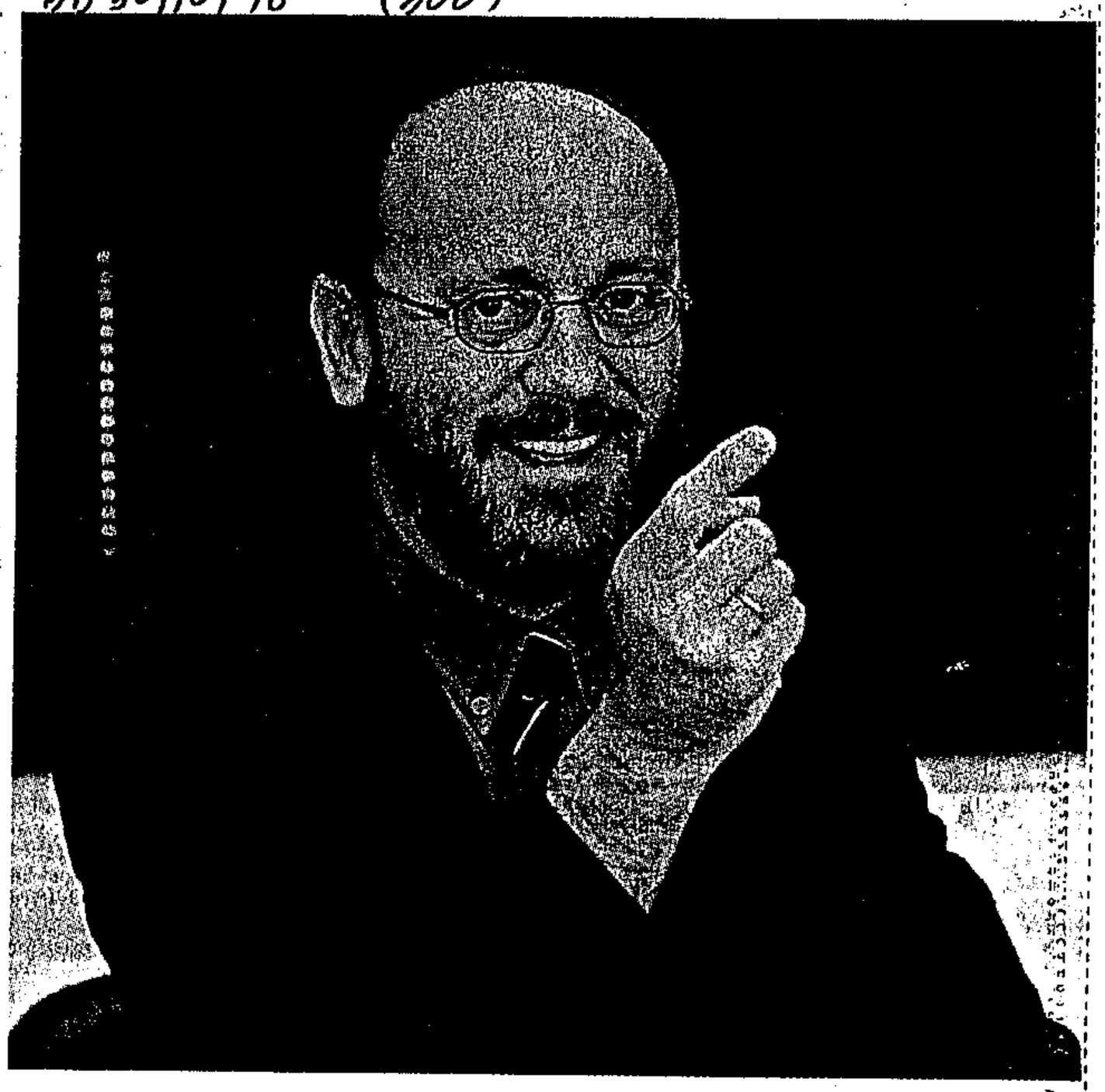
Murphy's requirements are not out of line with the demands of the job. Complaints pour into his office at a rate of around 120 a month, and he estimates his capacity at around 150 a year.

A complaint can take anything from a day to more than a week to handle. Typically, it starts with a phone call, when the complainant will be asked to put the complaint in writing. "It is always a relief when they use a lawyer to do this, because then the information I receive is detailed and complete.

"But the complainant is often elderly, illiterate and living in a remote rural area ... and the written complaint he sends in will contain practically none of the information we need," he says.

Once the information has been collected, Murphy will have a sizeable file of correspondence, information about the fund and other documents to wade through. The next step is to meet all the parties involved. Depending on the nature of the matter, Murphy may preside over either a full-blown hearing in a courtroom, or a more informal arbitration hearing in his office.

The hearing usually takes a day, or maybe two; Murphy has a few scheduled that will probably take at least a week. Once it is complete he must write his determination, which typically also takes a day or two, but can take a week.



**John Murphy ... a complaints department of one** (PICTURE: TYRONE ARTHUR)

"Every day my secretary and I are subjected to threatening, abusive phone calls from people at the end of their tether. They do not come to me until they have tried every other avenue to get what they believe is owing to them, and when I cannot help them as fast as they need, they get angry," he says.

Murphy recently spent a week with his Australian equivalent, the Superannuation Complaints Tribunal. "They receive 500 complaints a year and have a staff of 24 who complain they are overworked.

"Unlike me, they have no judicial powers; they merely negotiate and conciliate. Because I have authority and power, I must exercise it in a specific, formal way. I cannot simply instruct a retirement fund to pay out R500 000 to one of its members: I have to go through the whole process of hearing evidence and justifying each aspect of my decision."

The post of adjudicator falls within the ambit of the Financial Services Board, but it is funded by the retirement fund industry.

The cost of meeting Murphy's request for an extended workforce would amount to around R1,8m a year. Sound like a lot? Not really ... it would be covered by an annual levy of 60c on each retirement fund member. So why is he still waiting? Frankly, I haven't a clue.

□ *Val Pienaar may be contacted at twig@global.co.za.*

# Pension rights for homosexual couples entrenched

The rights of same-sex couples to pension fund benefits was entrenched this week when pension funds adjudicator John Murphy ordered a South African pension fund to pay death benefits to a Cape Town homosexual man following the death of his partner.

The dead man's adult children and grandchildren will also get a share of the death benefit that totalled R340 000 paid out by the Rentokil Pension Fund, but his former wife walks away empty-handed. His partner will enjoy most of the money. The constitution provides that nobody may be discriminated against on grounds of marital status or sexual orientation.

This, together with provisions under the Pension Funds Act governing the allocation of benefits, means homosexual unions, in appropriate circumstances, should enjoy the same status, rights, benefits and responsibilities of a heterosexual union.

The matter was brought to Professor Murphy by the former wife and four adult children of the deceased man. The son complained to Murphy that his father's partner should not receive any money paid out by the Rentokil Pension Fund after the fund had allocated the full death benefit to the same-sex partner according to his wishes expressed in his will.

The dead man's wife put in a claim of more than R80 000 for child maintenance, housing payments and personal loans. But she was not entitled to any money because she was not a dependant of the deceased prior to his death, said Murphy.

The dead man and his companion, on the other hand, lived in a relationship of mutual dependence and shared household expenses. The companion also gave up his job as a hairdresser to nurse his friend until his death of Aids in October last year. He too has Aids.

Star 31/10/98 (300)

# Triumph for same-sex unions as gay man is awarded lion's share of

CHARLENE CLAYTON

The rights of same-sex couples to pension fund benefits were entrenched this week when Pension Funds Adjudicator John Murphy ordered a South African pension fund to pay death benefits to a Cape Town homosexual man following the death of his partner.

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His same-sex partner will enjoy most of the money.

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# partner's death benefits

(300 AUG 31/10/98

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# Eskom, unions clash over pensions

**By Mzwakhe Hlangani**
Labour Reporter (300) (250)

A BITTER wrangle over the transformation and administration of the R11 billion Eskom pension fund has led to the disbanding of the trustees board by the National Union of Metalworkers of South Africa.

Numsa and the the National Union of Mineworkers, which represented about about 39 000 fund members, broke up the board meeting, criticising the management's lack of vision and strategy on governance in defiance of the new Pensions Act.

The board's normal activities have been reportedly suspended and the Financial Services Board will establish a special committee to oversee the affairs of the fund in the interim, union spokesman Mr Paul Biyase said yesterday.

Issues of conflict revolved around management's refusal to respect the right of the labour component to choose its own representative to the board, refusal to allow labour representative participation and that management took decisions without consensus. Sowetan 2/12/98

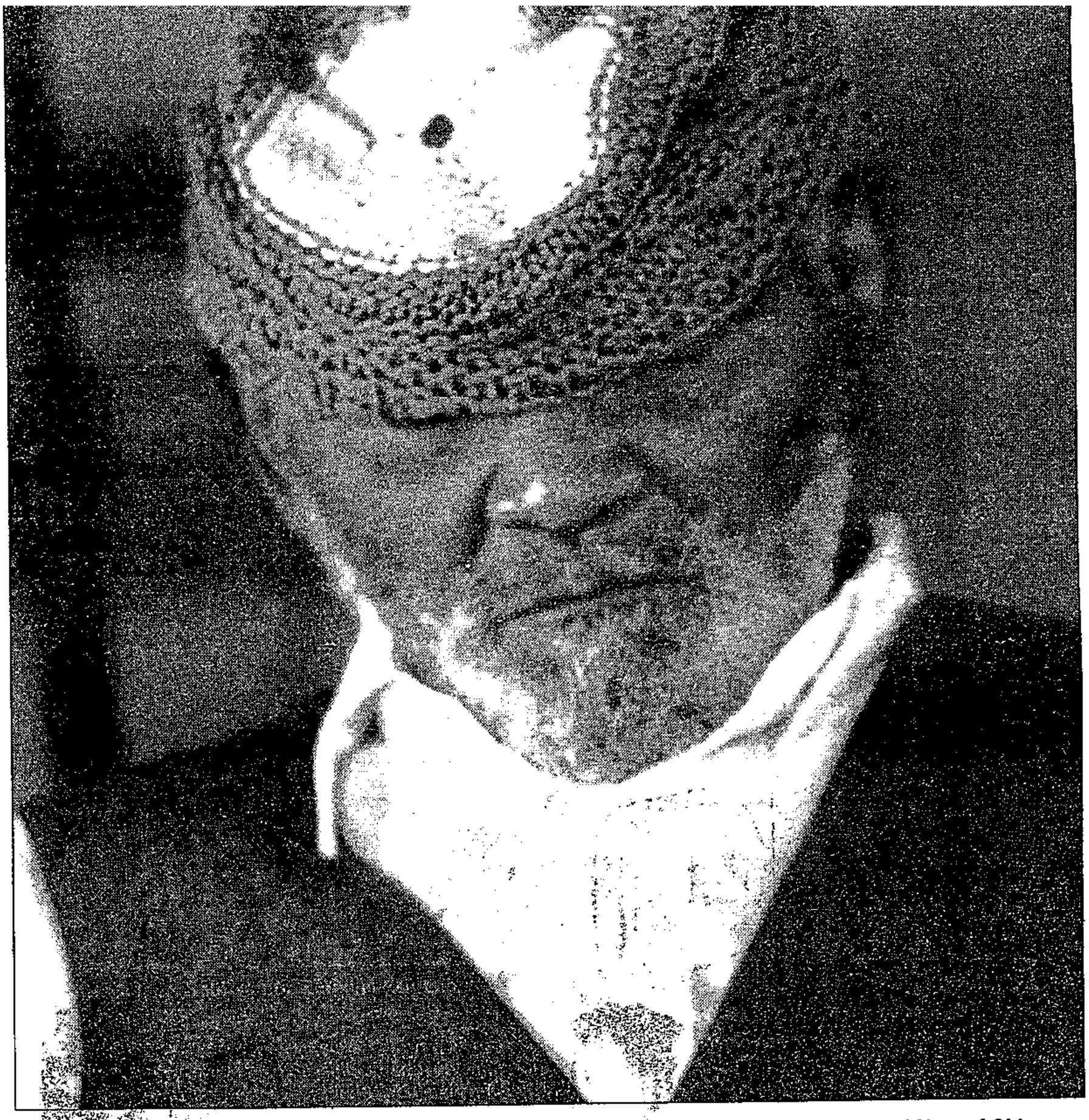
Biyase said employers took decisions without consulting workers and they allegedly undermined the input from the trade unions representatives.

They continued to act as if the labour force was just a skeleton structure without representation.

Eskom Pension and Provident Fund chairman Mr George Lindeque confirmed that Numsa had declared a dispute with the board of trustees of the fund.

Lindeque said in a statement the allegations regarding the maladministration of the board had been referred by Numsa to the Financial Services Board for resolution.

The board of trustees meeting yesterday could not resolve the conflict and representatives of the NUM and Numsa left the meeting, while the board decided to continue the meeting, Lindeque said.



A pensioner takes a nap at the Soweto old age home during the launch of the International Year of Older Persons which is to be celebrated in Soweto next year. PIC: LEN KUMALO

# New social welfare policy benefits aged

(300)

By Charity Bhengu

SOUTH Africa is on the threshold of a social welfare revolution with about 5 l percent of the total welfare budget already used to improve the lives of the old people this year.

According to Minister of Welfare and Population Development Geraldine Fraser-Moleketi, about R8,2 billion was used to care for about three million old people countrywide.

This includes pension funds and improvement of old aged homes.

The country has about 721 old-age homes accommodating about 34 000 old people. Most of these homes are in Gauteng.

There are 249 homes for the aged in Gauteng. There are fewer in the poorer provinces, such as Eastern Cape (which has 61 homes) and the Northern Province (nine).

About R500 000 was used for alterations to homes in Gauteng, targeting about 300 residents in the Vaal Triangle, West Rand, East Rand and Pretoria.

Fraser-Moleketi said: "The challenge is to develop services and programmes that reach out to those older people who are scattered in the furthest corners of the country. The lack of resources for older people in the rural areas still needs to be addressed."

A new approach to the existing problems is to encourage families to allow the old people to age as part of families and communities, and not isolated in institutions.

Fraser-Moleketi said: "The impact of ageing is widely feared as a burden, measured in terms of demand for health care, income and family support.

"Ageing should be recognised as a normal phase of life and we must create an environment in which individuals of all ages can participate actively and receive care and support when they need it."

She said the newly launched International Year of Older Persons, to be celebrated next year, "is an opportunity for us to highlight the value, dignity and rights of older people and show what they are capable of, to ensure that our society can draw on their wisdom and that the young and old can build the future together."

# Hunt is on for bogus pensioners

## Fake soldiers (300) got millions

ARG 3/12/98

**PHOMELLO MOLWEDI**
in Johannesburg

The Finance Ministry intends to recover millions of rands looted from the Special Pensions Fund by crooked officials and bogus Umkhonto weSizwe and Azanian People's Liberation Army freedom fighters.

The scam was uncovered by Saturday Argus's sister paper, The Star, after a two-week investigation.

In a statement issued on behalf of the finance ministry, Peet Maritz, the chief director of the pensions administration, said every effort would be made to track down abusers of the fund.

The offenders would be prosecuted and the pensions paid out as a result of false information would be recovered, he said.

Mr Maritz said his department was also working towards eliminating false claims to the fund.

"The purpose of the Special Pensions Act is to provide pensions to persons who were prevented from (receiving pensions) because they were in full-time service of a banned political or military organisation or banned, detained or imprisoned for an offence committed with political objective for at least five years before February 2 1990.

"An applicant submits an application to a board, established in terms of the Special Pensions Act.

"Applications must be signed and certified before a commissioner of oaths.

"The application is supported by a certified copy of the applicant's identity document, record of service, proof of banning, detention or imprisonment and a medical certificate in the case of disabled persons," the statement said.

During its two-week investigation The Star discovered that crooked officials were approaching township residents desperate for money and getting them to falsify information.

The pension money was shared between the bogus freedom fighters and the officials who helped perpetrate the scam.

In its statement, the department said: "The Department of Finance is responsible for the payment and increases of pensions after the pensions board has made its decision.

"The administration has been computerised to a great extent in order to avoid miscalculations, fraud and corruption in the system and to expedite the process of payment."

The Department of Finance has budgeted R500-million for the 1998/99 financial year for the payment of special pensions.

About R300-million will be used to pay the 2 200 pensioners already drawing their special pension, leaving R200-million for new applicants.

"In view of the serious nature of the allegations, the department requested the office of the auditor-general to perform an audit on the payments authorised by the board and made by the department," Mr Maritz confirmed this week.

The public is requested to contact the department if they have any information on persons or political parties who have misinformed the department about their eligibility.

The information will be treated as confidential.

Any irregularities uncovered will be considered in an extremely serious light, he said.

Those responsible would be prosecuted in terms of the Special Pensions Act, which made the intentional submission of false information to the board an offence.

Any pension paid out as a result of false information will be recovered. For more information, contact Mr Maritz at (011) 319 1086.

*Public asked to help blow the whistle on conmen*

# Samwu disputes retirement funds

FRANK NXUMALO

Johannesburg — The South African Municipal Workers' Union (Samwu) yesterday declared a dispute with the South African Local Government Association (Salga) over the rate of employer contributions towards workers' retirement funds.

Dale Forbes, Samwu's head of collective bargaining, said the union was demanding a minimum employer contribution rate of 18 percent of each worker's monthly wages. The union's aim was to standardise employer contributions across different funds within local governments.

He said until the 1980s only white workers were eligible for an industry retirement fund, which left up to 80 000 weekly paid workers uncovered. It was then that the union fought for and won the implementation of a provident fund for the most of the workers. Up to 50 000 Samwu members remained uncovered, "primarily through the resistance of employers to allow workers to join retirement funds".

He regretted there was nothing "forcing employers to contribute to the retirement fund".

He said: "Even the old retirement funds were awakening from their bureaucratic slumber." They challenged the right of bargaining councils to make decisions that would affect the control and management of retirement funds. This should be "the prerogative of the boards of trustees".

From December 15 the amended Pension Act of 1996 will require that retirement funds be managed by a board of trustees, 50 percent of whom must be directly appointed by members, who may not necessary be members of a trade union.

# Ministry out to get Special Pensions Fund fraudsters

By PHOMELLO MOLWEDI

The Finance Ministry intends to recover millions looted from the Special Pensions Fund by crooked officials and bogus MK and Apla freedom fighters.

The scam was uncovered by the *Saturday Star* during a two-week investigation and published two weeks ago.

In a statement issued on behalf of the Finance Ministry, Peet Maritz, chief director of pensions administration, said the department viewed the allegations in a serious light and that efforts would be made to bring the culprits to book.

The statement added that every effort would be made to track down any abuse where it occurred. This would be followed by prosecutions and the recovery of those pensions paid as a result of false information.

In addition, the department's pensions administration section was involved in an ongoing process to eliminate any misuse and false claims.

"The purpose of the Special Pensions Act is to provide pensions to persons who were prevented from doing so because they were in full-time service of a banned political or military organisation, banned, detained or imprisoned for an offence committed with political objective for at least five years before February 2 1990.

"An applicant submits an application to a board, established in terms of the Special Pensions Act. Applications must be signed and certified before a commissioner of oaths. The application is supported by a certified copy of the applicant's identity document; record of service; proof of banning, detention or imprisonment; and a medical certificate in the case of disabled persons," the statement explained.

*Prosecution and forfeiture of the fraudulently obtained money awaits those who have been part of the scam*

But during the two-week investigation, the *Saturday Star* discovered that crooked officials were approaching destitute township residents and getting them to falsify information with the help of the crooked officials. Money obtained under such fraudulent methods was then shared between the bogus freedom fighters and the officials who helped to perpetrate the scam.

The Department of Finance statement continued: "The board, an independent body, is responsible for determining whether a person qualifies for a special pension. It also determines the value of the pension in accordance with schedule 3 of the act with reference to the period of service and the age of the pensioner. The board requires verification by political parties of the period of full-time service by a member, before a determination is made. The verification is performed by designated officers in political parties, who then issue an original certificate specifying the periods served by the applicants in the political or military organisations.

"The Department of Finance is responsible for the payment and increases of pensions after the board has made its decision.

"The administration has been computerised to a great extent in order to avoid miscalculations, fraud and corruption in the system and to expedite the process of payment."

The Department of Finance budgeted an amount of R500-million for the 1998/99 financial year for the payment of special pensions. An amount of R300-million will be used for the payment of about 2 200 pensioners already in receipt of their special pensions, leaving R200-million for newly qualifying applicants.

Maritz confirmed this week: "In view of the serious nature of the allegations, the department requested the office of the auditor-general to perform an audit on the payments authorised by the board and made by the department."

Members of the public are urged to contact the department if they have any information regarding people or political parties who allegedly misinformed the department or the board of a person's right to a pension. Such information will be treated as confidential. Any irregularities uncovered will be considered in an extremely serious light and those responsible will be prosecuted in terms of the act, which makes the intentional submission of false information to the board an offence.

Any pension paid out as a result of false information will be recovered.

Contact: Chief Director: Pensions Administration, phone (012) 319-1086.

(300)

Star 5/12/98

The unit works out a customised exercise, dietary and lifestyle plan for each patient who fails the test and they can repeat the test in six months. People at risk of health problems because of unhealthy lifestyles are encouraged to get fit.

The cost to the average scheme is R7-R10 per member per month (about 1% of total contributions) and, according to independent actuaries, scheme savings should be as high as 30% for each member who switches to a healthy lifestyle.

Wellness products originated in the US several years ago but are relatively new to SA, where medical aid companies are at last beginning to realise that paying for preventive care will save them money down the line. For the first time, schemes are starting to encourage regular cholesterol check-ups, pap smears, mammograms, dental check-ups and vaccinations.

SA's best-known wellness initiative is Discovery Health's Vitality programme, which rewards its 70 000 members financially for attending programmes run by Health & Racquet gyms, Run/Walk for Life, Weigh-Less and Smokenders.

The rewards increase as the member improves his or her lifestyle. From January 1999, members who exhibit low claims patterns will be refunded part or all of their contributions every five years and at the age of 65, including capital growth.

Discovery CEO Adrian Gore is unable to say whether it has saved the scheme money: "I think all these wellness programmes take several years to work. It is simplistic to think they'll reduce the claims rate in the first year, but I expect the long-term effects to be dramatic."

Durban-based company Wellpro offers a programme similar to MedBenefit but without the guarantee of an immediate premium discount to members.

Wellpro director Dave Becker says the market reaction has been positive, though some schemes have reservations about whether patients will comply with the programme voluntarily. Healthtrac is a wellness programme from America and Australia, where it claims to have reduced some US state schemes' costs by more than six times their annual spend on the programme.

"The system gives participants detailed advice on how they should adapt their lifestyles and feedback on how they are progressing," says Healthtrac (SA) manager George Meaklim. The medical scheme is guaranteed savings, but members do not receive an immediate reduction in premiums, nor are they subject to a medical examination. **Claire Bisseker**

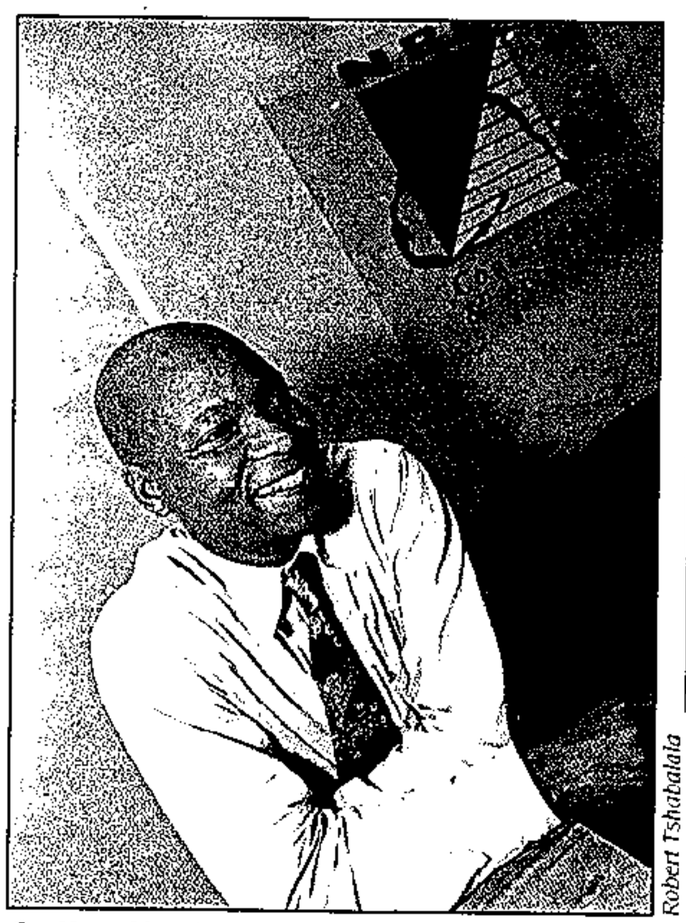
**PENSION FUNDS** (300) FM 11/12/98

# BILLIONS OF RAND IN THE HANDS OF THE TRUE OWNERS

## Member trustees bring new credibility and challenges to funds

Not so long ago, the idea of employees acting as trustees on a pension fund might have been seen as the lunatics taking over the asylum. A pension fund was treated as a company asset, and a pension as a way of rewarding long service and of keeping people in a company.

How could member trustees be trusted with pension-fund money when unions were emphasising high-risk projects "close to the people" in the townships, or alternatively did not understand markets and preferred the safety (at a cost in the long term) of guaranteed funds?



Robert Tshabalala

***Godfrey Vatsha** . . . black-owned asset managers should increase market share*

But member representation became inevitable with the move from defined benefit (DB) funds to defined contribution (DC). In DB the company has an open-ended liability as it underwrites the fund and promises to pay a pension based on a percentage of final salary times the number of years' service.

Over the past 10 years, there has been an overwhelming swing to DC, which is in effect a personal retirement savings account.

From December 15, at least half of the trustees of all retirement funds, DB or DC, will have to be members.

The traditional argument against member trustees is that they are rarely qualified in the legal, financial and investment skills a pension fund needs. Management trustees, on the other hand, are supposed to have these skills.

The move to member trustees began in the union-sponsored provident funds, known as negotiated funds. Godfrey Vatsha, a director of Negotiated Benefit Consultants (NBC), the consultancy that created the negotiated benefit fund movement, says initially the relationship between member trustees and management trustees was adversarial. It became another forum for collective bargaining.

The early trustees were opposed to market-linked portfolios — only recently have provident funds moved away from guaranteed funds (see graph).

Mineworkers' Provident Fund principal officer Frans Mahlangu says he still believes guaranteed funds have an important role to play in DC funds, and not only because they provide comfort to trustees unfamiliar with investment markets. Even if some have recently awarded zero bonuses, at least they have not shown capital losses.

But he also favours socially desirable investments, such as the Community Growth Fund, which vets companies on their attitude to the work force and affirmative action.

On the whole, unions have resisted the temptation to use pension-fund capital as the vehicle to raise capital for black empowerment deals. They have set up separate investment companies instead — though some retirement funds are exposed to Johnnic through the National Empowerment Consortium.

Mahlangu and most union leaders are also opposed to members making investment choices. This opposition extends even to the more sophisticated end of the market. Investment choice is diametrically opposed to the union belief in consensus. It gives more affluent members the chance to "opt out" of the agreed investment

strategy. Member choice can be seen as a way of disempowering member trustees.

But Mahlangu says he welcomes the balance that a 50-50 split between management and member trustees provides — it makes trustees appreciate that the money does not belong either to the union or the company but to the member. If the fund were union-controlled there would be less accountability for the investment decisions. Other unions, however, have already moved from the 50-50 split. Catering union Saccawu's provident fund has only member trustees and 70% of paper union Ppawu's trustees are members.

But Old Mutual Executive GM Peter Moyo says there is no distinction in law between the duties and obligations of member and management trustees. They are nominated by either members or management but they do not "represent" them. Their only duty is to the fund itself.

**»A trustee does not need to have all the answers but rather needs to ask the right questions«** *Frans Mahlangu*

"Trustees can be held liable for investment decisions that are not appropriate to the fund's risk profile," says Moyo, "and they have a duty to maximise returns for members within these parameters.

"As soon as trustees understand the extent of their responsibility, investment choice becomes more attractive as it potentially lets them off the liability hook."

Trustee competence and decision-making will come under the spotlight more in future, particularly with the recent appointment of Prof John Murphy as Adjudicator on Pension Funds.

And certainly the issue of paying lower contributions (see graph) to (blue collar) provident funds than to pension funds (white collar) will need to be addressed.

The rhetoric of "bringing investments closer to the people" has diminished, in any case, since the introduction of socially responsible funds such as Southern Life's Futuregrowth, Sanlam's Community Builder and Metropolitan's Futurebuilder.

These funds have not only got involved in needed capital projects, but have also provided highly satisfactory returns to members. According to the Alexander Forbes survey of socially responsible funds, Futuregrowth Balanced returned 34,6% in the year to June, Community Builder 36,9% and Futurebuilder 23,6%.

NBC's Vatsha says the recommendation is for a fund to invest 5%-10% of its assets in socially responsible assets — which are not as liquid as traditional securities and often require a five-year lock-in period.

But if the entire industry followed Vatsha's guidelines, it would mean R25bn-R50bn could be used for infrastructural and job creation projects — at a satisfactory return to members and without the volatility of equities or bonds.

Old Mutual only recently entered this market with its Ideas fund, a joint venture with the Unity union consortium. Old Mutual Asset Managers MD Tim Cumming says demand for the fund has come mostly from old-line management trustees who are trying to meet what they perceive their members' wishes to be.

New member trustees have proved to be surprisingly conservative, as they are only just coming to grips with their fiduciary responsibilities, drummed into them during trustee training. Two of Mutual's traditional clients have committed more than R200m to the fund but the union funds affiliated to Unity are still debating whether to commit funds.

Vatsha predicts black empowerment fund managers will start to receive preference from member trustees. There is little evidence of this so far as even the best-established black-owned asset manager, Metropolitan, is struggling to gain a foothold in the third-party pension fund market.

But Vatsha argues it will be a slow process as most of the black empowerment managers do not have the all-important three-year track record.

And an unintended consequence of the amended Pension Funds Act could well be a movement away from company pension funds towards generic umbrella funds such as Old Mutual Orion fund. Companies would no longer need to set up their own board of trustees.

Consultants often recommend that funds with fewer than 500 members are folded under umbrella funds.

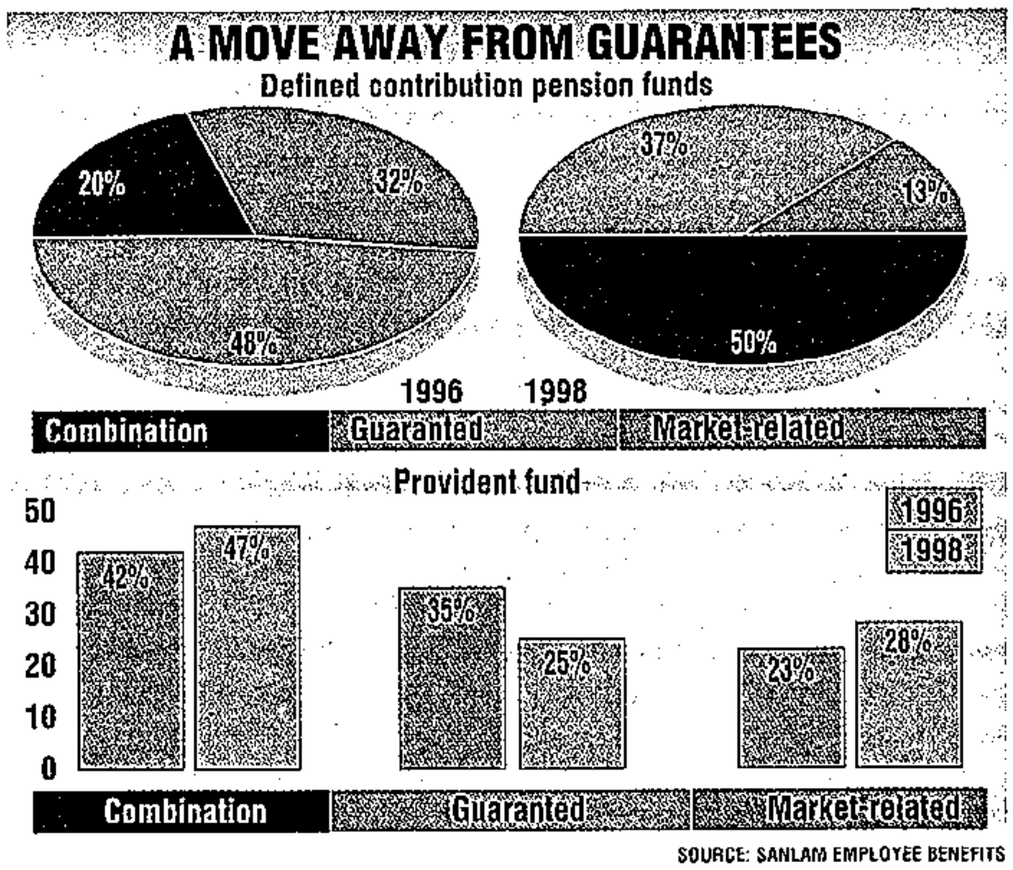
Under an umbrella fund it is far easier to accommodate a wide range of investment choices and a choice of death and disability benefits.

Old Mutual's Moyo says umbrella funds make the portability of retirement benefits easier, a vital consideration as the average employee works for seven different companies during his career.

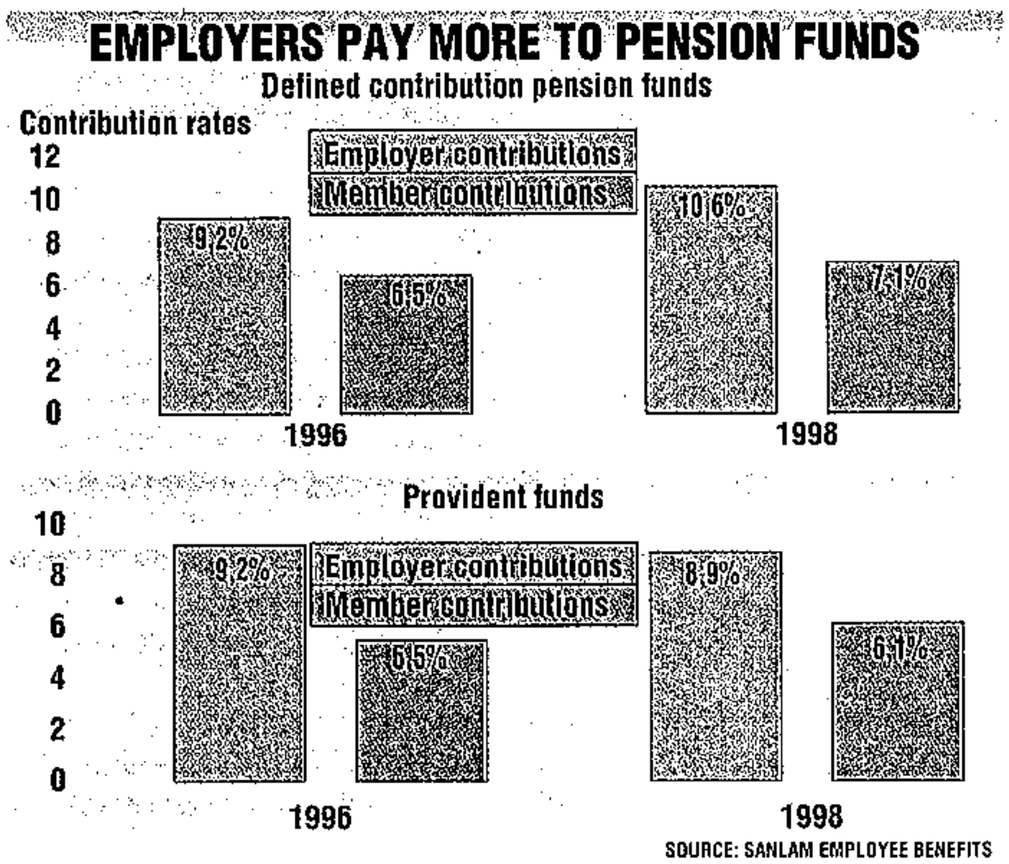
Trustee education is becoming a cottage industry with both life offices such as Sanlam and Old Mutual and consultants such as Alexander Forbes offering it. A new Institute of Provident & Pension Fund Trustees has now been set up and it is looking at offering one- and three-year diploma courses.

But Mahlangu says you do not have to be an expert to be a good trustee. He admits it has been a steep learning curve for member trustees, but the most important thing is for them to ask the right questions.

**Stephen Cranston**



SOURCE: SANLAM EMPLOYEE BENEFITS



SOURCE: SANLAM EMPLOYEE BENEFITS

# Workers get say in pensions

Generon 7/12/98 (300)

**By Shadrack Mashalaba**

THE amendment to the Pension Funds Act aimed at enabling employees to have equal representation on the board of trustees as employers comes into effect tomorrow.

The Act requires that a retirement fund must be managed by a board of trustees of at least four members. Half this number must be employees.

Sanlam Employees Benefits deputy chief executive John Moalusi said he hoped that the employers had conveyed the message and had made sure that the arrangement was put in placé.

He said it was the legal responsibility of administrators to ensure that new trustees were well trained.

Moalusi said there were possibilities that smaller funds might be exempted from this arrangement because of lack of resources.

In the past fund management was the sole preserve of employers and the new Act seeks to correct that.

The 1998 Sanlam's biennial survey of Retirement Benefits released in October showed that in the 1996 survey 63 percent of the funds said they felt communication with members was sufficient. This figure rose to 74 percent in the 1998 survey.

However, during a visit by a project team to some of the participating funds, the survey disclosed that the team felt members still had a need for better and more regular explanations and information about their retirement provisions. There was a great need for presentations and workshops, it said.

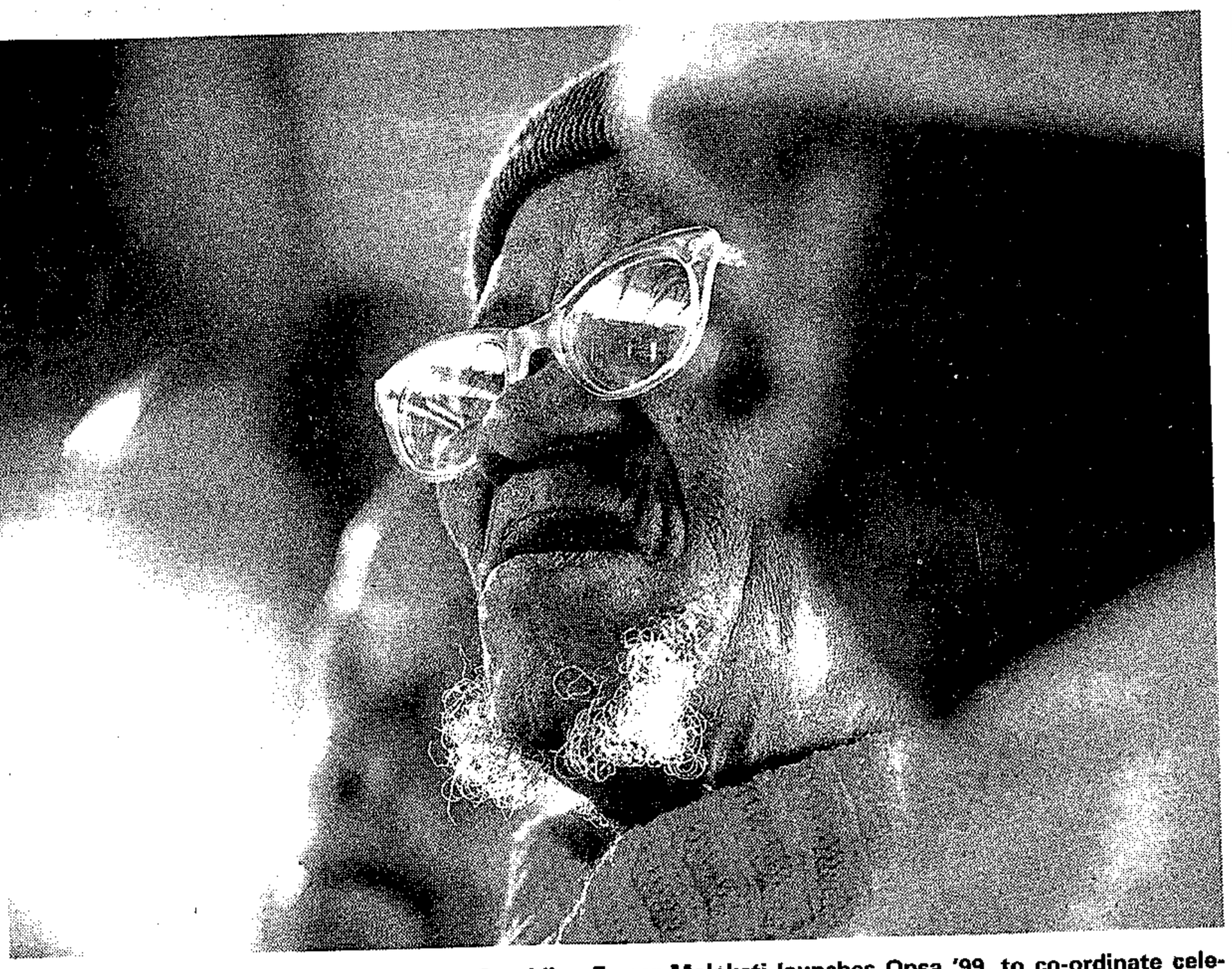
Moalusi said over time the entry of employees into fund management would give them a voice to decide on their funds. They could ultimately decide on issues such as who owns the fund's surpluses and how these should be utilised.

He said workers would also have a say on empowerment deals and other ventures that the company embarks on and this may create jobs.

Sanlam's survey also showed that funds offering equal representation increased from 77 percent in 1996 to 84 percent in 1998.

Moalusi said, however, that a lack of proper training would be a drawback to employee participation.

Sanlam Employee Benefits senior consultant Chris Bösenberg said it was imperative that the trustees should act as independent as possible.



A pensioner listens as Housing Minister Geraldine Fraser Moleketi launches Opsa '99, to co-ordinate celebrations for next year's International Year of Older Persons. Picture: Robert Botha

# Appeal to business on aged care

(300) BD 18/12/98

**James Eedes**

WELFARE and Population Development Minister Geraldine Fraser-Moleketi yesterday challenged the business community to make a more meaningful contribution to the care of the aged in SA.

Fraser-Moleketi was speaking in Soweto at the launch of Older Persons SA '99 (Opsa '99), a national body that was formed to co-ordinate celebrations for next year's United Nations-declared International Year of Older Persons.

Opsa '99, scheduled to be officially launched on February 6 next year, is an umbrella organisation bringing together the welfare department, old age care services, religious bodies and independent interest groups.

Chairman Desmond Lambrecht said its primary objectives were to create a better deal for aged people across the country in terms of legislation, safety and security and pension payouts, and to make elderly and old people aware of their rights.

One of the main issues to be tackled would be abuse of the elderly.

Programmes would be launched to increase awareness of the plight of the aged and to act as a lobby to effect transformation of existing old age care services.

Fraser-Moleketi said R30m worth of airtime had been made available by the SA Broadcasting Corporation to the body to spread its message.

The minister appealed to business to make their expertise, money and sponsorships available to Opsa '99 to "ensure that this is not a mere event but forms part of our society".

This was a view endorsed by Lambrecht, who considered the involvement of business to be "vital" to the success of the body.

The welfare department's involvement was part of a longer term process to overhaul old age care. The department had committed R8,5m from the poverty alleviation fund to bankroll a community-based response to the problem.

Fraser-Moleketi also promised comprehensive legislation on aged persons would be tabled next year to replace existing, limited, legislation.

She said there were only 589 old age homes housing about 34 000 elderly people, although SA had about 3-million people older than 60. The department wanted to encourage the community to take a bigger role in caring for its aged, she said.

# Special Pension scam

(300) CP 20/12/98

## Crooked 'ghosts' awarded huge sums

By CP REPORTER

WINNIE Madikizela-Mandela's name is being used to defraud the Special Pension Fund of millions of rands.

City Press is in possession of a letter purportedly signed by the president of the ANC's Women's League recommending that a woman, whose name we cannot publish, obtain a special pension.

This is just one of the hundreds of false claims for "war" pensions that has cost South African taxpayers millions of rands and is meant for legitimate former MK and Apla guerillas.

The letter states that Madikizela-Mandela worked with the woman in 1973 as an organiser of the underground structures of the organisation.

"She contributed in full her services for the organisation (sic) and she worked for the movement as ordinance and courier through Lesotho channels. I declare that this information is true and correct about the above comrade," the letter allegedly signed by Madikizela-Mandela states.

A spokesperson for Madikizela-Mandela yesterday disassociated herself from the letter, saying: "Winnie never had anything to do with it."

The alleged involvement of Madikizela-Mandela's name in defrauding the scheme is symbolic of how far corrupt officials are prepared to go in their quest to enrich themselves.

A City Press investigation into the multi-million rand fraud has also uncovered a letter written on the letterheads of the Department of Finance and signed by the chairperson of the Special Pensions board, TJ Wentzel, in which a pension of R217 000 is granted to a person whose name is known to City Press. The man was never a member of either Apla or MK.

The letter states that: "In appreciation of your contribution to the establishment of a non-racial democratic constitutional order, the Special Pensions Board has awarded you a pension. A monthly pension will be deposited into your account on the first working day of every month, with an arrears amount included in the first payment.

"This pension cannot be assigned, transferred, pledged or ceded at any time. We wish you well for the future, and should you have any queries, the Board will be only too glad to hear from you..."

Claims abound that corrupt officials who vet applicants approach likely individuals and offer them 50 percent of the money obtained from the fund if they agree to apply.

The officials then falsify the information for the pension applicant. Some individuals have managed to defraud the fund of R40 000.

All a "ghost" soldier requires is a valid South African identity document. The officials then furnish the right connections with photocopies of their IDs and they are issued with certificates confirming that they were members of Apla or MK.

In order to claim from the fund, a person requires a clearance certificate and a letter of confirmation from the ANC or PAC that he was a legitimate member of their armed wing during the liberation struggle.

Sources say connections within the SANDF have a list of Apla and MK members who died in exile and are using these names to get the government to pay out their pensions to people falsely using the dead man's identity.

This is made easier by the fact that during the liberation struggle combatants in exile did not use their real names to avoid detention.

The Special Pensions Act of 1996 stipulates that only those who were banned, detained or imprisoned for an offence committed with a political objective for at least five years before February 2, 1990, qualify for the special pension.

So far R300 million has been paid out to about 2 200 people by the Department of Finance, which handles the special pensions. The department has budgeted an amount of R500 million for the 1998/99 financial year for the payment of special pensions, leaving R200 million for new qualifying applicants.

The department has asked the Auditor-General to conduct an audit on the payments and warned that any payments made out as a result of false information would be recovered.

## Merry Christmas South Africa!



*HO! HO! HO!... Season's greetings from Santa's helper, former Miss South Africa Basetsana Makgalemele, who wishes City Press readers a Christmas filled with gifts and a prosperous New Year.* ■ *Pic: MIKE MZILENI*

# Union's funds dispute to end

By Mzwakhe Hlangani
Labour Reporter

WRANGLING between Eskom pension management and the National Union of Metalworkers of South Africa (Numsa) over union representation on the board of trustees will be resolved soon with the immediate re-election of a new board to manage the R14 billion pension fund.

The chairman of the Eskom Pension and Provident Fund Mr George Lindeque expressed confidence yesterday that the new model would satisfy all concerned parties and meet prudent trusteeship requirements.

Numsa and the National Union of Mineworkers broke up the board meetings recently, criticising the management for lack of vision and strategy on governance in defiance of the new Pensions Act.

The unions alleged that fund management refused to respect the right of labour grouping to choose its own representative and accused management of pushing for implementation of their decisions taken without consensus.

They approached the Financial Services Board to intervene.

Lindeque confirmed that the dispute arose out of Numsa's insistence that an alternate board director who was dismissed two years ago for breach of trust should again serve on the board.

The Financial Services Board did nothing to intervene, Lindeque said, pointing that it had emerged that in terms of the new Pensions Act with effect from December 15 1998, their board, comprising 14 members, was illegal.

In terms of the new Act 50 percent of the board members should be elected, in their case the board had 50 percent appointed employer representatives and only three union representatives and elected pensioners.

Lindeque added that the new board to be appointed should not represent constituencies, turning the board of trustees into "employer-employee sectional group battleships".

He also reassured about 60 000 fund pensioners and members that the operations of the fund were not affected by the dispute.

SOCIAL SECURITY - PENSIONS/AGED

1999

# Old-age homes fold as aid is cut

(300)

## Now families must take responsibility

Star 16/11/99

By HEATHER HOGAN

Johannesburg old-age homes are closing at an alarming rate because of government subsidy cuts, leaving many elderly people destitute and wondering what will become of them.

At least six old-age homes have closed in the past six months – and two more are about to close, one at the end of this month.

Frightened elderly residents spoke of their horror and anxiety at being told that they may have to face life on the streets.

"Old-age homes were traditionally the refuge for the abused and neglected elderly," explained Ros Rosenthal, senior social worker at the Johannesburg Association for the Aged.

"Due to the government's new criteria, whereby only the poorest homes are subsidised, many pensioners are finding themselves in deep water.

"If they earn an income greater than R1 300, the government won't subsidise them anymore. Just because they earn a larger pension doesn't mean they don't need help.

"It appears that more subsidies are going to the young, while the elderly are forgotten. The responsibility of caring for the aged now rests entirely on their families.

"This is not always a viable option; many families are either too poor to support their ageing parents, while many who are 'cared for' by their families are in fact abused.

"Many of the aged have no families at all and therefore have nobody to care for them. Where the homes are closing, the staff are usually retrenched, which adds to the problem of unemployment. Many of the aged are left to fend for themselves.

"The main problem is that the homes just can't afford to stay in business.

"Those struggling to keep their doors open only seem to be taking in Category Three patients, which are the very frail.

"If elderly people want to get into a home because they are unable to care for themselves, but cannot afford to pay or are still able bodied, they don't have much of a chance of getting in," said Rosenthal.

### 'Terribly sad'

"These people, as well as many patients whose homes have closed, often end up in homeless shelters or on the streets. It is terribly sad because old-age homes have become a hospice for the dying."

The latest casualty of economic turmoil and the lack of government funds is the Hillcrest Geriatric Centre in the south of Johannesburg.

Anne Nimmons, matron of the centre for the past two years, sighed with despair: "Hillcrest is due to close at the end of the month and it feels dreadful. I feel terrible for the patients and sorry for the staff. Old people don't like movement or change at the best of times.

■ To Page 2

P. T. O.

# Aged homes fold as subsidies are cut

(300) Star 16/11/99

■ From Page 1

"This is very traumatic for them. Our home just can't afford to keep going, but luckily we have placed most of our patients. Many of them came from Queenshaven, as did some of our staff, and they have gone back there. Many children have fetched their parents and are making arrangements for them.

"The trouble is that some of our patients don't have families, but our social worker is trying very hard to place the remaining 10 patients.

"Our home dealt with the frailest of the frail – it was like their home. Hillcrest was a private home but a non-profit organisation. I have no idea what will happen to the staff because jobs are so hard to find these days.

"Our home was so poor we even had to borrow money to pay the staff's salary this month."

Phina Benuko (68) has been at Hillcrest for a year. "Before I came here, I was a domestic worker, but then I got old and developed very bad arthritis," she said. "My neighbour Joey Thomas put me in here, she is just like a mother to me. I have no children and if it were not for her I would be all alone in the world.

"Now we are told we have to go, but this is our home. Whether we were black or white, we were all sisters here. Nobody wants to leave Hillcrest, we were all so happy."

Benuko had been told she may get a place in the Witwatersrand old-age home, but details had not been finalised and it was not certain that she could be transferred.



**FRIEND IN NEED:** Joey Thomas (left) is like a mother to Phina Benuko, a former domestic worker Photograph: CATHY PINNOCK

Thomas said she had started caring for Benuko after Benuko's employers moved to George about five years ago. Benuko had been living in stables in Roseacre when Thomas found her. Benuko, she said, was destitute at that stage.

"I am absolutely flabbergasted about Hillcrest closing. I cannot believe it is possible."

Bianca Boltuluti (87) clutched her pink plastic rosary beads with a skeletal hand: "I have been here for 10 years. My sister put me here, but now she's dead. I should have rather gone to the Italian clinic as I had wanted to, but it was too expensive. This is very upsetting because I was so happy here.

"I feel miserable. I do not know where I am going. I just have to wait and see. I do not want to leave this place," she wept softly.

"This is my home. I want to stay here. Everybody loved me when I was young. Now I'm not so sure."

Muriel Cadger (55) cannot remember how long she has been at Hillcrest. "I have two children and three grandchildren. I just can't remember how old any of them are. It is very upsetting but I can't help it. I worked for Standard Bank once upon a time.

"Then I got gangrene in my left leg – but don't ask me how. The doctors had to amputate. I was very happy at Hillcrest and would have preferred not to go. I am very shy and don't mix easily with strangers.

"They say I'm going to the Witwatersrand old-age home, and that is not too bad for me. I am lucky that some of my friends are already there, so I ought to settle in. If not, I've always got my books to read."

The situation at Hillcrest is not unique: wherever homes are closing, staff are afraid they won't find new jobs, and the aged are terrified of a future without their friends and away from their comfort zone.

As the manager of another home due to close commented: "We should be celebrating our 75th anniversary but instead we are mourning our closure. I really have no idea what will happen to the people we have cared for for so long."

MANY PIN PENSION HOPES ON THIS MAN

# This jurist is not retiring

**HE'S** the man everyone thinks is going to grant them the good life in their declining years, the tiger who will tackle the corporate giant when the little guy feels his pension can't hold a candle to his expectations. But **JOHN MURPHY**, national pension fund adjudicator, is full of surprises, as both government and the pension fund industry have discovered.



**Wednesday interview** with Diane Cassere

GETTING through to John Murphy is a bit like trying to have a chat with the Pope. There are 16 000 pension funds in South Africa with 11 million members, all of whom have a right to approach him.

Murphy has a polite but thorough secretary whose job is to see that chancers don't get through to the national pension fund adjudicator when he's got his head down writing judgments on one of the 1 500 cases on his desk.

When I finally see him it is clear that Murphy has a Herculean task.

He tells me that there is light at the end of the tunnel and he will get to that. Murphy is a lawyer, and having once been married to one I know that the story will have a beginning and an end and it is best to listen.

The 1992 Commission of Inquiry into Pensions recommended the appointment of a pensions fund ombudsman but the office was only created in 1996 when the Pensions Act was amended. "The Minister of Finance appointed me on the recommendation of the Financial Services Board, but nobody really thought about what this office should be doing," says Murphy.

What recommended him for this formidable task?

He was professor of law at UWC and prior to that had been an attorney. He also practised as an arbitrator and mediator for the Independent Mediation Service of South Africa and was later appointed as a part time senior commissioner for the CCMA (Commission for Conciliation, Mediation and Arbitration).

Murphy was also a published writer on property rights and had a history in human rights.

"I was appointed with a budget and told to find office accommodation, furniture, everything. I started out with a cellphone on the floor.

"The office of the pension fund adjudicator is statutory, but independent. Some people would prefer me to be less independent. I think I make some of them quite nervous.

"I was amazed at how many people were aware that this office would be opening, but I had a lot of media coverage.

"From the start I was inundated," says Murphy.

"I built up 1 500 cases in a year, some of which require as much as a 36-page judgment."

What does the pension fund adjudicator do? For a start, he is not an advice bureau and he cannot advise on one pension scheme over another.

What he does do is handle complaints from fund members and employees alike. He is empowered to make decisions and often has to sit in the High Court when his findings are challenged.

"Just one case can take 10 to 11 days. Others can take just an hour, but that is rare."

An example? "This person (indicates a large file) was a member of a pension fund for 36 years. After he retired the fund took a decision to amend their formula of how members would get their pension, based on the fact that people don't have that length of service anymore.

"People come into the company after university, or military service, or employment elsewhere so that by pensionable age, they earned a lot less."

The complainant objected to the fact that the company enhanced the scheme for current employees as discriminatory to those who were already on pension. Murphy ruled that the company was within its powers to amend its formula, based on the current situation.

Murphy says he is aware that any judgment he makes becomes precedent across the industry. "I can't perform brain surgery as a judge, but I can ensure that people use the right tools."

Another frequent dispute is death benefits and who gets them.

For instance, can a gay lover benefit from the deceased's pension? Murphy ruled yes.

Murphy says you can't democratise the actuarial services or the law, but you can make them user-friendly. "The law has been built up over thousands of years, but you can apply certain methods within the law."

Murphy points out that the purpose of his office is to be informal, accessible and cheap — all costs are to the state, except where people hire their own laywers.

Does he feel he has accomplished what he set out to do in the past year? "The answer is no, but that is because I have have not had the resources, but (we are getting to the light at the end of the tunnel) I will be getting more staff.

"In the UK the pension fund ombudsman has similar powers to me but has a staff of about 30 and a budget of £2,3 million (about R25 million).

"In Australia my counterpart has a staff of about 24 and they handle some 500 complaints.

"Here there is just me, and my secretary. If I get a complaint from an illiterate pensioner, I need legal people to get the facts into shape for me.

"At other times I will receive a complaint with hundreds of points. Some of those points are pure diamonds, but I have to find them."



**FASHIONING THE FUTURE:** Reviled by some who feel he is not working quickly enough — which is his major frustration — John Murphy also feels the satisfaction of creating precedents that will affect the retirement industry. PICTURE: ALAN TAYLOR

(300) CT 13/1/99

Amounts of money involved range from R50 000 to millions. Some write to say "please help me, I'm desperate". They want R50 000 when their benefits amount to R20 000.

"There is a huge range of disputes. Some come with lawyers and precedents, others are 'Dear Professor Murphy, love Mabel'.

"I love the job, I just get freaked out sometimes about the load."

What does he do when the pressure mounts up? "I walk up the mountain. I also spend time with my children (aged eight and two) and I'm interested in Tai Chi, but I haven't got down to it yet."

Murphy says he's been threatened with assault, by people who don't agree with him, or feel he isn't getting to them fast enough.

But now there are judgments in place that will create the new Pension Fund laws, and precedents in place.

"I blew a gasket fairly publicly and finally I am getting more staff (the light). I am talking to accountants in Pretoria who don't know what I am doing.

"They were prepared to give me bugger-all because they don't know what I am doing."

Shortly a senior investigator with 15 years experience as an attorney will join him, as well as two junior investigators and two part-time senior investigators.

Three more administrative employees will join the team and they will go into new offices in Claremont with Jan Steyn, life assurance ombusdman, and his staff.

"I have a R1,7-million budget in an industry that is worth R480 billion. But it's early days yet, and I will get my way," says Murphy. "In fairness to the financial services (department), it is good to be conservative when starting out."

Murphy says the government is looking to amend statutes in the Pensions Act and the deputy minister has told him to start "drafting something".

Are South Africans generally well-served by their pension funds?

"I would say yes. Some 80% of all people in formal employment are pension fund members, which is good in a developing country.

"The industry is successful, but it has not been subjected to adjudicatory supervision before, and there will be certain discriminatory and unfair practices not in line with the new constitutional order.

"So reform is required and that's why I am here. At the moment I am overwhelmed and under-resourced, but I am also optimistic and committed."

MAIL & GUARDIAN
January 15 to 21 1999

# NProvince pension thaw

**Mungo Soggot**

The Northern Province has quietly started repaying most of the 92 000 pensions and disability grants it froze last year on the grounds it wanted to check recipients' bona fides.

The province's decision to restart the pay-outs comes after it was hit with scores of lawsuits. These included a class action which asked the high court to strike down the decision that led to the move, and requested the court to supervise the province's disbursement of pensions.

But although the provincial government is now also paying out arrears to many of the unfortunate beneficiaries concerned, it is refusing to pay them interest on the arrears.

The Legal Resources Centre (LRC), which is representing dozens of indigent people affected by the province's bizarre freeze, says the decision to withhold interest payments could have saved it more than R10-million, assuming an average monthly pay-out of R500. It says the class action is still continuing in relation to the province's failure to pay interest.

Advocate Nick de Villiers of the LRC says the province, which informed him of the decision to start repaying many of the grants last week, had to be congratulated for rectifying the problem.

But he also says it is outrageous that the province had frozen payments while investigating the alleged irregularities and that it was now apparent there was little basis for its moratorium.

"The fallacy of the province's approach is

"ghosts", the majority being people who had not submitted themselves to the province for vetting.

De Villiers says many of those who had not yet been repaid were entitled to their grants and that the LRC, together with the Pietersburg branch of Lawyers for Human Rights, was pushing those cases to court.

He says he recently issued 63 summonses for arrear payments and interest. "This is a clear indication that further savings are being made between the cracks."

De Villiers said nearly all of those affected relied on the pay-outs as their sole source of income. "It would be interesting to find out where the saved money has gone," he added.

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superintendent general, Moffat Mogo-
ne, said: "We had reasons for all of
them." He denied that, with hindsight,
the province acted wrongly.
Mogone said about three-quarters
of the affected people were now get-
ting their money and that the clean-
up operation had been necessary to
appease the auditor general.
He confirmed that interest was
not being paid on the arrears, adding
that "the issue of interest is some-

MG 15-21/1/99

300

shown by its own decision to start repaying."
The province stopped the grants last February, saying it believed at least two-thirds of the payments were going to "ghost pensioners" who were stripping the state of R44,5-million a month.
A department representative said at the time that those hit were generally people with "incomplete files".
The province has consistently defended the move. This week its acting



*L HELP A LOT... Pensions for former n fighters will bring relief, says PAC president, Dr Motsoko Pheko.*

# Light at the end of tunnel for fighters left out in cold

## *Special pension will help ease their plight*

By JIMMY SEEPE (300)
CP 1/11/98

THE PLIGHT of former members of non-statutory forces who are currently out in the cold and were not eligible for integration into the South African National Defence Force or any structure of government will soon be eased when proposals before the Special Pension Board are accepted.

Changes to the special pension, which have been delayed as a result of strong opposition from opposition parties like the National Party and the Democratic Party, are expected to be passed by the Special Pension Board before March 1999.

Former Umkhonto we Sizwe and Azanian People's Liberation members will then be entitled to a monthly pension of R500 regardless of their age.

Present legislation offers no pension cover for members of the liberation movements under the age of 35. The proposed changes to legislation will offer them some relief.

The special pension is expected to benefit thousands of former MK and Apla members who provided "a service" to the country by joining the liberation movement.

The idea to set up the special pension follows rising concern in the community that some of these former MK and Apla members are now resorting to violence to make ends meet.

During the past year, there was even growing concern that certain former members of the liberation movement were involved in highway and bank robberies.

According to the proposed legislation, members of non-statutory forces who were not integrated into the armed forces and did not qualify for state pensions will be covered under the Special Pension Fund expected to be set up next year.

At the moment, only individuals above the age of 50 qualify for a military pension as a result of their service with the former liberation movements – Umkhonto we Sizwe and the Azanian People's Liberation army.

MK Military Veterans Association national chairperson, Isaac Makopo, said the proposed special pension for former MK and Apla members would help alleviate the current plight of thousands of former liberation fighters.

But there is now growing concern that the proposed pension could once again be dogged by individuals making fraudulent claims that they participated in the former military structures of the ANC and the PAC.

The SANDF is currently investigating claims that several individuals who were incorporated into the army had registered under false names – while some were never members of MK or Apla.

Makopo said he was aware of claims that people might have cheated their way into the SANDF.

He said it would be up to the structures of the organisations themselves to monitor and screen all applicants who needed to qualify for the special pension.

PAC deputy president, Dr Motsoko Pheko, said changes to the legislation would help a great deal since the liberation movement consisted of youths who at this stage had not reached pensionable age.

Pheko said the changes would bring a welcome relief for most of the former Apla and MK members who now found themselves lured into crime as a result of unemployment.

# New bill outlaws abuse against elderly homes

## *Major reforms also in pipeline for all-white, old-age*

(300) ARG 5/11/98

**Legislation criminalising abuse of the elderly and beginning to tackle the issue of all-white old age homes faces its final hurdle today.**

Welfare organisations for the aged countrywide will watch closely as the Aged Persons Amendment Bill is considered by the extended portfolio committee on welfare.

After that, it has only to be signed into law by President Mandela.

It contains major reforms including criminalising abuse, providing for the appointment of an official to investigate abuse, forbidding unfair discrimination against people applying for admission to homes, and providing for democratising management of old-age homes by including representatives of staff, residents and the public on management bodies.

SPECIAL REPORT





DI CAELERS AND CLIVE SAWYER

Managers would have to submit annual reports to the minister of welfare on service standards and steps taken to prevent or combat abuse.

Although organisations for the aged have welcomed the bill, an interim measure that will be replaced next year by more comprehensive legislation, they warn that it does not go far enough.

Syd Eckley, exeçutive director of the SA Council for the Aged, is concerned that while it gives the welfare minister the power to withdraw subsidies from homes that do not comply with regulations, homes may choose to do without subsidies and maintain the status quo.

Homes could do this because they had been allowed to sell facilities, which had been built with government funds in the past, to affluent elderly people. This gave them a financial cushion and "there is a real chance now that many organisations may instead decide to go it alone without the subsidies".

While the "biggest and greatest news" was that the bill criminalised abuse of the elderly for the first time, he was concerned that when homes were closed because of problems, the same people were not prohibited from opening other facilities.

Marilyn Lilley, chairman of Focus on Elder Abuse and the African representative to the International Network for the Prevention of Elder Abuse, said that while the legislation itself would not stop or prevent abuse of the elderly, it was a start.

"The increasing number of reports received about elder abuse indicates the level to which society has fallen when vulnerable people are abused, targeted by criminals and exploited by family members, care givers and the community."

She said she was particularly pleased the bill made it mandatory for anyone working with the elderly to report suspected abuse.

Earlier this year, Ms Lilley's group was instrumental in getting the Western Cape government to adopt in-principle protective measures for the elderly.

The bill also begins to tackle the issue of all-white old-age homes by stipulating admission policies. It says no one may be unfairly discriminated against when being considered for admission and that homes for the aged need to reflect broadly the country's race composition.

The sole dissenting voice in Parliament about the bill has been the Freedom Front.

The provision for old-age homes to take into account the composition of the population meant "existing old-age homes (will be) lost to the Afrikaner and such homes for the aged may in future accommodate only 13% whites", said MP Willem Botha.

# R1,5bn for pension victims

## State fund takes lead in tackling discrimination

(300) ARLT 14/11/98

ALIDE DASNOIS

The ghost of past discrimination still haunts the country's retirement funds which could be forced to pay out billions of rands in compensation to victims.

The huge state pension fund has provisionally set aside R1,5 billion to compensate employees who were victims of discrimination in the past, particularly "casual" employees who worked for years for the government but were never allowed to join the pension fund.

Neva Makgetla, deputy director-general of Public Service Administration and head of the Pension Task Team set up by the government and the civil service unions to look into the issue, says this will not affect the pensions of any member of the fund.

But there is no indication yet of how private sector funds will deal with the issue.

Makgetla says Government and the unions have agreed to set aside one percent of the state pension fund's assets as a pool from which victims can claim.

The task team is now identifying categories of people who can claim compensation. Women teachers, who were struck off the fund's books when they married, could also be in line for compensation.

A report will be delivered to the Public Service Bargaining Chamber, which brings together the government and the public sector unions, before the end of the year, Makgetla says.

*'Private sector claims could run into billions – someone will have to pay'*

"We expect that the biggest group of people who can claim will be those who have no pensions at all, because they were classified as casual or temporary employees. Some of them worked for the state for 20 years."

She says the decision to set aside one percent of the fund's assets will not affect any member's pension because it is a defined benefit fund, guaranteed by the state.

The decision by the State Pension Fund could open the floodgates for thousands of people who were victims of discrimination in private sector pension funds.

It is also likely to trigger heated debate as to who should finance compensation, says pensions consultant Peter Strasheim.

"Private sector claims could run into billions. Someone will have to pay.

"The state has taken the lead and now it is up to the industry and the Financial Services Board (FSB) to develop a code of conduct for the future and decide who should pay."

Some, such as Sanlam employee benefits head Chris Bosenberg, think the company concerned should foot the bill.

"We must be sympathetic to those who were discriminated against in the past, but it is the company concerned, and not the retirement fund, which must pay," says Bosenberg.

He says each case should be negotiated on its merits and the costs of paying compensation must be weighed against the risk of the company going out of business. But neither past nor present members of retirement funds should be expected to finance compensation, he says.

The head of the pensions department of the FSB, Dube Tshidi, agrees it would not be right to take money from retirement fund members who had no hand in excluding others from their fund.

"It would be a good thing if we could redress the wrongs of the past. But we cannot take money to compensate those who were disadvantaged, from those who were advantaged through no action of their own."

"When employers set up retirement funds they turn to administrators for help. Depending on the kind of advice given, some adminstrators may find it difficult to escape part of the responsibility for discriminatory practices."

Tshidi says at the moment the FSB's role is limited to checking that the rules of retirement funds conform to the law. But the board could co-operate with business in drawing up guidelines for retirement funds to help them tackle the issue of compensation, he says.

"We would like to work together with the retirement industry, the Pension Funds Adjudicator and the labour movement on this issue."



# Alleged veterans defraud fund of millions

(300)

Star 21/11/98

By PHOMELLO MOLWEDI

The government's Special Pensions Fund has been looted by bogus MK and Apla freedom fighters – and the fraud could run into millions of rands.

So far, the fund, according to Finance Ministry director-general Peet Maritz, has paid out R300-million to about 2 200 individuals, many of whom may never have served in the military wings of the ANC and PAC during the liberation struggle.

In an investigation over the past two weeks, the *Saturday Star* has interviewed several individuals who claim to have defrauded the fund with the help of corrupt government officials.

Their method, they said, was simple: in order to claim from the fund, a person needs a clearance certificate and a letter from either the ANC or PAC confirming that person was a legitimate member of their armed wings.

The men claim that corrupt officials – who vet applicants – approach likely individuals and offer them 50% of the money obtained from the fund if they agree to apply, even though they never served in Apla or MK.

The officials then falsify the information. Some individuals have managed to defraud the fund of R40 000 in this way.

All these "ghosts" need is a valid South African identity document. They furnish the right connections with photocopies of their IDs and thereafter they are issued with certificates confirming that they were once members of Apla or MK.

Sources known to this paper disclosed: "Our connections within the SANDF have a list of Apla and MK members who died in exile and are using these names to get the government to pay out their pensions to people falsely using the dead man's identity."

And, even more alarming, our sources claim that it is government officials who "recruit" members of the public to defraud the fund.

"These officers come to you at home with the application forms. After they have helped you to fill them in, they take you to the nearest police station. There your fingerprints are taken and you have to furnish them with a copy of your ID," said one source.

Sources said it takes about four to five months to have the application processed. Thereafter the applicant is issued with a cheque for R40 000.

■ TO PAGE 2

# Special Pensions Fund is being ripped off

(300)

By ALI MPHAKI

MONIES set aside to reward freedom fighters are ending up in the pockets of people who never participated in the struggle. At the forefront of this scam are some government officials who are defrauding the government's Special Pensions Fund, designed to reward Apla and MK freedom fighters.

City Press has learnt that all it takes is a copy of an ID, a clearance certificate and a letter from a political organisation stating that the applicant was a member of their armed wing.

Once the application has been filled with false information, and the money disbursed, a government official will then take 50 percent of the pension money, with the rest going to the applicant.

City Press has learnt that in some cases people have pocketed close to R60 000.

Gauteng provincial communication officer Azwindini Nengovhela, says when the police received a complaint from the Finance Ministry which is in charge of the fund, an investigation would be carried out and the full might of the law would apply.

Reports say the Ministry has paid out about R300 million to about 2 200 applicants, many of whom were not members or even sympathisers of the military wing of ANC and PAC during the struggle.

Sources have indicated that it is "very" easy to obtain this money, claiming that all one needs is a "contact" person, usually a corrupt official, who will help in filling out application forms.

Once the applicant obtains his or her clearance from their respective political organisations, their application forms are processed by the pensions' team with the board authorising the payments. This process takes about four months.

Reports have also surfaced that some of the officials defraud the scheme in exchange for sexual favours. Some beauty queens are said to have benefitted from this scam, amassing huge amounts of money.

ANC spokesman Thabo Masebe lamented the abuse of the pension scheme, saying it was unfortunate and insensitive of people to take advantage of loopholes in the scheme to enrich themselves.

"The aim of the scheme was for the State to reward all those who participated in the struggle and could not work normally. Should people be found to have defrauded the scheme, the law must take its course," Masebe added.

The fund is administered by the office of the director-General of the Finance Ministry and was set up in terms of the Special Pensions Act of 1996.

CP 22/11/98

# Special Pension Fund thieves to be tracked

CP 29/11/98 (300)

C P Reporter

THE NET is slowly closing on persons who defrauded the Special Pensions Fund, designed by an Act of Parliament to provide pensions to persons who had been in the full-time service of a banned political or military organisation.

Reports last week stated that the Special Pensions Fund had been defrauded of thousands of rands. The Department of Finance claims that every effort will be made to track down the perpertrators and prosecute them.

The Auditor-General has been asked to conduct an audit on pension payments and has issued a warning that any payments made out as a result of false information will be recovered.

The public has also been asked to contact the Department with information regarding persons who or political parties which have misinformed the department or the board of a person's right to a special pension.

Pensions, in some cases amounting to R40 000, have allegedly been paid to people who never took part in the struggle.

The Special Pensions Act of 1996 stipulates that only those who were banned, detained or imprisoned for an offence committed with a political objective for at least five years before February 2, 1990, qualify for the special pension.

This is how the system operates: An applicant submits an application to a board established in terms of of the Act.

Applications must be signed and certified before a Commissioner of Oaths and supported by a certified copy of the applicant's ID, record of service, proof of banning, detention or imprisonment and a medical certificate in the case of disabled persons.

A pensioner who qualifies for a benefit is entitled to receive a monthly pension from the age of 35. Survivors or dependants of deceased beneficiaries are entitled to a single payment, the equivalent of twice the annual amount payable to the beneficiary.

A person who suffered a permanent and total disability during his or her service in the struggle or who suffers from a terminal illness is entitled to immediate payment of the pension.

The board is responsible for determining who qualifies – with reference to the period of service, the age of the pensioner and the value – in line with Schedule 3 of the Act.

It appears that the system has been abused through the verifications by political parties of periods of full-time service by a member.

The verification is performed by designated officers in political parties, who then issue an original certificate specifying the period served by the applicants in the political or military organisation.

The Department of Finance is responsible for the payment and increases of pensions after the board has made its decision.

In a process of constant review to eliminate abuse and false claims, the section in the Department of Finance which deals with the administration applications has been restructured in order to attempt to ensure that the necessary controls and security measures are in place.

The administration has been largely computerised avoid miscalculations, fraud and corruption in the system and to expedite the process of payment.

The Department of Finance budgeted an amount of R500 million for the 1998/99 financial year for the payment of special pensions.

An amount of R300 million will be utilised for the payment of approximately 2 200 pensioners already in receipt of their special pensions, leaving R200 million for new qualifying applicants.

PENSION FUNDS

pm 5/2/99

# A TERRIBLE YEAR

## Lacklustre returns delivered in a race to be "less bad" than competitors (300)

If there were any doubts that pension fund managers were tested to the limit and, in many cases, failed to make clients wealthier last year, the latest performance figures should sweep these away.

According to two sets of actuarial evaluations, there was a near 40% divergence between the best and worst performers last year. The highest growth in pension fund returns, according to Absa Consultants and Actuaries, was 26,3% to end-December and the worst -10,5%. Sedgwick Noble Lowndes, in another study, measures 24,5% at the top return during 1998 and -11,1% at the bottom.

On closer inspection, Foord & Meintjies delivered the highest returns during the year according to both sources. But the fund manager's performance almost casts a false light on the industry's 1998 track record because their assets under management are dwarfed by the rest of the industry and its closest contender — Old Mutual Profile Capital — delivered a much more lethargic 11,6% growth.

Of more significance is the fact that the bulk of the industry delivered returns of less than 10% growth last year and that 14 of the 33 funds that have been around for three years at least lost money.

With hindsight, the trick to staying ahead by delivering superior performance was to invest in value stocks, to stay away from the sexy financial, infotech, or newly-listed counters, or to have as much money as possible in cash.



***Graham Mason** . . . avoided high-flying shares*

On the whole, value fund managers had a good year. Prudential Portfolio Managers was the fourth highest performer in the Absa survey over 12 months and the third best in the Sedgwick study. MD Graham Mason says the fund manager's success was based on its value share selection and the fact that it didn't go for any of the high fliers, such as the "go-go" growth stocks.

The value stocks will probably continue to outperform for the next few years, Mason says, because the growth stocks' heyday ended in September last year. His preferred asset allocation for 1999 is to have 54% in equities, 28% in fixed interest, full offshore exposure and 3% in cash. "I feel the equity market will outperform bonds this year because bonds have run ahead of equities this year and they've already discounted future interest rate cuts into their prices."

Allan Gray, also a value investor, scored 5th slot in the one-year category of the Sedgwick survey.

But the value option didn't work out for everyone. BOE — a disappointing performer on a one-year basis — got heavily penalised in the second quarter for its decision to take on large exposure to Libsil and Johnnic in the belief that management would unlock value. The fund manager put in better performance during the final two quarters, but the value stocks proved costly during 1998 as a whole. The BOE retirement fund's position was pushed to the bottom end of the Sedgwick rankings with a -5,0% return during 1998. In the Absa report, the BOE Segregated Funds were ranked 25th over a year and 28th over three years but moved up to 16th on a three- and six-monthly basis.

BOE Asset Management executive director Anet Ahern says the problem last year was that the top-down view changed at the same time the value counters proved much more sensitive to the economy than expected and didn't unbundle value as expected. "We gave them too much time to get it right," she says.

But Ahern stresses: "We've completely revamped our investment process and taken on a lot of new team members. We're much stricter about our investments and will get out of them quickly if the triggers we expect don't materialise soon enough." Her preferred asset allocation for this year is to hold 53% in equities, 15% offshore, 25% in gilts and 8% in cash.

During a year of well-known global volatility, full exposure to international

### WIDE OPEN

**3-Year pension fund annualised returns**

| Portfolios 3-Year returns | |
|---|---|
| **Top 5** | |
| Old Mutual Profile Capital | 14,3% |
| BOE Investors Fund | 12,6% |
| Old Mutual Profile Stable Growth | 11,5% |
| Fleming Martin | 11,3% |
| Investec Balanced Fund | 10,9% |
| **Bottom 5** | |
| Commercial Union | -0,1% |
| Absa Asset Management | 2,5% |
| Brait Asset Managers | 3,4% |
| Nibam | 3,6% |
| Sage Life | 3,7% |

SOURCE: ABSA CONSULTANTS AND ACTUARIES

| House 3-Year returns | |
|---|---|
| **Top 5** | |
| Fleming Martin | 11,3% |
| Fedsure | 10,4% |
| Foord and Meintjies | 9,9% |
| Investec | 9,3% |
| Prudential | 9,1% |
| **Bottom 5** | |
| Brait | 2,3% |
| Absa | 2,5% |
| BOE | 5,2% |
| Nibam | 5,4% |
| Allan Gray | 6,0% |

SOURCE: SEDGWICK NOBLE LOWNDES

FM 31/2/99 (300)

markets had varied results. For instance, Coronation's fully discretionary segregated funds took a hammering because of its decision to invest offshore through a handful of hedge funds that performed poorly. Meanwhile, Investec Guinness Flight, its erstwhile competitor, managed to edge up the performance ladder, partly because of its full exposure to foreign markets.

According to Sedgwick, Investec delivered a 9,9% return over three years, placing it 4th. Coronation, however, slipped to 10th place with a three-year return of 3,5%. The differential widens further on a one-year basis, where Coronation's return dipped 5,4% and Investec's increased by 3,7%.

Investec Guinness Flight Asset MD Hendrik du Toit says its segregated portfolio outperformed many in the industry because they went into the international market "aggressively and early". He says the results confound market speculation that the absorption of Guinness Flight by Investec would disrupt the investment process and that, instead, the new offshore operation was "absorbed successfully". For 1999, Du Toit says the pension fund assets will be broken down as follows: 56% in equities, 24% in cash and 20% in gilts. Full offshore exposure will be maintained.

"We need to admit that we had a bad year," says Coronation Asset Management MD Thys du Toit. He says the 7,5% underperformance of its benchmark was a result of its international exposure and its local equity exposure.

Coronation invested globally in funds that pursued absolute, rather than relative, performance, which he feels were too bearish about the market, particularly Wall Street, during 1998. In addition, the fund manager increased its foreign exposure "at the worst possible time" when the rand weakened to R6,50 to the US dollar.

Despite these problems, Du Toit is happy to maintain the "slightly higher than average offshore exposure of about 20%" this year. But he adds: "We always intended to trade the hedge funds actively and, with Tony Gibson now in Dublin, we're in a much better position to make those calls. We will change them."

On the domestic equity front, he says the pension funds underperformed because Coronation missed out on exposure to Richemont, was too light in technology stocks and was overweight in Johnnic, BOE, Metropolitan and RMB Holdings.

Du Toit sums it up: "We've always been a house that takes a strong view. But there's nothing like a cold shower to focus your mind."

It wasn't all bad news for Coronation pension holders. Those invested in the higher risk Coronation Managed portfolio

# Personal Wealth We



***Hendrik du Toit** . . . went into international markets aggressively and early*

would have seen 9,6% growth in their money over a year, according to Absa. Absa puts the fund in a separate category because the R500m fund has not yet built up a three-year track record.

Two of Old Mutual Asset Manager's Segregated Profile Funds were rated highly in the Absa results. The Profile Capital fund was the second best performer over a year and number one over three years with growth of 11,6% and 14,3% respectively. The Profile Stable Growth fund fell into fifth position during 1998 and third over three years.

When making a comparison with other pension funds, however, it's important to bear in mind that both are more heavily exposed to gilts and cash than equities compared with the more conventional pension fund. The Profile Capital fund has a 15% benchmark equity exposure and the Profile Stable Growth fund has a higher 36% stock market exposure.

A more relevant comparison would be to look at the Profile Balanced fund, which has a benchmark equity weighting of 57%, and was the 12th best performer on a year and a three-year basis.

The main message that comes out of the industry's performance during 1998 is that there are few asset managers capable of giving their investors absolute returns throughout the investment cycle. **Sharon Wood**

SOCIAL SECURITY

# OUTSMARTING FRAUDSTERS

## Pensioners will benefit

Free State pensioners have reason to smile again thanks to a revamp of the province's social security systems.

"Previous shortcomings included pensioners having to wait three and six months to have their pension applications approved, as well as losses as a result of armed robberies, fraud and corruption," says Free State Department of Social Welfare deputy director for IT Johan Smith.

This bleak situation prompted a special project team — headed by Smith — to find a better, smart-card based, pension payment and delivery system. Pensioners had to re-register. Their fingerprints and photographs were taken and then stored digitally on to smart cards. Even illiterate pensioners would, therefore, be able to identify themselves at any paypoint equipped with biometric readers.

Banking group Absa's Allpay division won the contract to enrol pensioners and pay beneficiaries throughout the province.

A pilot project for the re-registration process took place last year near Kroonstad. Software AG's Natural LightStorm software, supported by SPL, handled the download and upload of data between laptop computers and the national department's mainframe in Pretoria. "Because of the laptops, officials could sit under trees to take down all the details they needed," says Smith. Each day, the captured data was uploaded to the mainframe for processing and this new, validated data overrode the existing data.

Smith says that 3% of the total number of beneficiaries in the pilot area did not turn up for re-registration and were suspended. This translates into a saving of almost R1,5m/year. The new system is being extended to the rest of the province.

**Marina Bidoli**



***Mobile pay-out point** . . . all pensioners need as ID is their fingerprint*

# Clampdown on social grant fraud

NATALIE KAMMIES (300)

ST(Com) 7/2/99

PEOPLE attempting to illegally collect social security grants will be in for a surprise this week when the provincial department of Health and Social Services clamps down on fraud.

The department will reregister recipients in Paarl and Cape Town to stop fraudulent claims for "ghost beneficiaries" — people collecting grants on behalf of dead people — or those collecting them even though they are not entitled to.

The department will also reregister beneficiaries to ensure that all have submitted the new bar-coded identity document and that all disability grantees qualify to receive grants according to the department's medical criteria.

The move follows a successful pilot project in October during which recipients in Atlantis were reregistered.

At Atlantis 74 percent of grantees reregistered and the rest will be given an opportunity to reregister until mid March.

# New hope for the aged

By MOIPONE KOMANE

THE United Nations' declaration of 1999 as the International Year of Older People is a means of encouraging governments to protect the aged from abuse and neglect.

Welfare and Population Development Minister, Geraldine Fraser-Moleketi said this year is especially significant as the South African government can officially participate in the observance of such a year.

"It's an opportunity to focus on ageing as a development and human rights issue," she said.

She said older persons should have access to health care to help them maintain the optimum level of physical, mental and emotional well-being.

She challenged the business sector to contribute by ensuring that older people are given access to social and legal services to enhance their protection and care.

She said this year would provide South Africans with an opportunity to realise the vision of a society in which older people are acknowledged as sources of potential and expertise.

"Older people make contributions to the household, taking care of children and the disabled.

"The benefits of ageing are hardly noticed, but they include a wealth of skills and experience that these people bring to the work place, to public life and to the family," said Fraser-Moleketi.

A framework for the International Year of Older People has been accepted, she said, and this will guide South Africans so that meaningful programmes can be initiated to make a visible difference to people who are doubly marginalised by being old and poor.

CP 7/2/99

# Old age homes face up to the future

## 'Integration cannot be forced'

CHENE BLIGNAUT
STAFF REPORTER

**The unmistakable voice of President Mandela blares from a too-loud TV set in the corner of the huge, sunny hall.**

It's almost lunchtime at the Kraaifontein Home for the Aged and most of the 119 residents, many in wheelchairs, are huddled around the TV, watching the President's final opening of Parliament speech with varying degrees of interest.

Far more important than the politics of the day for most of them is the day-to-day politics within the fenced-in, drab brick building they will probably call home for the rest of their lives.

One of only a handful of racially mixed, registered old age homes in the Western Cape, the Kraaifontein home is a shining example of the equalising role of need. Twenty-nine of the home's residents are white, three are black and the rest are coloured.

"There were some growing pains in the beginning," says wheelchair-bound Lucas Jansen, 54, "but with the help of the staff, we sorted it out and now it's a well-oiled machine".

However, he admits there are sometimes "incidents" involving some of the elderly whites who found it difficult to adapt to change under the new dispensation.

"Just now one of them walked



**One big family:** Edith Harris and Lucas Jansen with Rooney Saville at the Kraaifontein Home for the Aged, one of a handful of racially integrated old age homes in the Western Cape

JACK LESTRADE

ARG 10/2/199 (300)

private registered homes housing 11 085 aged people in the Western Cape. Only homes which cater for the frail elderly, about 2% of people over 60, are eligible for subsidies.

Sharon Kouta, provincial co-ordinator of the International Year for Older Persons, says it is impos-

Yet the need for secure home environments is not limited to affluent whites. Widespread abuse and neglect of old people by their kin in black and coloured communities is forcing the elderly to seek accommodation elsewhere.

Professor Sinfree Ma[illegible]

and most of the 119 residents, many in wheelchairs, are huddled around the TV, watching the President's final opening of Parliament speech with varying degrees of interest.

Far more important than the politics of the day for most of them is the day-to-day politics within the fenced-in, drab brick building they will probably call home for the rest of their lives.

One of only a handful of racially mixed, registered old age homes in the Western Cape, the Kraaifontein home is a shining example of the equalising role of need. Twenty-nine of the home's residents are white, three are black and the rest are coloured.

"There were some growing pains in the beginning," says wheelchair-bound Lucas Jansen, 54, "but with the help of the staff, we sorted it out and now it's a well-oiled machine".

However, he admits there are sometimes "incidents" involving some of the elderly whites who found it difficult to adapt to change under the new dispensation.

"Just now one of them walked past the TV and said to us: 'Listen to him (Mandela) – he is your boss. You voted him into power.' But I think that's to be expected."

Some of the white residents also refuse to join in the singing and chatting during meals, preferring to eat quietly on their own.

Most of the time, however, Mr Jansen has no problem with the white people and enjoys sharing the odd joke or game of dominoes with them. "They are also just people, after all."

In terms of the Constitution, no-one can be turned away from an old age home on grounds of race. However, the majority of registered homes still cater mainly for whites, with a sprinkling of colour here and there.

The provincial government will focus on the integration of state-subsidised facilities as part of International Year for Older Persons, launched last week.

There are 142 subsidised and 40 private registered homes housing 11 085 aged people in the Western Cape. Only homes which cater for the frail elderly, about 2% of people over 60, are eligible for subsidies.

Sharon Kouta, provincial co-ordinator of the International Year for Older Persons, says it is impossible to say how many of these homes are truly integrated.

Ms Kouta admits that most of the homes are still lily-white, mainly because of the legacy of apartheid and the "misconception" that black people don't need old age homes because black people prefer to "keep granny at home".

Of the 142 subsidised homes, 107 were built for whites only, while the rest catered for elderly coloureds. There were no homes for blacks. Today there are three subsidised homes for blacks: in Guguletu, Ashton and Worcester.

The Government sees integration as a process that can't be forced, she says. Staff and residents have to be carefully prepared for integration to counter fears.

Meanwhile, partly because of the crime wave, private retirement villages catering mainly for wealthy whites are mushrooming all over the country.

Yet the need for secure home environments is not limited to affluent whites. Widespread abuse and neglect of old people by their kin in black and coloured communities is forcing the elderly to seek accommodation elsewhere.

Professor Sinfree Makoni of the University of Cape Town, who is involved in a study on integration in old age homes, says because of financial and practical pressures, more and more black middle-class families are thinking their parents should be cared for in institutions.

Professor Makoni refers to a growing loss of respect for the elderly among the black youth and an increasing perception that "old age is their problem, not mine".

Winnerd Zantsi of the *Ekuphumleni* (place of rest) home for the aged in Guguletu agrees that older black people don't have the revered status they used to have now.

"Previously young Africans regarded any elderly man as their father. Now they just ignore them," says Mr Zantsi.

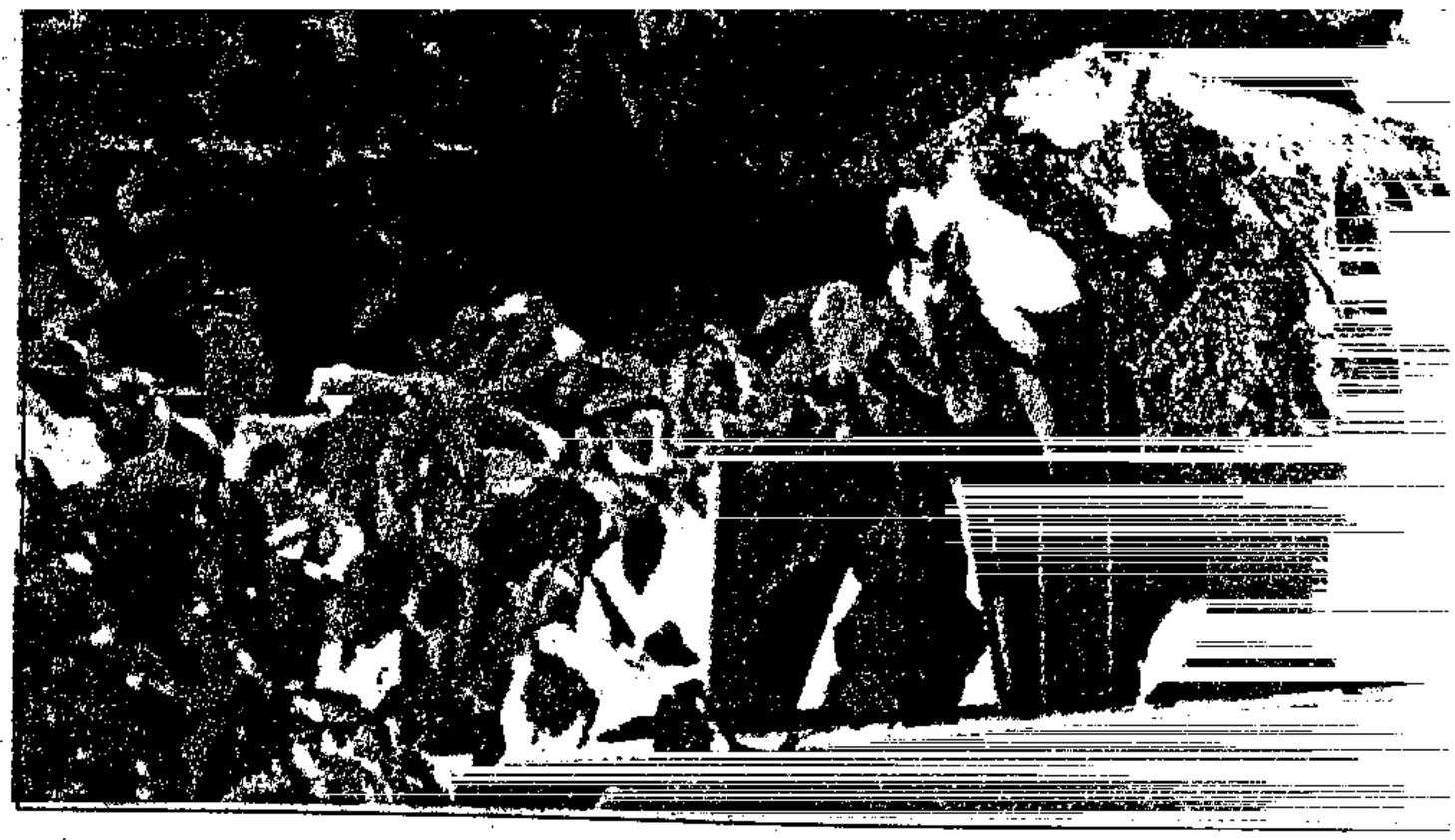
For some, these changes are difficult to come to terms with.

"I would not like to stay here forever," says *Ekuphumleni* resident Emily Gabuza, 81, who hopes her son will take her out of the home. "I am not happy here. I used to do everything for myself and now I'm always in trouble," says the wheel-chair bound diabetic.

The provincial government has set aside funds for organisations focusing on assisted living for the aged.

The Noah (Neighbourhood Old Age Homes) concept is one example of such a project. Run by the welfare arm of the Catholic Church, the project helps old people to fund and run homes within their own communities.

"I feel free because I can cook my own food and go out when I feel like it. It's like it's my own house," says Johanna Linno, 70, who lives in the Noah home in Woodstock.



**One big family:** Edith Harris and Lucas Jansen with Rooney Saville at the Kraaifontein Home for the Aged



OBED ZILWA

**Independent:** Rosie Brown, 79, is 'very happy' in the Noah home in Woodstock

# Govt to reduce pension fund contributions

BD 16/2/99 (300)

**Reneé Grawitzky**

GOVERNMENT is expected to pay 2% less in contributions to the public services' pension fund, which could free up more than R870m for the state's coffers.

Last week, public service unions agreed in principle to a reduction from 17% to 15% in employer contributions to the pension fund. The expected savings were incorporated into last year's budget.

Unions, including the Public Servants' Association and the Hospital Personnel Trade Union of SA, said the agreement was conditional on labour having a say in how the money would be used. Proposals include the reallocation of a portion of the money for social delivery and another for general improvements to conditions of employment for public servants.

Government has given no indication on whether it has accepted these conditions. However, sources said if no final agreement was reached, government could still implement the reduction in contributions.

The reduction is in line with an actuarial assessment conducted in 1996. The assessment concluded that employer contributions could be reduced to 13,5% without affecting overall funding levels which would remain stable.

This would also not affect the payment of benefits to pensioners.

A union source said it could be argued either way to increase or decrease the employer contribution. The reduction of two percentage points, he said, would ultimately benefit only the employer.

The fund's asset base is R153bn. It has 1-million members and about 200 000 pensioners.

# Probe ordered into abuse claims at old-age homes

ARG 18/2/99 (300)

**CLIVE SAWYER**
POLITICAL CORRESPONDENT

**Welfare Minister Geraldine Fraser-Moleketi has ordered an urgent probe into alleged severe physical abuse and neglect of elderly people in rented accommodation in Goodwood.**

She made the announcement at a news briefing today in response to a question about progress in implementation of the recently approved Aged Persons Amendment Act.

Among measures in the act is provision for regulations to prevent abuse and neglect of elderly people, as well as minimum standards of homes for the aged.

Ms Fraser-Moleketi said she had ordered an immediate investigation into the allegations, but declined to give details at this stage because the matter was sensitive.

Non-government organisations familiar with the allegations were reluctant to discuss the case for fear of victimisation of the elderly people involved.

It is hoped the people involved, understood to number between 18 and 20 and living in three houses in Goodwood, will be evacuated within the next two days.

Ms Fraser-Moleketi, referring to the case, told the news conference that the act provided not only for prosecution of abusers, but those aware of abuse who failed to report it.

This is the International Year of Older Persons.

The Department of Welfare said recent figures indicated that few of the more than 2,8 million South Africans over the age of 60 were catered for by the country's 721 institutions for the elderly.

# Probe ordered into abuse of elderly

(300) Star 19/2/99

**By Clive Sawyer**
Parliamentary Bureau

Cape Town – Welfare Minister Geraldine Fraser-Moleketi has ordered a probe into alleged physical abuse and neglect of elderly people in rental accommodation in Goodwood, Cape Town.

She made the announcement at a news briefing yesterday in response to a question about progress in implementation of the recently approved Aged Persons Amendment Act.

Among measures in the act is provision for regulations to prevent abuse and neglect of aged people.

Fraser-Moleketi said she had ordered an investigation into the allegations with immediate effect, but declined to give details.

It is hoped that the elderly, understood to number between 18 and 20 and living in three houses in Goodwood, will be evacuated within the next two days.

Fraser-Moleketi, referring to the case, told the news conference that the act provided not only for prosecution of abusers, but for those aware of abuse who failed to report it.

The Department of Welfare said recent figures indicated that few of the more than 2,8 million South Africans over the age of 60 were catered for by the country's 721 institutions for the elderly.

In other announcements yesterday, Fraser-Moleketi acknowledged she was concerned about the increasing number of juveniles involved in serious crime.

Responding to comments by Alan Jackson of the Child Welfare Society that the number of children in prisons in the Western Cape doubled last year, she said her department was closely studying the problem of juvenile involvement in crime.

LAWYERS CONFERENCE

Editorial: Charlene Smith
Advertising: Gabbie Gildea
Editorial Co-ordinator: Ronell Davids

# Unclear pension law a 'risk' to justice

(300) CT(BR) 19/2/99

Section 37c of the Pension Fund Act could lead to regular injustices, Ken Douglas of Webber, Wentzel, Bowens, the attorneys, told the Pension Lawyers Conference in Sandton yesterday.

Douglas said the legislation was unclear, while in law "everyone should be able to ascertain their rights with ease".

His views were echoed by other delegates at the conference, which drew together lawyers, pension fund administrators and trustees from the broad ambit of the R6 billion pension industry.

One example given of the challenges facing trustees was that of a devoted husband and father of two who died and left his pension to his lover. What should pension trustees do?

In this particular case, Chapman vs Rentokil, the adjudicator in the dispute shared the pension monies between all the parties who claimed benefits.

Bethuel Matsoso, a representative of Coca-Cola Southern Africa Retirement Funds, said another complication in administering pension funds was the polygamous nature of many unions in black communities. For example, he had dealt with a case involving three wives and 11 children.

*'Section 37c has a record of causing conflict in the awarding of benefits'*

There was also an inherent danger to trustees when a number of people claimed beneficiary status. Matsoso gave an instance where trustees conducting an investigation had been beaten.

The situation facing trustees, who usually act in a voluntary capacity, is exacerbated by the lack of clarity in the formulation of the legislation, particularly Section 37c. The Association of Pension Lawyers (APL) suggested that before taking up their task the trustees should obtain indemnity from the employer or the employee organisation that nominated them.

Jennifer Flagg of the APL said Section 37c probably required revision because it was confusing; it had a track record of causing conflict in the awarding of benefits.

In terms of this section, benefits from retirement funds are excluded from the estate and may be paid to three categories of dependents, who all have equal weight.

The first category is nominated beneficiaries such as the spouse. However, same sex and common law spouses are excluded.

Nonetheless, in adjudicated disputes around Section 37c (for example, in van der Merwe vs Southern Life) there have been rulings that same sex and unmarried cohabitees have the same rights as legally married people. The constitution also rules out discrimination on the basis of marital status.

Flagg said although there was no appeal against a trustee's decision in terms of Section 37c, there could be a review.

"Trustees can be ordered to re-research and make a new decision," she said.

Renier Botha of the Financial Services Board said the board saw Section 37c as applying primarily to lump sum payouts. The act allowed for a year in which to find the beneficiaries.

ıg held off the V&A Waterfront's Jetty Two, last until Sunday

Ryland was also knocked down and killed.

her 21-year-old son, Shasten, was shot dead last year.

# New homes sought for 'abused' Goodwood elderly

(300) ARG 19/2/99

CLIVE SAWYER
POLITICAL CORRESPONDENT

**Non-government welfare organisations are tight-lipped about alleged severe abuse of elderly people in Goodwood boarding houses – the subject of an urgent probe ordered by Welfare Minister Geraldine Fraser-Moleketi.**

Representatives of the SA Council for the Aged and the Halt Elder Abuse Line (Heal) visited three premises in Goodwood earlier this week.

Allegations include physical abuse, neglect, malnourishment, overcrowding and withholding of essential medication.

A Heal representative said the Council for the Aged was seeking safe accommodation for the residents of the boarding houses.

"Until the residents are moved to alternative accommodation, any news reports about the premises could jeopardise the safety of the elderly involved," the representative said. As soon as the safety of the alleged victims was guaranteed, further details would be provided.

News of the alleged abuse emerged at a briefing for journalists and diplomats by Ms Fraser-Moleketi.

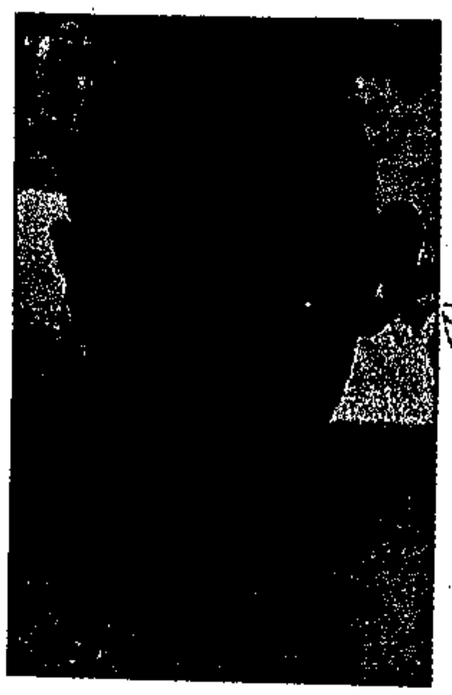
Stabbing: Vryburg pupil in court

# No joy for the aged from 1999 budget

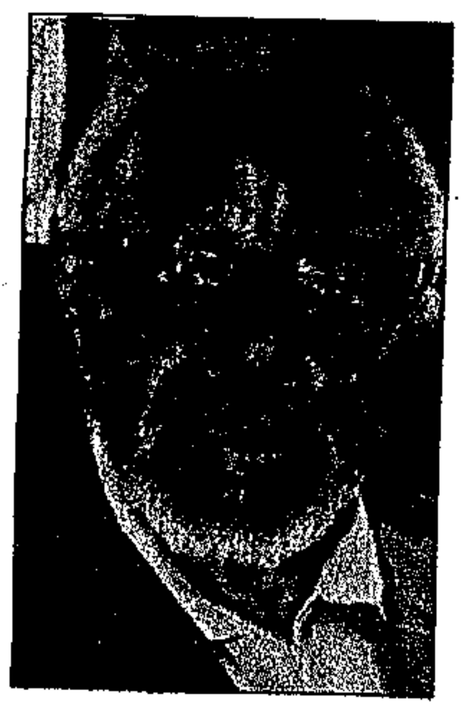
(300)

## *Pensioners face tough times with new levies*

21/2/99



*NO FOOD ... Peter William (68) of Eldorado Park can barely afford food.* ■ *Pics: THULANI SITHOLE*



*NO CASH ... Joel Mothapo (70) of Daveyton has seven dependents, including two at school.*

By STEVE DLAMINI

THE 1999 budget presented by Finance Minister Trevor Manuel is no relief to pensioners dependent on social welfare grants.

In fact many pensioners believe the new tax announced on Wednesday will further deplete their meagre R600 income, which is expected to rise by no more than R20 from the R19 billion allocated to the welfare department, because petrol hikes and other levies will push prices up, including transport, foodstuff and medical bills.

At present a loaf of brown or white bread costs between R2,80 and R3,50, a litre of milk about R2,60, maize about R12 for 10 kg, and sugar R9 for 2,5kg.

Butter, margarine, cooking oil and even jam or peanut butter have gone up to such an extent that they are luxuries to most.

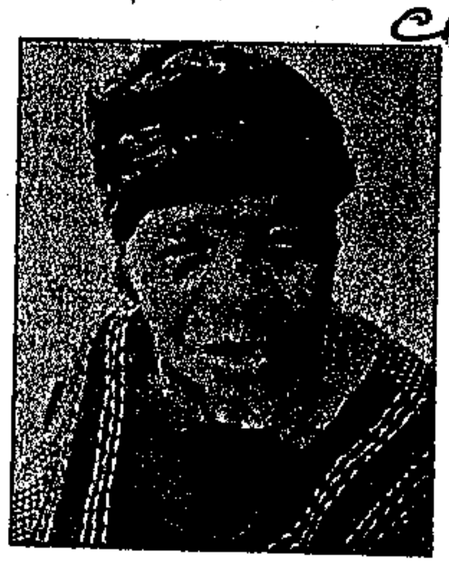
Also adding to their woes faced by pensioners is the lack of electrical appliances such as stoves, as many still rely heavily on coal and paraffin, which also makes it difficult to make ends meet.

Those who feel the pinch most are pensioners who also have unemployed children and grand children to feed, educate, house and clothe.

On average in traditional black townships, pensioners pay close to R300 a month for municipal services. Many others are living in debt and by the time their pension cheques arrive, they are as good as broke.

These were some concerns raised by pensioners in an interview with City Press.

Some pensioners claim that they are unable to afford their monthly home rentals, water and electricity tariffs, while others say they are unable to pay for their children's educational needs such as school fees and additional text books.



*NO SCHOOL FEES ... Alexina Radebe (76) of Soweto must support her grandchildren.*

City Press managed to capture the mood and some reactions from all races except white South Africans. Those whites we spoke to said they were not in a position to reveal to the press what they regarded as "confidential".

Seventy-two-year-old Joel Mothapo of Daveyton in the East Rand said: "Truly speaking, we can't live on the R500 or even R600 pension grant provided by the government.

"With the money one can only afford to pay the electricity bill and to purchase a little food for a few days."

Mothapo says he has seven dependants, among whom two are still at school.

"Even though some of them are independent, I still have to look after them because they are my children."

Alexina Radebe (76) of White City Jabavu in Soweto said her 18-year-old granddaughter, a matric pupil, had stayed away from school for more than a month as she was unable to afford school fees.

"I also did not have money to pay for her transport as she is schooling in Kwa-Zulu/Natal. I had to wait until I earned my pension money so that I could pay for her transport," Radebe said.

"Now we are left with nothing here at home but to wait for another pension remuneration at the end of next month."

She said her granddaughter who is an orphan, had to pay R1 500 for her studies including boarding before she was admitted to her school.

Peter Williams (68) of Klipspruit West in Eldorado Park suffers from old age sicknesses.

"I've just come out of hospital. I can hardly afford to pay my medical bills. The money that I receive from the state is peanuts.

"I'm willing to pay for municipal services but due to financial constrains I cannot.

"We use all the money mostly on food," he said.

Indians could not be photographed for religious reasons, but they voiced similar concerns.

Jayagouri Devchand (70) of Lenasia told City Press that she was living like a pauper.

She is, however, lucky enough to have a son who pays for her medical bills.

The department of welfare had not responded to City Press's enquiries at the time of going to the press.

Spokesperson for the Department of Welfare and Population, Sharma Knobel could not answer all the questions put to him, but said that the questions would be referred to their National Department in Pretoria.

# Pension increase well below inflation

(48)(300) BD 22/2/99

**Despite the rhetoric and a real desire to do good, government is not listening to what the usually unemployed poor have to say for themselves, writes Steven Friedman**

THE poor have been much talked about these past weeks. How much has been done to meet their needs is another matter. For obvious reasons, President Nelson Mandela, in his opening of Parliament address, and Finance Minister Trevor Manuel in his budget speech were at pains to point out government's achievements. Claims of a major effect on the lives of the poor featured prominently among them.

While there is more truth in government claims than many commentators concede, its professed concern for the poor may be belied by its failure to use perhaps our most effective means of assisting them.

Yes, claims of progress in everything from housing to water to health are overdone to paint the rosiest possible pre-election picture. Still, on social services delivery (rather than crime or education), the government has not done at all badly.

Some of these programmes have, however, reached the poor less than politicians suggest. Others, like water schemes, have made a significant difference.

But for all that, government claims to understand and sympathise with the needs of the poor are questioned by one little-noticed issue: its response on pensions.

During his speech, Mandela, beginning with a self-deprecatory remark about his own age, announced a 4% increase for pensioners — about R20 a month.

Why he trumpeted this is less than clear: 4% is not only substantially less than this year's inflation rate, it is below the projection for next year. In real terms, therefore, the government is cutting pensions.

So what? That may be unfortunate for indigent old folks, but does it say anything about the government's attitude to poverty?

Yes, because perhaps the most revealing aspect of Mandela's reference was his assumption that pensions benefit only the elderly. However, repeated studies have shown that their effect stretches well beyond senior citizens — they are used for a wide range of welfare functions: indeed, as this column has pointed out before, there is evidence of their use to supplement the pay of rural teachers.

There is considerable evidence that pensions are one of the most important factors in determining the welfare of the poor. In the 1980s, researchers noted contrary to popular wisdom an increase in the income of rural black people, even under apartheid.

Why? Because the government at the time, under pressure, racially equalised pensions, boosting those of black people. Clearly, the pensions were being used in ways which increased incomes generally.

The president's comments seem to confirm that, despite all the rhetoric — and a real desire to do good — government is, in the main, out of touch with the poor.

Further evidence was offered by the budget. Manuel made much of tax cuts for lower-income working people. There is nothing wrong with that in principle — but the poor, in the main, do not work and so do not benefit. A pensions hike may have done far more to tackle poverty than tax reductions.

The point goes beyond pensions: within limits, simply placing money in the hands of the poor may be a more effective response to poverty than most of what is now on offer.

Direct transfers to poor people allow them to decide their own priorities: the pensions evidence suggests that they make intelligent choices, perhaps more reasonable ones than those of planners who do not face the same dilemmas as they do.

They also eliminate one of the weaknesses of some social programmes: that the beneficiaries do not get what they want. Housing is a clear example — there is research evidence that the homeless often do not want what is delivered to them. No one has ever complained about receiving cash.

Second, East Asian attempts to deal with poverty over the past two decades — which largely succeeded, whatever may have happened since — used cash transfers to the poor as an important instrument.

Third, direct transfers place a greater percentage of the money directly in the hands of the poor than programmes which require scores of planners, consultants and implementers.

In any event, in its tax proposals, the government acknowledges that putting money in people's pockets is a valid way of dealing with poverty and inequality. So why is it willing to do that only for those who work rather than for the poorest?

Evidence that government is unwilling to do so is to be found in more than the president's speech and this year's budget.

The budget review released last week contains breakdowns of, among other things, welfare spending. From this it appears that "transfers to households" — direct grants — rose on average only 4,2% a year between 1995/96 and 1998/99.

Worse, they are scheduled to rise by only 2,9% a year until 2000/01. So transfers have not kept pace with inflation and are meant to continue lagging behind it.

If the pensions evidence is a guide and government really does understand the needs of the poor, we would expect not only a rise in pensions above the inflation rate, but experiments with new sorts of transfers. Yet, despite all the talk about the poor, we continue to see an emphasis on programmes which assume what they want, rather than those which equip them with some resources to make their own choices.

Obviously, giving money to the poor is not the only thing government needs to do about poverty. Policies matter — so do programmes; people cannot use cash to build roads or water pipes or electricity mains.

But the figures quoted here suggest that priorities are out of kilter. Cash transfers, which should be a cornerstone of government antipoverty programmes, are relegated to a corner.

The reason is not hard to find. The poor do not have vocal groups to speak on their behalf; other interests do. In their reaction to the budget, neither the Congress of SA Trade Unions, the SA Communist Party nor the Archbishop of Cape Town — all champions of antipoverty programmes — even noticed the pensions issue.

But listening to — and representing — those who cannot or do not organise is a key function of representative government.

The governing politicians do not have to listen only to those who think they speak for the poor. They could talk — and listen — to the poor themselves.

Despite some impressive government achievements over the past five years, some of its priorities suggest that it has a way to go before it really does that.

□ *Friedman is the director of the Centre for Policy Studies.*

# Challenge to actuaries' power over your pension

ARLI 27/2/99

CHARLENE CLAYTON (300)

Pension Funds Adjudicator Professor John Murphy has thrown a cat among the pigeons of the R480 billion retirement industry with a claim that actuaries sometimes have excessive powers over the benefits you get when you leave a retirement fund.

He says that if two people of the same gender worked at the same company for the same length of time and received the same salary and both decided to leave the fund before retirement, one could get R100 000 and the other could get R200 000.

Murphy stresses that though most actuaries do act fairly when calculating your withdrawal and transfer benefits, the rules of the fund sometimes give them too much discretion.

Unless their powers are limited, he warns, you could be the victim of an unfair decision.

Withdrawal and transfer benefits are a hot issue. Many of the country's 11 million retirement fund members have moved or are moving out of the traditional defined benefit retirement funds to defined contribution funds, where you and not your employer carry the investment risk.

Fair withdrawal benefits when you leave one job for another are crucial because this is the money that you need to make provision for your old age.

Murphy says what amounts to a fair benefit differs from fund to fund.

Some funds are "particularly ungenerous" and only give you back your own contributions to the fund plus minimal interest.

Other funds are more generous. Some give you your contributions, your employer's contributions and a reasonable rate of interest on the money and some give you your actuarial reserve.

This is the amount of money the fund holds to meet its liability for your pension.

The trouble is, says Murphy, that the determination of this reserve is not objective but involves a lot of discretion on the part of actuaries.

Actuaries must decide on the method used to calculate the value of your withdrawal, making assumptions about the future events which affect a fund's assets and liabilities such as the expected average life of the workforce, turnover in staff and the rate of return on investments.

"The rules of some funds allow actuaries extremely wide discretion in this regard", says Murphy.

"Potentially, two employees with the same promise of retirement benefits, are the same age and earning the same salary and who leave on the same day can end up with very different withdrawal benefits because the actuary uses different methods and assumptions."

This means that actuarial decision-making can become arbitrary and discriminatory, says Murphy.

He says the rules of your fund should set a method of calculating withdrawal and transfer benefits and must require that these be applied consistently.

Rules which do not do this and which give the actuary unfettered discretion may even be unconstitutional, Murphy says.

"The moment has arrived for actuaries, like the rest of us, to ensure that their practices fall within the new constitutional order.

"A balance must be struck between the need for flexibility and the right of pension fund members to have their investment values determined in a transparent, predictable and objectively determinable way," says Murphy.

Andre Pienaar, convenor of the retirement matters committee of the Actuarial Society of South Africa, says Murphy's claims are exaggerated and disagrees that actuaries have too much power to decide on the value of your benefits.

Actuaries always use the same method to calculate benefits within a particular fund, he says. While the assumptions that they use can vary, there is a good reason for this because they first analyse the experiences of the fund and base their assumptions on that.

Peter Milburn-Pyle, an actuarial consultant for Sedgwick, Noble Lowndes and former chief actuary of the Financial Services Board (FSB) says the typical pension fund actuary has far less discretion than is popularly imagined.

Although actuaries have to exercise some judgment, they do so within limits. Also their decisions are subject to statutory supervision by the FSB, he says.

But Murphy is adamant that something should be done to limit the power of actuaries.

It is in actuaries' own interests and those of retirement fund members, he says, to make sure that the basis of their calculations is clear and consistent. He is preparing decisions on three complaints from retirement fund members which could set a precedent on the issue.



# The homes where terror stalks the twilight years

## Grim picture of brutality emerges in Goodwood probe

ARGT 1/3/99 (300)

**The skeletal, unkempt old man looks nervously over his shoulder before whispering: "No, I'm not happy here."**

Approaching footsteps make him look up quickly: "I'll rather not say anything," he says, dropping his gaze to his trembling hands.

This 72-year-old resident of a private boarding house in Goodwood is one of thousands of pensioners too terrified to speak out about the physical abuse and neglect they suffer at the hands of strangers who offer cheap accommodation, because the elderly have nowhere else to go.

The desperate plight of pensioners who can't afford state-registered old-age homes and don't qualify for state subsidies was highlighted after Welfare Minister Geraldine Fraser-Moleketi ordered a probe into three private old-age homes in Goodwood.

State-registered old-age homes charge about R2 000 a month, which is way above the R500 budget of most pensioners without better-off relatives to help them.

Frail-care patients account for about 2% of the elderly.

The provincial Department of Social Services, in conjunction with the SA National Council for the Aged, is moving some of the residents of the Goodwood homes to safer places, after receiving shocking affidavits from doctors, welfare workers and members of the public about what goes on behind their walls.

CHENE BLIGNAUT
STAFF REPORTER



One affidavit from a doctor tells of a mentally retarded woman with diabetes and epilepsy who went into a diabetic coma last year under "very suspicious circumstances".

Her unopened medicine, prescribed for the previous six months, was subsequently discovered in her room in the boarding-house.

In another case, a mentally handicapped elderly woman was removed from the same home after the doctor treated her for a black eye and a swollen, tender left ear, after an apparent attack by her so-called care-giver.

The same pensioner gained 10kg in one month after being taken out of the home, apparently because she had been underfed.

She weighed 40kg when first examined last year.

A concerned resident of the area alerted authorities to the neglect of an elderly epileptic patient, whom she found lying on the pavement in front of the home.

He told her he had felt dizzy and nauseous and decided to lie down. He said he was expected to sweep the pavement in front of the house every day.

She saw the same old man in the local day hospital a few weeks later with a deep gash at the back of his head, apparently from falling during a fit.

He had not taken his medicine for three months.

"It hurts me to see our old people live like this during the last few years of their lives," read the affidavit. "We will all get old and what I've seen and heard here scares me."

At another of the Goodwood homes, a member of the public saw an 80-year-old man being stripped naked and hosed down on the lawn in front of other residents and passers-by after soiling his pants.

At another home, residents were restricted from bathing more than once a week.

Department of Social Services spokesman Almo Geldenhuys said they had adopted a "human rights approach" in dealing with the issue.

"The dignity and respect of the older persons should be honoured at all times."

He declined to give more information, saying interviews with the Goodwood residents had not yet been completed.

During the initial investigation, however, it has been established that only one of the residences in question is registered as an old-age home.

It was registered in 1991.

The owner is believed to have been forced to close down another home in the area after complaints a few years ago.

The other two are boarding-houses, which means the investigation will be expanded to include local authorities, which have the authority to regulate such establishments.

Syd Eckley, president of the SA Council for the Aged, said: "These days, old people have to have enough money, look good and not smell bad before they are accepted at old-age homes."

The council would embark on a campaign to educate people who looked after the elderly privately.

The final report into the Goodwood homes should be handed to provincial Health Minister Peter Marais and Ms Fraser-Moleketi within the next week or two.

BD 3/3/99

# Govt, Safcol pension fund trustees at odds over 'arrears'

Linda Ensor

CAPE TOWN — A dispute has broken out between government and the pension fund trustees of state-owned SA Forestry Company (Safcol), with the trustees claiming the state owes the fund R160m.

Safcol has been earmarked for privatisation.

The trustees claim that as of April last year, government owed the pension fund R95m in capital and R65m in interest. However, the department said most of the payments had been made.

Public enterprises chief director Lydia Bici told Parliament's public enterprises committee yesterday that a series of meetings had been held involving department of finance officials, Safcol senior management and the trustees in an attempt to resolve the dispute.

The debt arose when the pensions of 3 700 state employees were transferred to the Safcol pension funds at the time of the company's incorporation. At the time of the transfer, the deficit between the actuarial evaluation of the fund and the amount transferred amounted to R95m.

Bici said over the years the R80m provided for by Safcol as a long-term liability to the pension fund to reduce the deficit had been reduced by R36m, leaving the debt at R44m.

Also, Safcol had increased employer contributions to the fund. Government's liability, she stressed, had to be assessed on the basis of these contributions and possible dividends the state had thus forfeited.

The department awaited an actuarial valuation of the fund as of June 30 last year, and once agreement was reached with the trustees on the sum, a recommendation would be made to the interministerial cabinet committee.

For Safcol, government will set the closing date for nonbinding offers as mid-April. Binding bids must be in by end-July, and talks will start in mid-August.

# GRANNIES' GUARDIAN

## Omar assigns aide to help elderly after 'Clockwork Orange' attack

BOBBY JORDAN

JUSTICE Minister Dullah Omar is preparing to get tough with criminals who prey on the elderly.

This follows last week's murder of a 70-year-old woman in her Cape Town flat and the subsequent arrest of three schoolboys aged 15 to 17. One had allegedly killed her by bashing her head against a wall.

Omar's spokesman Paul Setsetse said yesterday the minister had appointed a senior representative from his office to meet the South African Council for the Aged to discuss proposals to prevent assaults on the elderly.

"The minister is sympathetic to their cause and hopes the meeting will be fruitful."

Syd Eckley, director of the South African Council for the Aged, said Omar had also written a letter to the council pledging his support for elderly people's rights.

"I think he's serious about this — he has apparently spoken to other Cabinet members," Eckley said.

"We are pleased to receive such a positive response."

The council has called for changes to the Aged Persons Act to bring legal protection of the elderly in line with that given to children under the Child Care Act.

"We want to ask Omar to look carefully at the type of criminal who senselessly beats up older people," Eckley said.

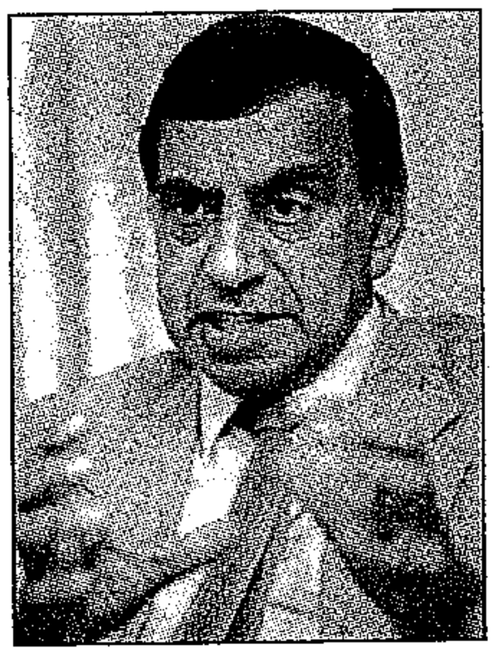
The criminals were of a specific kind and required special treatment by the courts, he added.

"What we've found is that the brutality of the acts has dramatically increased in the past 10 years."

An 80-year-old woman in Mowbray was recently beaten up, stabbed and strangled, while two killings of elderly people in Bellville and Parow late last year prompted a police operation, dubbed Operation Senior Citizen, aimed at getting the elderly to register with their nearest police station.

Eckley said the murder of Oranjezicht pensioner Inge Landsberg was particularly worrying because it allegedly involved schoolboys.

Of the three boys arrested two were pupils at Cape Town High and one at Groote Schuur High School. A 41-year-old man was also arrested and in court this week was refused bail along with the others.



**STRATEGY: Dullah Omar is taking on criminals who target the elderly**

Investigating officer Superintendent Andre Hefer said the boys used to play soccer together in a park that was close to Landsberg's apartment.

One of the boys allegedly knocked on her front door, pretending to be delivering a parcel that was too big to fit through her security gate. When she unlocked it, he overpowered her and bashed her head against the wall, Hefer said.

The boy ran away, taking only the keys to the flat, but returned with his friends two days later to steal some valuables, including silver coins.

"It looks like something went horribly wrong," Hefer said, adding that the motive appeared to have been robbery.

"These were boys from good homes — not *skollies*. Their parents were incredibly shocked when we went to arrest them," he said.

Pupils at the schools the youths go to described them as "good guys" and not murderers.

"We couldn't believe it when we heard about this thing. We're all naughty to some extent, but not like that — that's full-on," said one pupil.

Anthony Connell, spokesman for the South African National Union of Seniors, warned that attacks on the elderly would carry on until adequate legislation was passed.

"It is clear existing arrangements for control are neither adequate or relevant to South Africa's present circumstances," Connell said.

"The elderly are too commonly regarded as soft targets and past-tense social baggage. Human rights do not diminish with age, but, as everywhere, they always need corporate strength for delivery," said Connell.

# Act to amend growing abuse of elderly

(300) CT 23/3/99

PRISCILLA SINGH

ESCALATING reports of elderly people being abused by family and care-givers — as many as 60 a month in the province — have prompted a Western Cape organisation to launch a national toll-free helpline for the aged.

From today, the Halt Elder Abuse Line (Heal) goes live and will be accessible nationally. The new number is 0800-003-081 and means that anyone who wants to report or discuss any form of elder abuse can contact Heal at no extra cost.

Two shocking cases in separate boarding houses in Goodwood about a month ago sparked off an in-depth investigation into elder abuse by the national Department of Welfare, said Heal spokesperson Cathy Williams.

In one of the houses, a doctor's affidavit attested to the physical abuse of an elderly boarder and said the injuries included a broken arm and a blue eye.

In the other incident, reported by a neighbour, an elderly resident soiled his trousers and the woman in charge of the boarding house apparently took him outside and hosed him down in the garden before beating him with a stick.

Welfare Minister Geraldine Fraser-Moleketi was outraged when she heard of the incidents, and ordered an immediate departmental investigation. A department spokesperson said yesterday that the investigation was still continuing.

Williams said it appeared that one of the women in charge of the old age home was registered with the department, while the other ran a private boarding house.

The victims have been taken out of both establishments, she said.

Fraser-Moleketi will today deliver the keynote address at a Round Table discussion on the abuse and neglect of older persons, with the key focus on The Aged Persons Amendment Act. Other speakers include Cape Town mayor Nomaindia Mfeketo, Adelaide Tambo and Syd Eckley, executive director of the SA Council for the Aged.

Heal has been running in the Western Cape since May last year and the helpline is the only one in the province and possibly, now, in the country, Williams said.

It was established for those in need for this "largely unreported offense", she said, adding that the national department has indicated that it may establish a helpline of its own for the elderly, although no formal steps have yet been taken towards this.

"We have to find out what's beneath the surface. We hear reports of children abusing their parents, which is usually for financial gain or because socio-economic factors are poor, but there are also many incidents of physical and sometimes sexual abuse.

"There was recently a case brought to our attention of a son who was sexually abusing his elderly mother. That case is also being investigated," Williams said.

Some cases recorded through Heal include that of a 39-year-old man found guilty of assaulting his 73-year-old mother and given a suspended sentence of six months. The mother was admitted to hospital four times over a period of two years before the son was brought to court.



**KEYNOTE TODAY:** Geraldine Fraser-Moleketi has been 'outraged' at recent incidents of elder abuse.

Eckley recounts an incident where a worker who lived on a farm for 40 years was forced to move to a squatter camp at the age of 66 where he lived in a state of extreme neglect until a local nurse found him. She was unable to place him in a nursing home.

"Eventually the GH Starck Home in Hanover Park took pity on him," says Eckley.

"What difference does it make, after all, whether an older person is hit or ignored, willfully hurt or unwittingly neglected, financially exploited or psychologically attacked?" he asked.

He said cultural issues may also complicate the debate on what constituted abuse. "Absence of care in one society may well be regarded as abuse in another.

"A survey by the Medical Research Council concluded that abuse was rife among many elderly persons and that an in-depth qualitative study was important," he said.

The first draft of the Elder Abuse Strategy will be presented in May by a committee from the Department of Health, after which it will be circulated for final comments.

Health Minister Nkosazana Zuma plans to launch the strategy on October 1.

# Pension fund row ends in slanging

ARG 27/3/99

FRANK NXUMALO
LABOUR EDITOR

Johannesburg — The dispute between the National Union of Metalworkers of South Africa (Numsa) and Eskom over the R13 billion Eskom Pension and Provident Fund degenerated into a public slanging match yesterday.

At issue is the privatisation of the asset management functions of the fund by Eskom. Numsa alleged the process was fraught with racism and tokenism.

The union said it was "extremely furious" at Eskom's management for unilaterally privatising the asset management unit and viewed the action as "the most vicious and barbaric form of union bashing when everything in the country seemed to be changing for the worse".

"By privatising the asset management functions, they are closing down the whole department and workers will lose jobs.

"Also, related to this, the Eskom Pension Fund chief executive is a black person and asset management is staffed by whites. We suspect the real reason for this privatisation is to assist these white employees not to report to a black boss," said Paul Biyase, the Numsa Benefits officer.

In retaliation, Eskom said Biyase's accusations brought into question his "fitness to serve on the fund's board".

Peter Adams, a spokesman for Eskom, said that it was not the first time a Numsa official "appointed by virtue of his position in the trade union, has caused serious disruption to the working of the fund".

Adams said: "Eskom regrets the fact that Paul Biyase of Numsa finds it necessary to launch a vicious public attack on Eskom and the Eskom Pension and Provident Fund.

"His unfounded statements are regarded as offensive and are rejected out of hand."

SOWETAN Monday March 29 1999

# Unions criticise Eskom for pension privitisation plan

(300) ~~(350)~~ ~~(360)~~ Sowetan 29/3/99

By Mzwakhe Hlangani
Labour Reporter

ESKOM'S reported privatisation plans for its R13 billion pension and provident fund came under disparaging criticism from the majority of representative labour unions at the weekend.

The privatisation reports of the fund's asset management emerged when the National Union of Metalworkers of SA, National Union of Mineworkers and the Mineworkers Union National had submitted a proposal for a 60-percent majority representation of the union's board of trustees, equally split among the three unions.

Numsa spokesman Mr Paul Biyase further charged that the Eskom management had unilaterally decided to split the management pension fund assets between in-service members and pensioners, without consultation.

"What is extremely provocative is that management is parading the privatisation announcement as a pension fund board decision, disinforming workers and the public.

"All the unions are disgusted and furious about this situation," he said.

The company dismissed the allegations as "unfounded and offensive". It launched a counter-attack, saying the unions' statements showed "a blatant conflict of interests and were irresponsible".

Eskom corporate spokesman Mr Peter Adams warned that the unions' allegations were compromising the welfare and future security of the other members of the fund when all trustee decisions on privatisation plans were made with due consideration for every opinion.

"As an employer Eskom has a duty to ensure board members live up to their responsibilities and the fund will always find the best ways to manage its assets and investments for the benefit of its members," Adams said.

In another development Biyase claimed a number of high-profile white employees of the privatised pension fund asset management were resigning en masse to join a newly established private company that will take over the outsourced management operations of the pension fund.

& TECHNOLOGY

# What about the surplus?

M+G 1-8/4/99
300

*There is dissension in the ranks regarding pension fund surplus distribution, reports*
**Michael Metelits**




The retirement industry, like apparently every other industry on Earth from commodities to fast food, runs on investments. Large pension funds are middlemen, selling the average retirement policyholder peace of mind and buying the cash to pay for it with huge investment portfolios. The disposition of these investment funds is a matter of some contention.

The premiums we all pay the Sanlams and Old Mutuals of this world go toward investing in shares and bonds to make sure the company has enough money to pay up to everyone who will retire in a given year.

They pay actuaries much more money than these stereotypically unimaginative souls can spend to figure out how much the firm will owe in, say, 2009. Then they pay hotshot traders to take your premiums and invest it to produce that amount of money. Presumably all concerned take a cut for themselves in the process. It is, as they say, nice work.

Pension investment funds can generate surpluses if the managers are smart and/or lucky. Because the techniques used to predict how much money a fund will need at a given time are statistical guesses, occasionally funds will have more money than necessary to pay everyone retiring at a certain point. People leave surpluses behind when they drop out of a pension fund by changing jobs, for example.

What funds can do with those surpluses is currently at issue. Should the money be given to the members, used by the firms, or kept in the fund? In one type of retirement plan — defined contribution funds — surpluses must be used for retiring members' benefit, and will be available when they purchase their annuities.

That's because these funds operate like a savings account. Since you put the money in, it's basically yours, no questions asked. Employee and employer contribute a specified amount of salary, and at retirement the accumulated loot is used to purchase an investment package.

Defined benefit funds are more complex. They operate on a fixed formula and instead of gathering a specified amount of money each year, promise to pay out a set amount on retirement. The amount is a factor of length of service, a "pension rate" of 2%, for example, and the amount of salary at retirement. These types of funds are more likely to generate surpluses, and the resultant question of who gets to use the surplus.

Given the recent market crunch, surplus distribution is a somewhat academic question, but in principle some guidelines would benefit everyone. A recent circular from the Registrar of Pensions, PF 99, mandates no refunds of surplus pension money, whereas a contested Bill in Parliament sponsored by the Financial Services Board provides a mechanism for paying out surpluses.

The Congress of South African Trade Unions (Cosatu) introduced amendments to this legislation last year, which would grant beneficiaries easier access to its surpluses than firms or funds receive. Cosatu sources argue that pension benefits and the surpluses they create are "deferred wages" and that access should be limited to beneficiaries.

The conditions for company access to these surpluses under the Bill include membership approval and an obligation to make good on deficits up to seven years. Of course, if things go badly for the firm, they won't be able to fund those deficits in the pension funds, but Niel Krige, chair of Momentum Employee Benefits, supports the idea nonetheless.

"Some of these firms' funds are in massive surplus, and the interest on that surplus can fund retirement benefits well into the future," according to Krige, and it makes sense, in his view, to let firms have access to the extra money. Furthermore, the responsibility of a company to make good on any shortfall in the fund strengthens Krige's opinion about company access to surpluses.

Union-affiliated members of Parliament have expressed opposition to surplus pay-outs. They would prefer that surpluses remain in the fund, particularly given recent turbulent markets, which increase the funds' needs for cash. The argument is that surpluses can help offset recent market losses, and can be used as a reserve in lean times. At best, they would suggest membership access, rather than company access to the surplus.

Cosatu activists close to the issue say the access question is clear: the individuals who put the money into the fund should have access to its surplus, regardless of arguments like Krige's that firms could use those funds productively.

Cosatu has expressed similar views on demutualisation, which presents nearly identical issues. While making capital available to the firm, access to pension surpluses will decrease worker control over their pensions and thus their future, and allow firms to take potentially risky investment positions with the surplus funds. Such may allow the firm to use the capital productively, but it will be potentially at the expense of the members who built the fund in the first place.

The issue is one of control and accountability, as well as the productive use of surplus capital. Krige and other proponents of surplus pay-outs argue that the firms take risks in defined benefit funds, and, therefore, should have access to surplus capital to use it productively.

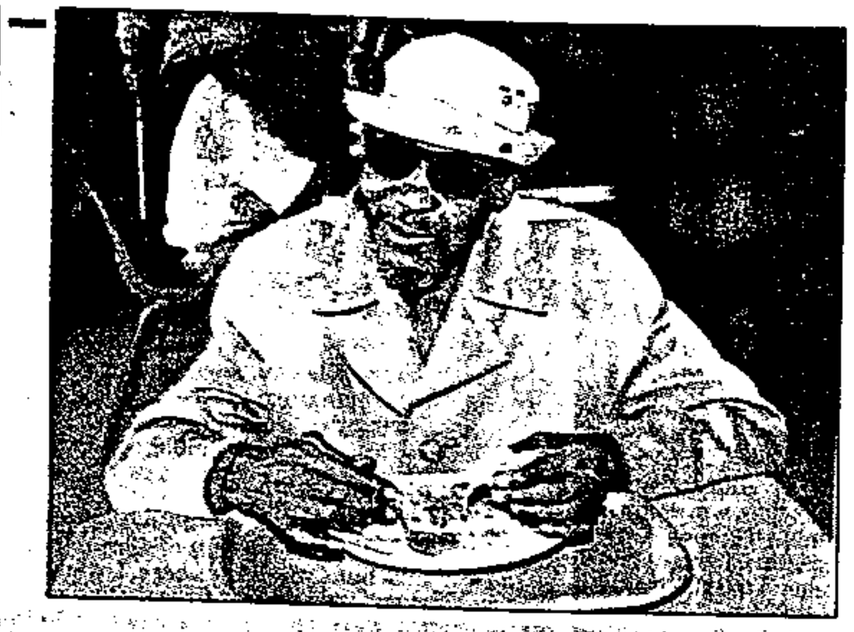
Opponents of surplus pay-outs respond conservatively that market vagaries support keeping surpluses to offset future difficulties. They also say that workers and policyholders who contribute to these surpluses have the right to benefit from them, and control their investment.



HELP US, GOD... The elderly people at the Soweto Old Age Home seek solace in prayer to cleanse their souls. Pics: PANAYZA MCINEKA



GOOD MEAL... Samp and tripe keep the elderly going on this particular Thursday at the Soweto Old Age Home.



MDALA... A resident was not impressed with the presence of the City Press team while having his lunch – he insisted we make an appointment.

# Old Age Homes seen as dumps for old folk

CP 4/4/99

## *Elderly increasingly seen as burdens* (300)

By VUKILE POKWANA

THE moment you pass your mid-50's, almost instantaneously your youthful agility, keen perception, sharp acumen and robust physique seem to tire easily, or so we are told.

Elderly people are left to waste away like wrinkled babies in glorified play pens, forced to succumb to a trivial purposeless waste of their years and time, particularly those who have neither the ability to earn their own income nor enough savings to avoid the life of surviving on hand-outs and welfare grants.

After investing a lifetime on children, the state of most of our elderly is indeed the classical story of a sad ending. In their twilight years, old people are simply regarded as burdens. It is as though today's society has forgotten that these were the creators of the current generation.

There is also the pathological fear and labelling of old people as witches. Many have been lynched to death in areas such as the Northern Province on the basis of unfounded allegations that they were witches.

**"It is sad that we must confine old people to old age homes... A part of history dies in a family once an elderly person removed."**

City Press visited the Soweto Old Age Home recently to check out how the elderly folk are coping. On entering we were greated by a thought-provoking quote: "Why should only furniture become more valuable with time." The interior in the reception area is facebrick. An old man staggering towards us murmured, "I hate this place, they rob us here."

He went straight to the dining hall where he found the staffers preparing food. The dining hall cum recreational hall is scattered with breadcrumbs. Elderly people are silent and eating. They whisper to one another as we enter the hall. "Gentlemen, you have no appointment, leave us alone," said one old man.

A homely environment is absent here. Outside, a band of frail, wheelchair-bound elderly people from the southern wing of the residence are basking in the sun while the caretaker is busy going about his chores.

The Soweto Old Age Home was established in 1988 and is a joint venture between the Johannesburg Society for the Aged, Johannesburg North Rotary Club and Soweto Care for the Aged.

"There was a need to establish an old age home because of abuse by children and homelessness. Many were domestic workers and when they retired they had nowhere to go. Some of them had problems with their children and grandchildren stealing their pension money," says Florence Nthlane, a fund raiser for the Soweto Old Age Home.

The home for the elderly organises recreation for them at regular intervals, meetings of senior citizens and handwork. But what bothers Nthlane is the lack of interaction between the elderly and their families. "People arrive here and some family member dumps them. Their health deteriorates. This could be avoided if community members showed them some love, because old age homes are a concept which is totally alien to African people."

"It is sad that we must confine old people to old age homes, as they are valuable carriers of our history. They are the guiding light in any home. A part of history dies in a family once an elderly person is removed," says Nthlane.

At the core of the problems of the old age home is funding. "We have serious problems when it comes to funds. We cannot run this place properly because we do not have sufficient funds," she says.

They failed to organise the 10th anniversary of the old age home last year. "We have been caring for the aged for a decade now and this is an achievement considering that old age homes are new to us. It was our moment of glory but we could not celebrate it," says Julia Tladi, vice-chairman of the board of directors at the Soweto Old Age home. Shouldn't this prick our conscience as a society?

(300)

# Contract workers can claim pension plans against tax



Picture: FROM 'BENT', VIDEO VISION ENTERTAINMENT

DON'T BE CHAINED ... take out insurance against loss of employment if you are a contract worker

## Contract work

I AM a contract worker and recently signed a contract for 12 months. Because I work on contract, I do not qualify for any company benefits. As a result, I pay tax but don't claim any back — so the taxman really loves me!

Three months ago I took out a hospital plan with Fedsure and I have contributed to a retirement annuity with Sanlam for seven years.

Is there any way I can claim from the Receiver of Revenue for these contributions and any other expenses?

Unemployment insurance (UIF) is also not deducted from my salary. Should I make provision for it and, if so, what?

**Beric Croome, tax partner with Grant Thornton Kessel Feinstein, replies:** As a basic rule, contract workers can only claim expenditure for tax purposes if those expenses were incurred in the production of their income.

If your employer gives you an office and the necessary equipment to perform the required tasks, I do not believe that you can justify any work-related deductions for tax purposes.

However, if you must supply certain stationery, office space or other equipment, these costs can be deducted from your taxable income.

Another exception would be if you were obliged to travel on your employer's business. In this case, you may be able to claim travelling costs incurred for the purpose of your work, less an adjustment for private travelling.

Remember that driving to and from work is specifically regarded as a private travelling expense by the Receiver.

With your hospital plan, the rules relating to the deduction of medical expenses come into operation. You will only obtain a tax deduction if your total medical costs are in excess of 5% of your taxable income for the tax year in question.

Only the excess over this amount can be deducted from your taxable income. If, for example, your taxable income is R60 000 and medical expenses amount to R5 000, you can claim only R2 000 (that is, 5% of R60 000 is R3 000 so the excess you can claim is R2 000).

Your retirement annuity contributions should be deductible for tax purposes as you are not a member of your employer's pension or provident fund. The maximum tax deduction is 15% of taxable income for the year. For example, if you earn R60 000 a year, the maximum retirement annuity contributions that can be claimed is 15% or R9 000.

As far as UIF is concerned, your employer must deduct contributions from your salary if you earn less than R88 920 a year or R7 410 a month.

If you earn below this amount, your employer must deduct 1% from your salary and contribute this to UIF. Your employer will also have to contribute an equal amount.

If you are in this income bracket and UIF contributions are not being deducted, you should take up the issue with your employer. If your employer does not comply, notify the Department of Manpower.

You cannot contribute or make use of UIF if you earn more than R88 920 a year. If this is the case it may be advisable to take out income protection insurance or some other form of investment in case your employment ends.

RANDS AND SENSE

- For answers to your money questions, write to: Rands and Sense Business Times Money, PO Box 1746 Saxonwold 2132
- E-Mail: btimes@tml.co.za
- Fax: (011) 280-5225

## Domestic's pension

MY DOMESTIC worker, who works two days a week, has asked me to put R50 towards her pension every month. Can you tell me how to go about this?

**Dave Crawford, independent financial adviser in Johannesburg, replies:** There are two practical possibilities here.

The first is to contribute to a formal domestic workers retirement fund. These are available from most assurers for a regular monthly premium.

In this way you can provide a funeral benefit — usually about R4 000 or R5 000 for a funeral for your domestic worker and/or the members of their family — as well as a capital fund which will grow to retirement.

The amount available at retirement will depend on how much of the premium goes into investment, and how well the fund's investment performance was over the period.

The second option is to provide an amount for pure investment in some sort of savings account or unit trust fund. This is usually an option if the domestic worker already has funeral assurance — but it's imperative you discuss it with her first.

If she is only working with you two days a week, she may work for someone else as well, so there may be an existing arrangement.

It's important to get the whole picture because one of the classic problems that arises later from the domestic worker schemes is that of why the investment account is so low. This happens when part of the contribution is being used for funeral cover and other risk benefits.

If this situation is unnecessarily duplicated in a multiple employer situation, it could lead to future misunderstandings.

- *We regret no personal correspondence can be entered into. The Sunday Times accepts no responsibility for the advice given in BT Money.*

# Conference spells out new measures to protect the elderly

By VUKILE POKWANA

THERE is something alarming that is stalking South African society: the abuse and neglect of old people. Long before the new dispensation, stories of neglect, violence, killings, rape and torture of the aged haunted our society.

Relief is now in sight as older persons, the mayor of Cape Town, Noma-India Mfeketho, Older Persons of South Africa, welfare organisations, stakeholders, the Department of Health and tertiary instituitions around Cape Town have created a platform for discussing this problem.

These insititutions recently deliberated on the issues that affect the aged. The day-long conference, held in Cape Town last week, comes in the wake of the Year of Older Persons.

Throughout the world, 1999 has been declared the Year of Older Persons by the United Nations. The theme of this all-important conference was "Towards a Society for all Ages".

The aim of the discussions was to highlight issues affecting older people, and to discuss the new legislation that will replace the Aged Persons Act and whose aim will be to introduce new measures to protect the elderly from abuse, and to end racially-motivated admission policies at old age homes.

Speaking at the conference, Minister of Welfare and Population Development, Geraldine Fraser-Moleketi told guests that: "It is important that we, in the true spirit of human rights, do soul-searching about our attitudes towards older persons.

"Older persons do not only symbolise ties with the past but are the bridge between the past and the future. They- are unique sources of life experiences."

Her department has taken proactive steps and measures to ensure the well-being of older persons.

The department's initiatives include: enabling older people to understand their rights, development of new legislation on the status of older persons in order to broaden their protection, as well as the creation of a caring and enabling environment.

The development of minimum standards for all aspects of service-rendering in order to ensure quality services (residential care, community-based care and payment of old age grants), quality assurance programmes to build the capacity of service-rendering organisations and to ensure adherence to legislation policy standards, and the development of a ten-year plan on ageing, are some of the measures to be taken.

Frail and aged people have been victims of witch-hunts in other parts of the country. They are continuously accused of bewitching people, and held responsible for other "withcraft-related" activities.

As a result, some were burnt to death or their murders unsolved.

Some of the worst scenarios of abuse include old people being tortured and tormented by their own children or grandchildren, reckless spending of their pension money, disrespect and insults hurled at the aged.

"The amendment of the Aged Persons Act is a breakthrough in terms of addressing abuse and neglect of older persons. Society will hopefully be in a better position to deal effectively with the perpetrators," said the minister.

The minister has also called upon all citizens to identify and report perpetrators of abuse. "A society which ignores and neglects its older persons, denies its own history and its own origin," she said.

With social decay and the absence of morals and respect for older persons in this country, the aged can only seek solace in the Scriptures, as written in Romans 13:17-19: "In no case pay back evil for evil, bedetermined on the noblest ways of dealing with all people. Leave room for divine retribution. 'It is Mine to punish. I will pay them back,' says the Lord."

In our quest to rebuild a civil society, let us embrace the Year of Older Persons for a better tommorrow. If everyone is determined, it is possible.

# AIDS costs burden 'heavier in defined contribution schemes'

Pat Sidley BD 14/4/99 (300) (2)

EMPLOYEES whose pension funds have converted from defined benefit to defined contribution schemes stand to bear the greatest financial burden from the direct cost of AIDS, says Metropolitan Group employee benefits actuary Alan Martin.

He said at the annual conference of the Institute of Life and Pension Advisors in Sandton yesterday: "Middle aged members of retirement funds will have spent their youth subsidising risk benefit costs of the older member, and are likely to spend their future years subsidising the risk benefit costs of younger members, where the incidence of HIV and AIDS is significantly higher," he said.

It was possible to redesign employee benefits more appropriately to minimise cost escalations from HIV and AIDS, he said. Substantial amounts could be saved by dealing adequately with the epidemic — including spending money on educating the workforce.

Martin said direct costs of the epidemic would be felt through escalating benefit and medical scheme costs. The cost of benefits may double for many schemes by 2005 and triple by 2010.

"In schemes where the employer is fully responsible for increases in risk benefit costs, we project that this could add about 15% to the remuneration budget of a manufacturing company by 2005 and 30% by 2010," he said.

"In schemes where this risk is passed on to members, life, disability and medical benefits are likely to be halved by 2005, and be one third of their current level by 2010."

Martin listed some of the indirect costs of the disease, which he said are frequently ignored by companies. These included having to recruit and train more staff in the light of increasing deaths and disabilities, the cost of leave, effect on staff morale, costs of safety at work and dealing with the prejudice among staff, as well as maintaining confidentiality.

He believes indirect costs could add a further 10% to the remuneration budget of a typical firm by 2005. Lump sum death or disability benefits could rise from 1,9% of salary this year to 5,7% of salary in 10 years' time. Medical plan contributions would face similar hikes, as would disability pensions and spouses' pensions.

**RETIREMENT HOMES**

(300) FM 23/4/99

# END OF A GOLDEN AGE AS STATE SUBSIDIES FALL

## Minister to look into housing alternatives for the aged

SA's first retirement village — the Village of Happiness — made headlines when it opened in Margate, KwaZulu-Natal in 1968. It marked the start of the seaside town's bid to become a haven for the aged and more old-age homes soon followed.

Today, some of this infrastructure is being dismantled because government can no longer afford generous subsidies to old-age homes. It has to use its welfare resources to help the poorest across all race groups, not just whites.

Over the past five years, government's subsidy to old-age homes has halved in real terms and the number of people in white old-age homes has fallen from 53 000 to fewer than 30 000.

"A lot of people have moved out of institutions because they can't afford to stay there and because now homes may admit only the frail," says SA Council for the Aged executive director Syd Eckley. "Most homes are having to ask residents' relatives to make a cash contribution to their upkeep because the social pension plus the subsidy no longer covers the cost of care."

This requires an attitudinal shift among whites who believed that social pensioners would be taken care of by government.

In 1993 about 11% of elderly whites were in homes compared to less than 0,5% of blacks. Now only about 5% of elderly whites are in homes, but government is prepared to subsidise only 2% of the population over 65 years of age — the poorest and those who need 24-hour frail care. The rest must cope on their own.

The problem is SA has many costly old-age homes and few facilities offering "assisted living" such as the Abbeyfield communes or Communicare flats, which provide a cost-effective alternative.

"These organisations read the future correctly and cannot develop enough of these places," says Eckley. He is concerned about those who are moderately frail or of moderate means and therefore do not qualify for the subsidy, but who don't have family support or cannot get into an assisted living arrangement.

Because of the shortage of community facilities in SA, people reside in old-age homes for 26 months on average before death, compared to a mere eight months in the UK, which has good community facilities. But the UK doesn't have SA's crime problem, which makes the aged living outside old-age homes an easy target.

Last year, 86% of the welfare budget for the aged went to old-age homes. Only 14% went to community-based care like meals on wheels and day centres where the aged can receive part-time assistance.

**FRAIL CARE**

- Government's subsidy to old-age homes has halved in real terms over the past five years
- The State can afford to subsidise only the poorest and most frail
- As a result, the number of people in white old-age homes has fallen by almost 60% since 1993
- Several old-age homes are in financial difficulty



Geraldine Fraser-Moleketi

Arnold Pronto

Brian Bailey, CEO of the Somerset West Society for the Aged, says there's a huge need for frail-care accommodation in the black and coloured areas and for reasonably priced flats and communes where a person can survive on a social pension of R500/month. "If something isn't done about it, things will reach crisis proportions because the elderly population in SA is growing."

Over the past two years, the SA Council for the Aged has bailed out several homes that have been unable to adapt to this tough new environment. Most are small, independent homes, many are poorly managed and some are in poor areas where relatives cannot afford to augment the pensioner's contribution, and fund-raising opportunities are limited.

Hibiscus House, the 350-bed, six-storey frail-care centre that serves the Village of Happiness in Margate, has been partly boarded up. It lost R1m last year and now caters for only 170 essential cases.

"I fully appreciate that government cannot continue to pay hand over fist for a small minority," says Hibiscus Retirement Villages executive director John Webster, "but it has been harsh on people who have lost their security."

He says it costs at least R4 000/month to provide upmarket frail care for one person. With a maximum government subsidy of R1 200 plus the social pension of R500, the nonprofit welfare organisations that run frail-care centres have to raise R2 300 per social pensioner per month. When the money isn't forthcoming, they may have no option but to close.

Bailey says his organisation has managed to avoid closing any of its facilities by anticipating events and adopting strict business principles. In 1994 its subsidy was chopped by 40%, but as early as 1992 it had embarked on a serious fund-raising drive. By 1993 it had opened a life rights retirement village to generate profits to cross-subsidise its uneconomic homes. (Residents buy their accommodation; when they die, it is sold to new residents and the village keeps the difference in prices.)

It added to its stock of accommodation, filling up most of the new rooms with residents affluent enough to cross-subsidise others. It also approached families to augment these residents' pensions while freezing posts and reining in expenses.

Failing homes aren't turning the aged out on to the street. Though most are contractually bound to provide only their retirement village residents with frail care, they and the Department of Welfare also have a moral obligation to find alternative accommodation for those who can no longer afford to stay in frail-care centres because of the subsidy cuts. Government is also duty bound to help create secure, cost-effective housing alternatives.

Eckley says Welfare Minister Geraldine Fraser-Moleketi has promised to aid homes in poor areas with a high percentage of social pensioners and to look into other housing alternatives for the aged after the election. "The council," he says, "will hold government to that."

**Claire Bisseker**

schemes

# Simplicity key to revamping retirement

BD 25/5/99 (300)

## There are lessons to be learned in SA from the experience of UK investors in the sphere of pension fund reform, writes

Howard Flight

SOUTH Africans can benefit from the UK's experience of pension fund reform. The disturbing lesson British investors learned was just how easy it is to be taken for a ride.

In the past 20 years, the UK's pension fund assets have built up to nearly $800bn, more than all European Union pension assets (except Holland) combined.

Personal pensions were hailed and promoted by the insurance industry, encouraged by government and achieved much success in terms of sales. About 8-million UK residents now have personal pensions.

Private sector provisioning in continental Europe, on the other hand, is small for two main reasons. The first is that there is no concept of a "trustee" in law. Secondly, most of Europe adopted generous and compulsory "pay-as-you-go" schemes in the 1970s.

SA had the foresight, at the same time, to introduce pension fund schemes for the private sector. This action was driven largely by trade union pressure against a compulsory state retirement fund.

Weaknesses were exposed in pension fund law in Britain during the Robert Maxwell scandal in the early 1990s, which involved the embezzlement of most of his newspaper group's pension assets. The Goode Report was set up in response, leading to the 1995 Pensions Act. This act requires employee-representative trustees, who are not necessarily elected.

SA is significantly more democratic than the UK in this regard. As of November last year, half of all trustees in SA had to be elected by the members of the scheme, and can come from the workforce.

The UK legislation also increased the regulation of pension funds and tightened solvency requirements. Following US precedent, firms in Britain began to switch from defined benefit schemes to defined contribution plans in order to quantify and limit their pension liabilities.

This change is what SA is now experiencing. With the shift to defined contribution funds in SA, the investment risk and benefits become the responsibility of individual members rather than the firm's, as in the case of defined benefit funds.

My caution to SA's pension holders comes from the advantage many institutions in Britain have taken of the investors.

From the mid-1990s, insured personal pension schemes have been subject to a degree of "mis-selling". Individuals are sold personal pension contracts, often choosing to transfer out of their corporate schemes to buy them.

These schemes, unfortunately, provide investors with significantly smaller returns than their original pension fund scheme would have yielded. This is partly because individual pension funds cost more to run than pooled pension funds. Also, individual savings plans are sold by financial intermediaries who are not motivated to protect investors' long-term returns or accommodate their risk profiles.

SA has a sufficiently advanced financial services industry to provide what are known as 401(k)/individual savings account schemes, which avoid high costs of a trustee structure and insurance firm marketing. These schemes, based on successful 401(k) plans in the US, could be a suitable model for SA's individual pension reform.

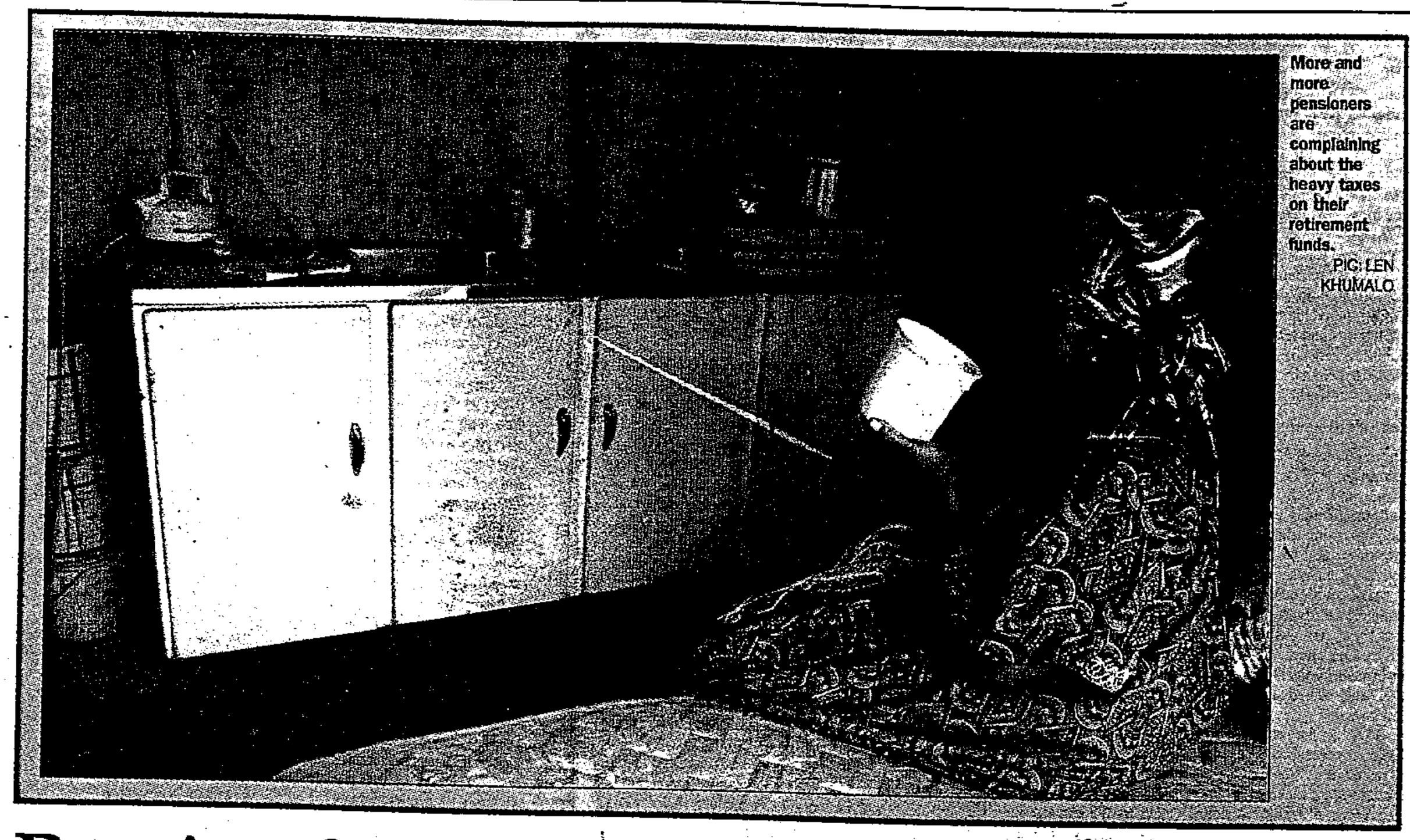
The 401(k) offers a variation of a profit sharing plan in which a participant opts to defer part of his compensation. The portion deferred into the plan is not currently subject to federal income tax. A participant may elect to defer 15% of compensation up to a maximum amount determined annually by the inland revenue service (it was $10 000 last year). An employer may also make a separate "matching" contribution. They are especially suitable for those who change employment frequently.

SA needs a higher savings rate. Pension saving by middle management can be a major factor in any economy's overall savings equation.

I would also suggest there is a case for unlimited income tax deductibility incentives to maximise pension accumulation. The 25% tax on pension fund income introduced in SA last year is likely to have the effect of sustaining high real interest rate costs to business.

There is, thus, an immediate need for SA, given its demographics, to maximise pension accumulation for the future. It is vital that SA keeps its pension arrangements as simple as possible and looks more to the US model than the complex range of pension provisioning structures now developing in the UK.

*Flight is a member of the House of Commons in Britain and co-chairman of Investec Guinness Flight.*



More and more pensioners are complaining about the heavy taxes on their retirement funds.
PIC: LEN KHUMALO

# Pension funds to comply with new rules

PENSION funds that do not cooperate and respond fully to the Pension Funds Adjudicator's investigations can expect to pay the price. That is the message from adjudicator Professor John Murphy, who said this at the Pension Lawyers Association's quarterly briefing this month.

Murphy said although his staff complement has increased, they still face practical difficulties around which he has to strategise and which impacts on his practises.

He said his office continues to receive about 100 complaints a month, many of which are increasing in volume and complexity. At present he writes 10 determinations a week and anticipates a two- to three-year backlog at the end of 1999.

As a result of these practical difficulties, the adjudicator was forced to change his *modus operandi* considerably. Until now his office tended to select complaints on the basis of public interest urgency. However, Murphy has since taken a decision, with effect from June 1, to deal with all complaints on a first-come-first-served basis, unless the complaint advances compelling reasons for urgency.

Hearings are also to become the exception rather than the rule. "This will lead to lower standards of justice and jurisprudence, but steps have been taken to provide the necessary protections," he says.

The third step he has taken is to devise less comprehensive means of giving reasons and determinations. According to Murphy, these changes will shift the operations of his office from a traditional adversarial approach to an investigative one, which is in keeping with statutory duties.

However, this approach will require a much higher standard of cooperation from pension funds than in the past. Although pension fund officials have generally responded well to Murphy's investigations and have provided information in good faith, often the information provided is inadequate and requires the investigating team to go back for more information. "However, there is a limit to the amount of fishing I am prepared to do," Murphy continued.

"It is usually incumbent on the pension fund to justify its conduct and rules.

If it fails to do so, it will lose their case. In our standard letter to pension funds, we have made it plain that it must deal with disputes fully, because if it fails to do so, the complaint will be decided on the submissions and arguments made."

Murphy also urged pension funds to regard a query from his office as an opportunity to state their case and said: "If it does not make the most of that opportunity, I will be forced to decide against it and it in turn will be expected to pay up."

Murphy's new approach raises fundamental constitutional questions and concerns. While it has the advantage of expedition, informality and increased accessibility, this practice could be regarded to be at variance with Section 34 of the Constitution which entitles everyone to have their disputes resolved in a fair public hearing.

Murphy said: "My response, in desperation, is that the constitution should not be interpreted to impose overly restrictive constraints on the alternative forms of access to justice, and if we provide safeguards built into the process, we should pass constitutional muster."

(300)

# Pension funds to comply with new rules

PENSION funds that do not cooperate and respond fully to the Pension Funds Adjudicator's investigations can expect to pay the price. That is the message from adjudicator Professor John Murphy, who said this at the Pension Lawyers Association's quarterly briefing this month.

Murphy said although his staff complement has increased, they still face practical difficulties around which he has to strategise and which impacts on his practises.

He said his office continues to receive about 100 complaints a month, many of which are increasing in volume and complexity. At present he writes 10 determinations a week and anticipates a two- to three-year backlog at the end of 1999.

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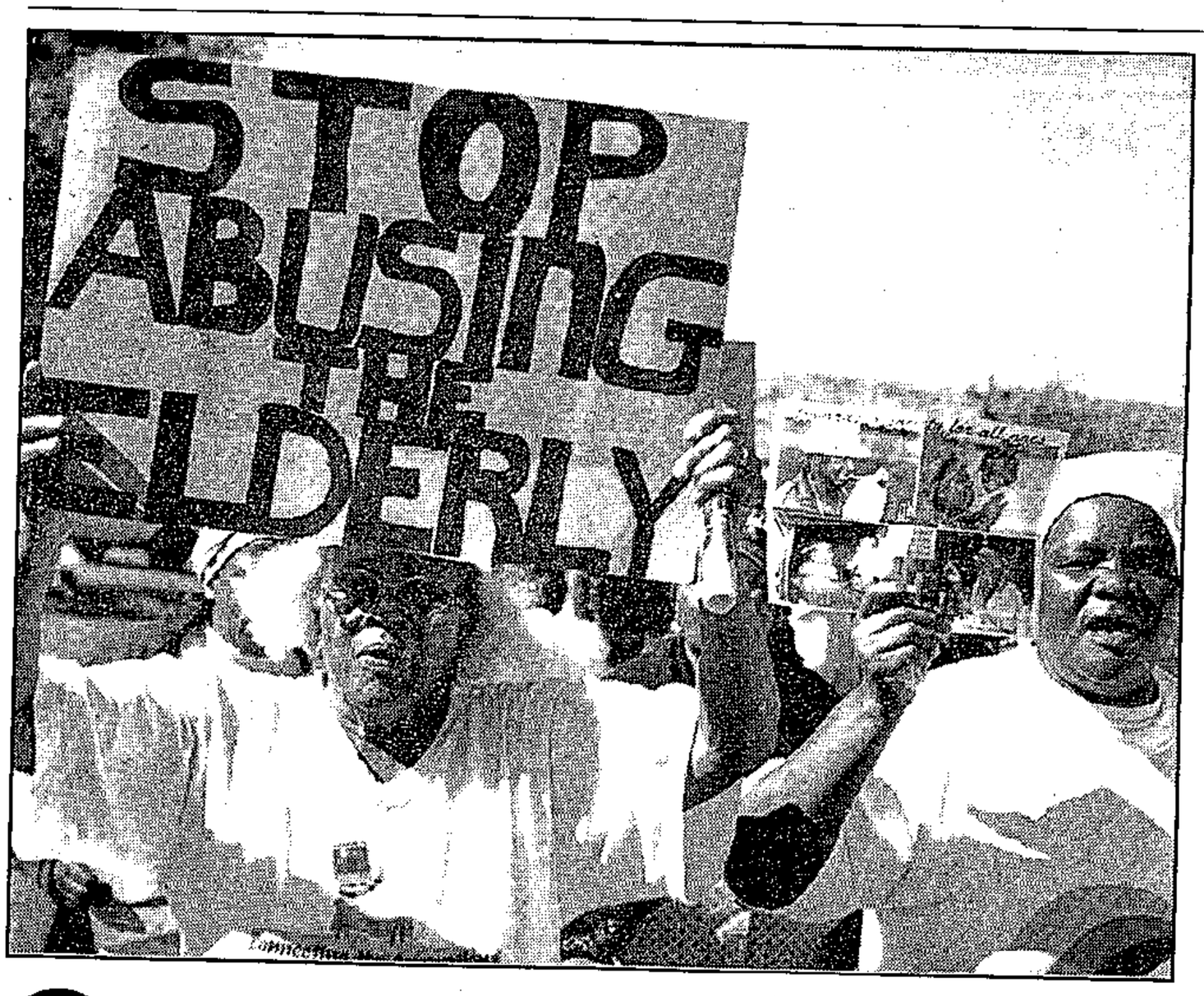
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(300) Sowetan 25/5/99




**A group of elderly people marched to the Meadowlands Police Station and the mayor's office in Soweto yesterday. Aggrieved pensioners want the abuse they are subjected to by government and relatives to be highlighted and stopped.**
PIC: HUGH MDLALOSE

# Soweto's elderly march for rights

**By Ndivhuwo Khangale**

HUNDREDS of Soweto senior citizens under the auspices of the Meadowlands Care for the Aged (MCA) marched to the local police station yesterday in protest against being subjected to abuse at public places.

Addressing the protesters outside the police station before handing in a memorandum, MCA chairperson Mrs Josephine Sikhosana appealed to government to speedily address the problems experienced by senior citizens at pay points and clinics.

Detailing the contents of the memorandum directed to the station commander, Superintendent Balaraman Govindasamy, Sikhosana said: "We senior citizens demand additional protection at our pension pay points and police in full uniform are preferred.

"We demand a 24-hour professional service by the police against the abuse of senior citizens, which still exists in the area, and we demand that our rights as senior citizens should not be violated."

The marchers had earlier protested at the local clinic where a memorandum was delivered to officials. They appealed to the officials to take care of the aged because they were exposed to long queues and long hours of waiting at the clinic.

"Queueing with young people who easily jump queues and manage to be serviced first is not acceptable."

They added that the clinic was running short of medication, saying the proposed decision to relocate the maternity ward to Dobsonville was a terrible blow to the senior citizens and the community as a whole, because they had to travel a longer distance to visit patients there.

They also said in their memorandum that there should be a geriatric section that attends to senior citizens only and a "one-stop centre" which would have other departments such as a laboratory, plaster rooms and X-ray rooms. They appealed to Western Metropolitan Local Council mayor Mr Isaac Padi to urgently intervene on their behalf.

Padi said he would take the demands to the council during its sitting early in July.

# Police 'forced pensioners to sign papers'

(300)

MHG 30/4 - 6/5/99

**Ann Eveleth**

Northern Province pensioners suing the state were rounded up in a police van and forced — by senior welfare officials — to sign documents they could not read, their lawyers claimed this week.

Pretoria Legal Resources Centre lawyer (LRC) Nick de Villiers said about 37 clients involved in legal action to force the state to pay their pensions were rounded up by police on Wednesday and taken to the Bungeni pension office near Louis Trichardt.

"At the pension office, they were addressed by high-placed pension officials. They wanted to know why [the pensioners] had taken the government to court. They told them that their pensions could be stopped at any time by the government, and that their pensions were really just a gift," De Villiers alleged. Then [the officials] made them sign documents at the police station. Most of the pensioners are illiterate. They don't yet know what they signed. But they were scared and signed under pressure," he added.

Northern Province Department of Health and Welfare representative Tsepo Moshina denied the incident ever took place. "There is no way our officials and our police could round up pensioners against their will. I don't know where that story comes from. There is nothing like that," he said.

Moshina said he had asked officials from the area about the incident, which they denied. He would not look further into the allegations.

De Villiers said he understood from lawyers representing the state that the documents the pensioners signed were to the effect that they had not given the LRC a mandate to take their cases to court, a claim De Villiers dismissed as "complete garbage".

State attorney Nicky Kruger said she was still awaiting instructions from the department on the matter, and could not comment on the alleged events or the contents of the document. She said the affected pensioners were part of a larger group who were fighting separate cases — represented by the LRC — to have their pensions restored after the state cancelled them last year.

"We've been running a pension campaign in the Northern Province. During February 1998, the Northern Province government ran a so-called clean-up operation to remove some 92 000 names of pensioners from their records. Many of the pension were suspended improperly because the people still qualify for pensions. About 60 000 of those pensions were later returned. Others who are still fighting for their full pensions took the government to court to get their pensions back. We're running about 150 separate cases for about 200 pensioners," said De Villiers.

De Villiers said his clients contacted him after the incident. The LRC was awaiting formal notification from the state on the contents of the documents.

# Unions want answers from PIC

(250) (300) CT(MR) 16/7/99

**TERRY BELL**

Cape Town – Government employees no longer know what is happening to their huge pension fund, it emerged yesterday.

The fund, which was worth some R161 billion at the end of the last financial year, is administered by the Public Investment Commissioner (PIC), located in the ministry of finance.

Until 18 months ago the PIC regularly met unions representing government employees.

"But this practice has been unilaterally discontinued," said Chez Milani, the general secretary of Fedusa, the second-largest trade union federation.

This secrecy over the management of the state pension fund, introduced at the same time the government amended the Public Investment Act, has worried Fedusa public sector unions. The amendment allows the minister of finance to invest in "empowerment and upliftment ventures".

The unions – the largest being the Public Service Association – do not oppose such investments, but demand "transparency and prudence". They are also investigating the possibility that up to R10 million of pension money might have been invested in breach of the fiduciary duty of the PIC as trustees.

"We have asked for (information) and we hope to get it. If we do not, the alternative is to go to court," Milani said.

The PIC was unavailable for comment yesterday.

# Retirement fund tax will hurt poor

(300) CT (FMR) 19/7/99

The axiom that every action has a reaction is equally applicable in the world of finance. The proof lies in the manner in which taxation can affect a market and change behaviour.

A good example of this can be found in the introduction of tax on interest and rental income of retirement funds.

"The compounding effect of accumulating retirement funds at a reduced pace is cause for serious concern," says Niel Krige, the deputy chairman of Momentum Life.

*Cost of borrowing from funds to buy a house will become prohibitive*

Momentum estimates that the depletion in retirement fund returns because of tax is in the region of 1,125 percent a year. Given a 30-year membership for an average member the compounded loss of end benefits may be as high as 25 percent.

This is the expectation for funds where there is an approximate split of 70/30 of equities to interest-bearing investments.

In many cases retirement fund managers may have switched to a higher proportion of fixed interest assets. Prospective retirees may have made such selections in their own unit trust linked retirement funds. Where the fund split is approximately 50/50 the retiree would stand to receive about 45 percent more after 30 years than he would without the tax.

"This flies in the face of government's aim that people should be encouraged to save for their own retirement.

"Instead, investors with mobility of funds may stay away from the retirement industry when it comes to savings.

"In future revenue from pensions may escape the tax net, having gone to other types of investment media," says Krige.

For low-income earners the problem is more acute because they especially need incentives to provide for retirement savings.

If they are discouraged from saving for retirement the consequences for future governments will be to care for an increasing number of aged citizens.

A further example of the negative effects of retirement fund taxation can be found in the commendable practice of retirement funds advancing money to a member to purchase a house.

*If people are discouraged from saving government will have to care for aged*

A simple calculation of 20 percent interest on a bank loan of R50 000 amounts to a R10 000 interest bill.

If the member borrowed money from his pension fund at 18 percent, his total cost will be R50 000 at 18 percent plus 25 percent for fund tax would total R11 250.

Retirement fund taxation therefore prejudices low-income members in that it introduces a punitive tax rate on savings.

It provides an incentive to rather invest in unit trusts to maximise returns.

*Move to defined contribution funds could mean an increase in premiums*

# Watch out for higher costs

CT (FMR) 19/7/99 (300)

One implication of the move to defined contribution funds is an increase in insurance premiums paid by members.

In most defined contribution funds, employers cap their commitment to the fund in the form of a set percentage of the salary bill.

This capped liability includes the cost of death, disability benefits and administration costs. The insurance industry expects these costs to increase by between three and five times by 2005.

John Cranke, the corporate investment consultant at Oracle Employee Benefits, says: "It's unlikely that the current benefits can be retained.

"Some of the steps taken by funds include the company increasing its contributions in order to retain benefits, increasing members' contributions, employer and members sharing the increase, and the allocation to retirement from the employer contribution being reduced to offset the increased premium required for death and disability benefits.

"Very few members are aware when this happens, and do not realise its implications.

"The result of a reduced retirement allocation in a defined contribution fund is that for every rand directed elsewhere, the member will receive a lower retirement benefit," says Cranke.

He gives the illustration of a defined contribution fund to which employees pay 7,5 percent of their income and the employer pays 15 percent, and the death and disability benefits cost 4 percent.



**WARNING** *John Cranke, the corporate investment consultant at Oracle Employee Benefits*

This fund may be required to set aside anywhere from 12 percent to 20 percent to retain the same risk benefits by 2005.

This means that the retirement allocation will decrease from 18 percent to under 10 percent, and possibly even close to zero.

When compared to the typical 15 percent required for adequate provision of retirement benefits, there may be disastrous consequences for members reaching retirement age with the expectation of receiving an adequate retirement benefit.

"In an attempt to deal with this problem, assurers have developed defined contribution funds which protect retirement allocations at the expense of the death benefits.

"The trustees will have to review the appropriateness of their fund's benefits and by developing disease management and wellness programmes.

"A fund with a low expected exposure to illnesses would probably opt for a preserved retirement allocation, with the death and disability benefits expected to decrease only slightly," he says.

"A fund with a high illness exposure would probably opt to retain a high level of death and disability benefits, with the allocation to retirement being variable.

"Ultimately this process may speed up the drive towards funds offering flexible benefits, even if this is initially through the provision of a few options with different permutations of retirement contributions and death and disability benefits.

"A further option may be to offer a low core benefit to all members which may be topped up on a voluntary basis.

"Without employee participation it is unlikely that any solution arrived at will be accepted by the members of the fund. Trustees and members must realise that there is no quick fix," says Cranke.

*Local fund industry can learn a lot from counterparts in US and UK*

# Discrimination rules in SA

CT (FMR) 19/7/99 (300)

The South African retirement fund industry compares well with the rest of the world, but retirement funds have much to learn about fairness and equity in pension funds.

After attending the International Pension and Employee Benefit Lawyers conference held in Italy recently, Kobus Hanekom, the senior manager of Sanlam Employee Benefits Consulting, said he gained the impression that in comparison with international norms, many forms of discrimination were still rife within the rules of many local retirement funds.

The conference, regarded as being at the pulse of international developments around employee benefits, was attended by 145 delegates from all over the world.

Says Hanekom: "We have a very successful industry, with about 76 percent of South Africans who are in formal employment on pension schemes. But we are only beginning to deal with anti-discriminatory legislation and practices. Countries like the US, UK and Australia have already taken this route, and we can learn much from them.

"We are also much more prescriptive and paternalistic in our approach. Australia, in particular, is way ahead of us on issues like choice of retirement plans."

The possibility of an international resurgence of defined benefit schemes was debated at the conference, but it was unlikely that this would happen.

"Defined benefit schemes are dead, and except for the remaining surpluses, it is soon to be buried in Australia, thanks to the same kind of equity legislation and union pressure that brought about the switch to defined contribution schemes in South Africa. However, Britain appears to be going against the flow.

"Union pressure in UK may have turned the corner there and they may now prefer defined benefit schemes, but employers remain attracted to the benefits of defined contribution. The worldwide shift to defined contribution is also very prevalent in the US."

According to Hanekom, international trends in benefit design have shown that the international community prefers to provide risk benefits outside the pension fund, allowing the fund to focus primarily on providing for its members' retirement.

Another trend, primarily in the US, is that stock options (known locally as share incentive schemes) are a lot more common in the US than in South Africa. "In the US it is believed to be the only way for employees to build significant wealth," he says.

South Africa has a lot to catch up on particularly in providing pension benefits for atypical workers like part-timers, contract workers or sport stars.

"Overseas, the demand for equity in social security type benefits is much more developed than in South Africa, where an employer could still get away with excluding atypical workers," Hanekom says.

In response to new employment patterns in Europe and the US, a recent development was that of phased-in retirement whereby a senior manager, for example, instead of being retired early, may be required to assume a less demanding position for a number of years.

# Pensions contribute to redistribution

M+G 23-29/7/99 (300)

**Barry Streek**

Some of South Africa's poorest of the poor — the social pensioners — got a modest 4% increase in their grants at the beginning of July.

In real terms, this meant their pension payouts went down. However, independent research by two United States university researchers shows that South Africa's social welfare system is making a real difference to the rural poor and to children.

Old age, disability and care dependency pensions went up by R20 to R520 a month, while the pensions paid to war veterans also went up by R20 to R538 a month.

At the same time, social grants for a foster child increased by R14 to R374 and the grant-in-aid by R4 to R94. This means the social grants paid in terms of the social assistance Act have not kept pace with the inflation rate of about 7%.

Still, the nine provincial welfare departments distribute approximately R1,3-billion to nearly three million beneficiaries every month. That is about R15,6-billion a year.

Old-age pensions account for two-thirds of both the number of beneficiaries and the total expenditure on grants. Disability grants account for a quarter.

About two-thirds of the grant recipients are women. Women are more likely to receive grants targeting caregivers, such as maintenance, care dependency, child support and foster grants.

The Department of Finance said in its National Expenditure Survey for 1999 that seven out of 10 old-age pensioners were women "reflecting a lower eligibility age, higher average longevity and greater poverty among women".

Despite the decline in the grants in real terms, two Princeton University researchers have concluded that South Africa's social pension scheme is "an effective tool of redistribution, and that the households it reaches are predominately poor.

"Because so many of the elderly among South Africa's African population live with children, the social pension is also effective in putting money into households where children live."

The researchers, Anne Case and Angus Deaton, say that although many governments in developing countries profess redistributive aims, and standard efficiency arguments suggest that cash transfers are the best way of accomplishing these aims, direct cash transfers to the poor are rare.

To some extent, the pension payments in South Africa are reaching both the elderly and children.

"The fraction of children living with a pensioner is highest among children whose household per capita income are the lowest, so that the pension not only reaches the households in which children live, but disproportionately reaches children in poverty."

Quoting University of Natal researchers Elizabeth Ardington and Frances Lund, they point out that social pensions are a significant and reliable source of income, with definite redistributive effects, which lead to household security.

They were also the basis of credit facilities in local markets, contributing to food security, they delivered cash to remote areas where no other institutions did and they were gender-sensitive to women. Pension income was more regular than farm income.

Case and Deaton point out that the size of the state pension was gradually equalised across all racial groups during the disintegration of the apartheid regime.

"With the possible exception of the youngest pensioners, none of the current African recipients could have held any reasonable expectation during their working lives that such a pension would be available.

"Given the current distribution of income and of private pensions between races in South Africa, the social pension scheme is largely a transfer from the country's wealthy white population to its much less wealthy African, Indian and coloured populations," they said.

"However, in a country with large fractions of the adult population unemployed and children living in poverty, the elderly are perhaps not the most obvious target for social transfers."

Case and Deaton said they believed the South African experience called for a serious look at direct cash transfers in other countries because its social pension scheme was an effective tool of redistribution.


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Please contact Sybil Otterstrom at (011) 727-7000.



**BOTTLED WATER INDUSTRY IN SOUTH AFRICA SETS RECORD STRAIGHT**

In a recent television programme, (Carte Blanche, Sunday, 11 July 1999), South African bottled /water producers were accused of questionable standards regarding their products. Damaging allegations were made relating to quality issues, with the implication being that South African bottled water is inferior to comparable international products.

John Weaver, chairman of the South African Natural Bottled Water Association (SANBWA), says "There were a number of inaccuracies in the Carte Blanche report which cast serious aspersions on the industry and these need to be corrected." Weaver, a senior geo-hydrologist with the CSIR, says SANBWA members are obliged to adhere to stringent regulations based on those applied internationally and those adopted recently by the South African Bureau of Standards, which ensure South African bottled water is of the same high standards as quality global brands. All sources of water are evaluated by an independent qualified hydrogeologist.

SANBWA, a Section 21 company, was formed in 1997 as a watchdog organisation by a group of proactive bottlers, who, given the limited legislation governing the bottled water industry, recognised the need to set standards to regulate their industry. SANBWA currently represents more than 20 bottlers, selling an estimated 85% of the bottled water in this country, and it was as a result of lobbying by this organisation that industry standards have been raised and improved. Membership of SANBWA is determined by compliance with rigorous criteria.

Weaver notes "SANBWA and the members of the bottled water industry are taking this issue extremely seriously. In the best interests of the public, the industry and its stakeholders, SANBWA members offer the assurance that their products, processes and testing continue to adhere to superior standards."

22 July 1999

FOR FURTHER INFORMATION, CONTACT SANBWA ON:

SAN BWA

TEL: (011) 728 0795

FAX: (011) 728 0777

# R88-m surplus ruling favours pensioners

(300) ARLT 14/8/99

CHARLENE CLAYTON

Pension Funds Adjudicator John Murphy has unearthed an extra R88 million surplus in one of the country's big pension funds calling into question the actuarial profession's practices about disclosing the true value of surpluses.

He has also called for an explanation from the Actuarial Society of South Africa.

Murphy's decision underlines your right to accurate information about the current financial position of your retirement fund.

Many retirement funds are undergoing restructuring and members have important decisions to make about their future.

In the Langeberg Foods Pension Fund case, Murphy found that the board of trustees "failed to take all reasonable steps" to ensure that the pensioners' interests were adequately protected when the fund was restructured in 1997.

That year it changed from a defined benefit to a defined contribution fund and each pensioner was given the choice of staying with the fund or transferring out of the fund by buying a pension from Sanlam.

Pensioners were offered sweeteners such as a 10 percent increase in their pension and a 13th cheque to move to Sanlam. They were given about three weeks in which to make a decision.

The switch to a defined contribution fund effectively involved a distribution of the surplus which had built up in the Langeberg Foods Pension Fund.

The pensioners understood that an amount of R39 million would remain in the fund after the transfer – in reality, it turned out to be R127 million.

Murphy says that accurate information about the true surplus in the fund at the transfer date was a pre-requisite to the pensioners making a proper choice.

Also, the Registrar of Pensions, who has to approve all transfers between pension funds, "would very likely have refused to certify the scheme as reasonable and equitable" had he been told what the true surplus was.

The fact that pensioners did not know the true value of the surplus meant they could not assess their chances of sharing in the surplus in future through increased pensions or other benefits if they chose to remain in the fund.

A total of 247 members transferred out of the fund to Sanlam on the assumption that 33 percent of the surplus was being allocated for their benefit, with 40 percent allocated to the active members and 38 percent kept in reserve, mainly for the purpose of a "contribution holiday" by the employer.

In the end 75 percent went into the reserve account, 14 percent went to the active members and the pensioners only got 11 percent of the surplus.

"There is no getting away from the fact that had the pensioners known that 75 percent of the surplus was to remain in the fund, many might very well not have transferred out of the defined benefit fund.

"Also if they knew about it, they may have held out for a more generous offer before transferring", says Murphy.

He adds that the Alexander Forbes actuary appointed by the fund, Faffa Knoetze, ought "reasonably" to have known the true value of the surplus.

In his defence, Knoetze argued that the pensioners had sufficient information to make an informed choice, that the time they had to exercise their option was short but adequate, and the surplus position of the fund was irrelevant to the choice the pensioners had to make.

As a result he did not try to estimate the amount of money that was transferred to the fund's reserve account, which in any case would have been "meaningless" because the value of the fund's assets would change according to movements in the share and bond markets.

But Murphy has criticised both the trustees and Knoetze for not conforming to the Pension Funds Act which requires that the transfer of money from one fund to another must be reasonable and equitable, recognise the rights of all involved and meet the benefit expectations of the members of the fund.

In a 39-page decision handed down at a hearing before the Pension Funds Adjudicator in Cape Town, Murphy has ordered the pensioners and the fund to negotiate a reasonable settlement.

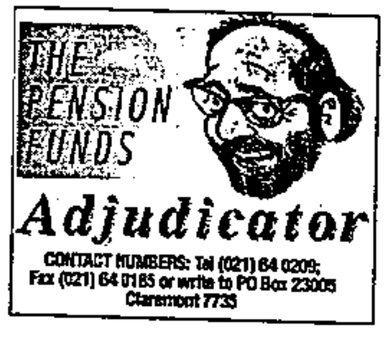
He has also referred the case to the Actuarial Society of South Africa because Knoetze's failure to disclose the variation of R88 million between the interim and final valuation "raises general questions about professional ethics" he says.

He has asked the society for advice on whether Knoetze complied with best practice and whether or not actuaries should be obliged to disclose current information about the value of a pension fund where a transfer to another fund is involved.

The chief actuary of the Financial Services Board has also been asked for expert advice on the effect on the fund if Murphy orders the fund to pay over an additional amount from the surplus for the benefit of pensioners who transferred out of the fund.

Russell Behrens, chairman of the Board of Trustees of the Langeberg Foods Pension Fund says the trustees will carefully consider the effect of the additional R88 million on the position of all interested parties at a meeting to be held shortly.

Blignault Gouws, president of the Actuarial Society of South Africa says he notes with concern the comments of Murphy about the actuarial profession and the matter will be investigated.




# Lone crusader's case prompts Murphy to call for pension fund law changes

BRUCE CAMERON

Pension fund law needs to be changed to give defined benefit pension fund members fairer withdrawal benefits when they lose their jobs, Professor John Murphy, the pensions adjudicator, says.

His comment comes in the handing down of a key complaint made by Basil Kransdorff, a former senior employee of chemicals company, Sentrachem.

Kransdorff has featured large in the minds of many people involved in the retirement fund industry for some years. For a number of years he has been conducting a massive one-person letter writing campaign against the unfairness of withdrawal benefits given to members of many defined benefit pension funds when they resign or lose their jobs.

Some of the withdrawal benefits have and still are as low as your contributions, plus one or two percent.

Kransdorff has had his day in court, so to speak, with Murphy handing down a 15 400 word ruling on his case, which involved the Sentrachem Pension Fund and his former employer, Sentrachem Limited, which retrenched him in 1996 as a result of the group selling off the division of which Kransdorff was manager. Murphy says Kransdorff's complaint was narrowed down to three issues:

- Did Kransdorff receive the benefit to which he was entitled in terms of the rules of the pension fund;
- Was the amount paid as a withdrawal benefit fair and reasonable; and
- Was Kransdorff entitled to any additional withdrawal benefit by virtue of his employment contract?

Kransdorff's withdrawal benefit of R265 292 was based on the fund rules, which stated he was entitled the greater of the member's reserve value, or double the contributions made by the member, plus eight percent. Kransdorff was paid the reserve value, being the greater of the two amounts.

He felt the actuarial methods used to calculate his reserve value were incorrect and that the full employer's contribution, plus growth, should be added to give him a benefit of R476,324.95, some R210,000 more than he was paid.

However, Murphy found that Kransdorff did receive the benefit to which he was entitled in terms of the rules and that the method applied by the actuary in calculating the benefit was fair and reasonable. But against this Murphy says "reform of the law is obviously necessary", adding that unfair withdrawal benefits could contravene the constitutional right to property.

In 1991, only 21 percent of funds surveyed allowed employer contributions to be included in early leaver benefits. Murphy could not say whether a greater number of funds have improved their rate of interest, or include a part of the employers contributions in the early withdrawal benefit, but "there are encouraging signs that some funds have heeded the call to improve early withdrawal benefits".

*'Reform of the pension fund law is obviously necessary'*

"Further reform seems unavoidable and the question is whether it should come about in a structured fashion through generally applicable legislation, or piecemeal, in an ad hoc fashion, by means of adjudication.

"Legislation is likely to be the more efficient means of resolving the problem."

Murphy says it is a matter of concern to most early job leavers that few funds make any explicit allowance for any part of the employer contributions to be included in the early leaver benefits.

"An adjustment of withdrawal benefit levels is certainly called for", but, Murphy says, "it would be a great pity to undermine such a proven and valuable instrument (as a defined benefit pension scheme) by misplaced and, at times, irrationally zealous claims of entitlement to fund assets by members who have limited understanding of the financing of the scheme.

"Members are entitled to defined benefits. They have no right, in the ordinary course of events, to the assets of an ongoing scheme."

Murphy is also concerned about the wide discretion exercised by actuaries in reaching valuations. He says rules of pension funds need to be tightened up to at least show what method is being used by an actuary. And greater explanation should be given to members about how withdrawal benefits, even when they are fair, are calculated.

This must be done with sufficient clearness and with safeguards allowing members to check that the policy or applicable standards have been applied in their individual case. Failure to do so, will open the rules to challenge on the grounds of unreasonableness or unconstitutionality.

However, Murphy says, even when less than the actuarial reserve is paid, you have to recognise that the defined benefit fund is modelled on a particular financial matrix, which contemplates penalties on withdrawal and a predetermined probability of a certain percentage of withdrawals before retirement.

But in an environment where increased job mobility is the norm, the equity of pension fund members ending up with decayed withdrawal benefits is questionable, especially where the pension fund has closed membership and sits with a huge surplus.

The lesson to be learned by actuaries and fund administrators is that the failure to define entitlements with greater certainty and in a predictable manner will lead to disputes and litigation and, more often than not, the costs are likely to be borne by the fund.

# Pension fund adjudicator has a massive backlog, little staff

**Tim Cohen** (300) BD 18/8/99

CAPE TOWN — Pension Fund Adjudicator Prof John Murphy said yesterday he had a 21 000 complaint backlog which would take four years to clear.

Addressing a Sanlam function for pensions lawyers, Murphy said the original concept of the office, which has been in operation for a year and a half, drastically underestimated demand.

Initially, it was anticipated the office would deal with cases brought by individuals involving modest amounts.

But Murphy said this was by no means what had happened. "They are coming with senior counsel, they are coming with lever-arch files. We are dealing with cases involving billions of rands," he said.

Murphy had an annual budget of R2m which was derived on the basis of a 30c per insurance policy charge. The charge was levied by the Financial Services Board.

Murphy said his office employed nine people compared to the Australian equivalent which had a staff of 25 and which typically arbitrated cases and deferred the adjudication process to a panel of three judges.

Getting a case before the adjudicator now took so long the whole procedure was brought into question, he said.

Developing an urgent roll had been considered, but then Murphy said the office might spend all its time deciding whether a case was urgent or not.

One of the lawyers said part of the problem was that the service was being required to be rendered free of charge. The question had to be asked whether it was sensible to have no "entry level requirement", the lawyer said.

# Sanlam recognises gay relationships

**Tim Cohen**

CAPE TOWN — The recent decision by the pension funds adjudicator to grant pension rights to the surviving member of a gay relationship has prompted Sanlam review its benefit structures and recognise gay relationships.

Sanlam employee benefits CE Nick Christodoulou, says "de facto spouses" of the same gender or "common law marriages" will be recognised with immediate effect and without cost to the client.

However, gay partners must have been in a relationship of at least six months and must formally request Sanlam to recognise the pension rights of their partners.

The request to be recognised will, like a marriage certificate, provide the insurer with proof that a relationship exists.

The catch is that the consequences are also the same. If there is no formal request, Sanlam will "exercise the contract", in other words, it will not recognise the pension rights of a person claiming to have been in a de facto spouse.

Christodoulou said a guide on amendments which funds should implement to protect themselves from potential damage claims arising out of equity issues was being sent to trustees.

The 2 000-plus funds under Sanlam's administration will be informed of the changes that will ensure their rules comply with developments in the industry. The guide will prepare trustees review fund rules, practices and procedures.

The Bill of Rights and recent determinations of the pension fund adjudicator had necessitated this step. "We foresee that these amendments will change the face of the retirement fund industry as we know it," Christodoulou said.

(300) (252) BD 20/8/99

# Murphy sets benefit payout clock ticking

CHARLENE CLAYTON

John Murphy, the Pension Funds Adjudicator, has drawn up guidelines regarding when your retirement fund should pay out benefits to your family and other people after your death.

The retirement fund industry has been asking Murphy to provide clarity on the issue for months because legislation concerning the matter is poorly drafted and unclear. The issue is whether your fund should wait a year after your death before paying out any death benefits or whether it must make payment within the 12-month period.

The reasoning behind the waiting period is that the trustees must see if any unidentified dependants come forward at or after your death.

Unlike testamentary laws which give you the power to choose who will receive your worldly possessions after your death, the trustees of your retirement fund have a duty to consider not only those you nominate as beneficiaries, but also your dependants.

This means that you cannot, for example, stipulate that all your death benefits be paid to your lover, leaving your dependent children empty handed.

The Pension Funds Act says that dependants come first and if you have also nominated somebody else to receive benefits, then the benefits may be shared between your dependants and those you nominate. The benefits must be split between your dependants and nominees in a way the board decides is fair.

Where the law falls short is in spelling out the time frame for making any death benefit payments.

Murphy has called for a general revision of the section of law relating to the distribution of death benefits because of concerns about the practical difficulties of tracing dependants.

In the meantime, Murphy says the following principles should apply regarding the timing of benefit payments:

◆ Distribution to dependants: Murphy says that if the board of trustees is satisfied that it has taken all reasonable steps to identify and trace your dependants, it is entitled, and in case of urgent need, even obliged, to distribute your benefits regardless of whether you have been dead for 12 months or not. In other words the benefits can be paid before or after the 12 months.

"The question will always be whether the board took all reasonable steps to comply with its duty to trace dependants," Murphy says.

A board which sits back and does nothing for 12 months and then distributes the benefit to a single dependant may face a claim of maladministration or impropriety from a dependant who could have been traced had reasonable steps been taken, he says;

◆ Distribution to nominees: Where you have nominated somebody to receive your death benefits and this person is not a dependant, Murphy says the money cannot be paid out within the 12 month period, but the board is obliged to do so immediately afterwards. Remember that you must designate the nominees in writing;

◆ Distribution to dependants and nominees: Where you have dependants and nominees, and the board is aware of them, the fund is obliged to make payment before the end of the 12-month period;

◆ Distribution to your estate: If you have not nominated anybody to receive your death benefits and you also do not have dependants, the benefits will go into your estate and the fund has to wait 12 months before paying out the money, Murphy says; and

◆ Distribution to your estate and one or more nominees: If the fund is unable to find any of your dependants within the first year after your death, the board must at the end of the 12 months, distribute your death benefits between the person(s) you nominated and your estate.





THE PENSION FUNDS Adjudicator

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(300)

ARG 21/8/99

# Transnet borrows to fund pension

BD 23/8/99 (270) (300)

**Robyn Chalmers**

TRANSNET has sharply raised its debt burden to fund its pension liabilities.

Its total borrowings rose by about R4,2bn to R27,2bn in the two years to March 31, boosting the funding of its pension fund to 90% from 22% in 1990.

Public Enterprises Minister Jeff Radebe said the debt was a significant constraint in restructuring Transnet. It has several components, but the biggest is the pension fund deficit and provisions for pensioners' benefits.

Radebe has previously indicated that Transnet and its subsidiaries were in dire need of restructuring. "We do not have the luxury of lots of time to come up with workable solutions."

The pension fund debt has been the key obstacle in government's attempt to unbundle and partially or fully privatise Transnet subsidiaries, which all play a crucial role in government's transport strategy.

Government and Transnet management have been grappling with the pension fund liability for more than three years. One proposal was for government to take on the R9bn deficit. Another was to house the debt in a special purpose vehicle and inject privatisation proceeds into it. Both options appear to have been rejected.

The cost of providing retirement benefits has averaged around R1,4bn annually. This has consistently pushed Transnet into the red, with the exception of the 1998 financial year.

In the year ended March 1999, Transnet made a profit of R973m, but a R1,4bn payment to the pension fund led to a total loss of R426m.

Transnet MD Saki Macozoma said a "sensible solution" to the challenge of the pension fund deficit was receiving close attention.

Gloria Serobe, Transnet finance executive director, said the group was investigating a method of changing the valuation assumptions of the pension fund to deal with the deficit. Pension provision was also being changed from a defined benefit to a defined contribution basis.

Radebe said the pension fund debt resulted from the corporatisation of the then SA Transport Services (SATS) into Transnet in 1990. At that time, the pension fund for SATS employees was only around 22% funded. Transnet management issued a bond — known as a T11 bond — to strengthen the fund's financial position to 64%.

The 1998 annual report showed the fair value of the T11 bond at R9,2bn with a redemption date of April 2010. Radebe said the coupon rate for the bond was 16,5% and the company had to issue more debt just to service the interest payments.

Since then, management has used additional contributions and more debt to improve the pension fund's funding level to around 90%.

*Try to resolve retirement fund disputes before approaching the adjudicator's office*

# Your way to Murphy's heart

(300) CT(BR)25/8/99

CHARLENE CLAYTON

Retirement funds should set up a compulsory dispute resolution process to deal with complaints from members, the Pension Funds Adjudicator has urged.

The adjudicator, John Murphy, says your fund's trustees should play a more active role in solving the problems which are now finding their way to his office.

Trustees are focusing on answering queries, rather than on trying to resolve the problems raised by fund members who intend laying complaints with the adjudicator, Murphy told a quarterly meeting of the Pension Lawyers Association, hosted by Sanlam Employee Benefits.

Mediation or even appointing an arbitrator to help find solutions to any problems you have are two of the ways in which your fund can help solve members' problems.

Only if this fails, should you take your problem to the adjudicator, Murphy says.

This additional process could help to ease the current flood of complaints that the adjudicator receives.

Murphy's caseload of 2 100 complaints will take him four years to clear. He says the complexity of the cases has also shown a dramatic increase.

"The cases are arriving in files, prepared by senior counsel and dealing with major issues involving billions of rands," he says.

He has to make determinations based on the information submitted to his office. Adjudication of the complaints based primarily on the documents and written evidence has its flaws and that is why it is important that when you submit a complaint to to his office, your information must be comprehensive.

Another problem is access for the public and other interested parties to Murphy's determinations.

Apart from the website that has been set up for this purpose, the 120 determinations he has already made should be available in a more user-friendly format, Murphy says, and this will happen within the next few months, when a legal publisher begins producing a pension law report journal.

Murphy, who has put the actuaries of retirement funds on the carpet in some recent determinations, says that in amending the Pension Funds Act to create his office, Parliament enacted legislation that gives 11 million pension fund members the right to question any actuarial decision, free of charge.

"What I am trying to do, is advise actuaries on how they can insulate themselves against allegations of maladministration," he says.

Turning to the issue of withdrawal benefits and surpluses, which are other pressing issues within the retirement fund industry at present, Murphy says he is not too sure that defined contribution schemes, where you carry the investment risk in the fund, are the best way forward.

There may be a reverse trend back towards the safe haven of the defined benefit fund, he says.

Defined benefit funds have advantages, although the structure of these funds may need to be reformed, for example to provide for fairer withdrawal benefits.

FUNDS (300) CT(BR) 25/8/99

## Retirement industry gets new association

The retirement fund industry stood to benefit from the newly formed Principal Officers' Association, which would hold its founding meeting tomorrow in Johannesburg to adopt its own constitution and confirm its objectives, industry managers said yesterday.

"The association aims to facilitate improved standards of retirement fund management and focus attention on practical issues of fund governance," Martyn Carr, the convener of the steering committee, said yesterday.

Lucas Greyling, the portfolio manager for Old Mutual Employee Benefits, said Old Mutual had supported the initiative since its inception because it believed such an association would broaden the democratic base of input into legislation and contribute towards a more effective retirement fund industry. – *Sapa, Johannesburg*

# Retirement funds' new body

Saweteran 25/8/99 (300)

THE retirement fund industry stands to benefit from the newly formed Principal Officers Association which will hold its founding meeting tomorrow to adopt its constitution and confirm its objectives.

The formation of the association is aimed at improving standards of retirement fund management.

"The association consists of a group of 20 principal officers representing some of the largest retirement funds in the country.

"It aims to facilitate improved standards of retirement fund management and focus attention on practical issues of fund governance," said Martyn Carr, convenor of the steering committee.

Carr added that the initiative had come a long way since the first meeting of a steering committee, which had included several senior officials from the Financial Services Board, in September 1998.

Lucas Greyling, portfolio manager for Old Mutual Employee Benefits, said that Old Mutual had supported the initiative since its inception as it believed such an association would broaden the democratic base of input into legislation and contribute towards a more effective retirement fund industry.

"This association has my full support as it is something I have always wanted to see formed," said Dube Tsidi, Pension Funds Registrar, who will deliver the welcome address at the founding meeting.

Tsidi also said that many unattended issues with regard to pension funds would now receive attention.

"Member protection will be enhanced in that individual principal officers will have a body to fall back on for support and advice."

*Sapa*

# Pension fund assets 'at risk'

## Based on the recommendations of a report Salga may overhaul the 30 funds

BD 26/8/99 (300)

**Xolani Xundu**

THE 30 pension funds for employees of all SA's 843 municipalities are being investigated by the SA Local Government Association (Salga) and National Business Council (NBC) after allegations of irregularities in the management of the R30bn funds.

The problem was aggravated by fund managers' position as individuals and not credible financial institutions able to provide security in case the funds collapsed, Salga chairman Collin Matjila said yesterday.

He said the funds, which cover about 100 000 employees, had no formal investment policies and the investment performance measurements in use were unreliable. Some fund managers were also investment managers and fund administrators.

"The conflict of interest and the lack of relevant experience puts the assets of the funds at risk," he said.

Matjila said pension fund administrators charged fees far higher than market rates.

According to 1997 figures, they were charging R30m a year compared with R10m charged in the private sector.

"Normally you would find the manager of these funds being an institution with sufficient security in the event of loss of funds. In this case we do not have that," said Matjila.

This put pressure on the council as an employer because a pension was one of the guaranteed benefits. Five of the major pension funds were involved in "this type of conduct". Matjila refused to name them, saying this would give the impression that the focus was only on these funds.

Out of the 30 pension funds, some of them were affected by this alleged maladministration. White workers benefited from these irregularities, while their black counterparts suffered, he said.

It was as a result of this problem that Salga commissioned the NBC to do an audit of all the pension funds. It is expected to table a report towards the end of this year or early next year.

Based on the recommendations, Salga would overhaul the 30 funds and possibly come up with one fund for local government employees.

The audit would also have to quantify the loss suffered by various municipalities which took place "under the noses of the Democratic Party and the New National Party. It is criminal for them to have allowed what was happening to happen."

The system also had a number of ghost pensioners who continued to benefit from the funds.

"The financial difficulties faced by municipalities in this country is much more complex than the payment of services. We hope that this process will contribute in making local government financially sound and sustainable in the long term," said Matjila.

The boards of trustees were also not in line with current legislation. Officials in current council employment acted as employer representatives, while ex-council employees were also serving as trustees on behalf of the employer in the boards. As an interim measure, Salga would make sure that these boards were constituted in terms of the law.

The overall aim of the audit would be to transform local government, specifically the restructuring of municipal pension funds, implement investment policies and procedures in line with best practices.

Matjila said a preliminary study conducted by NBC showed that municipal pension funds were 100% "more generous", in terms of benefits, as compared with the private sector, provincial and national government. This was putting a strain on municipalities' budgets. The study found the funds were racially discriminatory with regards to benefits.

The benefits were defined in the rules of the funds, and the council paid the contribution after taking into ac count the member's contribution. This was in contrast with the current trend, in which the members' benefits were no longer defined but fixed.

# Probe launched into R30-bn pension funds

300 Sowetan 26/8/99

**By Justice Mohale**

ABOUT 30 retirement funds administering more than R30 billion pension funds for local government workers in South Africa will be investigated by NBC Consultants and Actuaries.

Speaking at the media briefing in Sandton yesterday, chairman of the South African Local Government Association (Salga) Mr Collin Matjila said the association had acknowledged there were shortcomings in terms of the administration of the funds and was prepared to rectify them.

He said Salga would consult all the stakeholders and get their views on how a single national retirement fund could be formed and administered.

"Salga is committed to ensuring that transparency prevails in the administration of the funds that local governments are contributing to," Matjila said.

He said Salga had decided to appoint a firm of independent auditors to investigate the funds after it realised that some of them lacked formal written investment policies and expertise on fund management and administration.

"The exercise will also curb a high number of ghost beneficiaries and to cut off the exorbitant administration fees charged by the funds administrators," Matjila added.

He said a single national retirement fund with decentralised operations would be the only viable system that could efficiently administer the employees' funds.

"A single national retirement fund will ensure that local governments are financially viable and sustainable," he said.

Matjila said Salga found it unacceptable that in some cases billions of rands were administered by an individual who was once an employee of the council.

He said the final report of the investigations would be submitted to Salga before the end of the year.

**LOCAL GOVERNMENT** *NBC appointed to conduct audit*

# Pension fund fraud exposed

CT (BR) 26/8/99 (300)

ZINTLE FILTANE

Johannesburg – The South African Local Government Association had unearthed millions of rands worth of rampant fraud and corruption in the administration of more than 30 local government pension funds with an asset base of R30 billion, Collin Matjila, the chairman, said yesterday.

Matjila said NBC Consultants and Actuaries, the first black-controlled employee benefits consultancy, would conduct the audit into the funds.

He said the funds had ghost beneficiaries of about R100 million. "Some of the more generous and peculiar benefits" included pensioners who received a 13th cheque, increases that were above inflation and allowing members from age 55 to receive lump sums of their commuted pension while still in office.

Matjila said there was a potential for conflict of interest for the non-institutional administrators of the funds – in other words, individuals who were also investment managers or employees of the fund.

He said there was also a "lack of relevant experience and qualifications, which put such assets under undue risk". An administrator who administered a fund worth about R9 billion and represented about 80 000 working and pensioned members billed R30 million in 1997 for work an institution would charge R10 million, he said.

Of great risk to these public funds, Matjila said, was the fact that the individuals who administered them operated as individuals with no institutional financial backup.



**THE WAY FORWARD** *(from left) Collin Matjila, the chairman of the South African Local Government Association, and Geoffrey Nzau of black-controlled NBC Consultants and Actuaries*

PHOTO: SELWYN TAIT

Some of the other discrepancies detected by the association included the fact that there were no formal written investment policies.

"This is a serious oversight, given that investment returns play a key role in containing the employer contributions in the long term," Matjila said.

He said unreliable methods of measuring investment performance were also detected because the individuals conducting the measurements were not independent of the investor managers.

Matjila expected the final report from NBC by the end of this year or early next year.

He said the report would help the South African Local Government Bargaining Council to establish a way forward for the funds. This could include the creation of a single fund.

# More job losses anticipated, says study

NXUMALO

LABOUR EDITOR

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The manufacturing sector was forecast to shed about 45 000 jobs over this five-year period, with the largest decrease expected in the food manufacturing sector.

However, total formal employment ... expected to grow by about 45 000 ... than 1 percent – between 1998 ...ally in the trade sector.

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among professionals (9,6 percent) and managers (6,2 percent) followed by artisans (3,9 percent).

Meanwhile, Lynda Loxton reports that Membathisi Mdladlana, the labour minister, yesterday blamed negative perceptions of South Africa's labour laws for the lack of job-creating investment rather than rigidities in the labour market.

He said he did not believe the laws were creating an inflexible labour mar-

(300)

ADJUDICATION

# MURPHY'S LAW ON FAIRNESS

## Valuation outside his scope

PM 27/8/99

Disgruntled pension fund members, particularly those who are unhappy with the level of their withdrawal or transfer benefits, have nothing to lose by complaining to the Pension Fund Adjudicator, Prof John Murphy.

As a result he has a four-year backlog of 2 100 cases, which has made it impossible for members to achieve summary justice.

Not that Murphy always takes their side, especially in cases of defined benefit (DB) funds.

If withdrawal benefits are too high in a DB fund, this is against the interests of the remaining members, as it makes it harder for the fund to fulfil its promise to pay a pension based on length of service and final salary.

Murphy says benefit levels in DB funds should be a collective bargaining issue which cannot be settled by his office on its own. Nonetheless, in one case (Wilson), Murphy adjusted a withdrawal benefit up from the member's contribution plus 8% accrued interest rate to member contribution plus a 10% accrued interest rate.

Murphy did not accept that "rules are rules" in a pension fund and sympathised with the complainants' view that the tight-fisted withdrawal benefit was an unfair labour practice — and a manifest injustice, given that pension contributions are a form of deferred pay. But he says any increase in benefits in the future will not exceed the member's actuarial reserves, to protect the interests of the remaining members.

The complainant in another case (Kransdorff) was not so lucky, mainly because the withdrawal benefit he received was far more generous than Wilson's: the better of the full actuarial reserve (perhaps a little conservatively calculated) or twice accumulated member contributions and 8% accrued interest.

Kransdorff's complaint was that in his letter of employment he had been promised that his withdrawal benefits would be calculated on a defined contribution basis, and he calculated on that basis that he would receive R460 000, not the R250 000 he was offered. The fund actuary, however, retorted that these figures had been calculated without taking into account the premium deductions for risk benefits such as death and disability — these are seldom clear in DB funds, especially as many funds undertake a measure of self-insurance.

Unfortunately, there is no certain way of valuing a member's withdrawal or transfer value from a pension fund as the range of values that conforms with reasonable actuarial practice can be wide.

But Murphy's job is to rule on issues of fairness and negligence, not to arbitrate on valuations. He says if his brief is to be extended he is not fully equipped, as a lawyer, to make these judgments and this should be left to a panel of arbitrators, including an actuary.

In the case of Higgo, an executive who was transferring funds out of the retirement fund into a living annuity was given a value of R6,4m, but found an actuary who gave a valuation R2m higher.

Murphy dismissed the case and did not have to make a ruling on the valuation itself as the member had already signed an indemnity to release the fund from any liability. The member argued that this waiver only covered the future investment performance of the underlying investments in the living annuity, but the waiver explicitly gave permission to the pension fund to move the transfer value into the living annuity.

Murphy says the member should have refused to sign the indemnity and immediately sought a ruling.

He says he would have ruled differently if he had thought that the consent had not been properly obtained, or if the member had not known what he was signing. "The ruling might have been different in the case of an illiterate mechanic in a rural town."

**Stephen Cranston**



Robbie Tshabalala

***Prof John Murphy** . . . backlog of 2 100 cases*

# Samwu supports pension funds audit

BD 30/8/99 (300)

**Xolani Xundu**

THE SA Municipal Workers' Union (Samwu) says it supports plans to audit 30 municipal pension funds belonging to SA's 843 municipalities.

However, the union warned that the move by the SA Local Government Association (Salga), which initiated the probe, was not as innocent as it seemed.

The association announced last week that it had appointed Negotiated Benefit Consultants (NBC) to audit the schemes following allegations of irregularities in the management of the funds, valued at R30bn.

However, Salga's announcement was dismissed by the Local Government Retirement Funds' Association, representing 18 of the funds, which said that funds under it were properly managed.

Samwu spokesman Anna Weekes said it was a "well-known" fact that there were many irregular practices in the retirement fund industry.

"Salga's decision to investigate these malpractices is praiseworthy," Weekes said.

"It has to be noted, however, that the action by Salga might not be as innocent as it seems," she said.

The SA local government bargaining council was at present in the process of determining which retirement funds were to be approved for the sector.

Weekes said it would have been proper for Salga to give its proposal for the investigation to the council and for the council to determine how such an investigation should be conducted.

"Instead, Salga has disregarded the wishes of the 230 000 local government employees organised by Samwu and the Independent Municipal and Allied Trade Union and appointed a consultant to perform the audit.

"It would appear that Salga wishes to establish its own scheme in the industry.

"We have information that NBC Actuaries and Consultants have already briefed Salga on a proposal in that regard," said Weekes.

# Council staff face life without pension

ARG 1/9/99 (300)

STAFF REPORTER

**About 32 500 government employees, mainly on municipal payrolls, are facing retirement without a pension grant.**

Unskilled and semi-skilled workers, most of them employed during the tenure of apartheid-era local councils, were not allowed to join pension funds because of their low level of pay.

They were entitled only to a gratuity, which the employer paid when they retired.

Now most are due to retire soon and they don't know what the future holds for them.

Two unions, the SA Municipal Workers' Union (Samwu) and the Independent Municipal and Allied Trade Union (Imatu), with a combined membership of 230 000, say they have repeatedly called on local councils to address the issue of workers without retirement benefits.

Imatu president Clive Dunstan said his union had raised the issue at the bargaining council and a team had been established to look into the matter. But the issue had "died a natural death".

"It is unacceptable that some of our members don't belong to a pension or provident fund that would have enabled them to live a better life when they retire.

"As unions, we will engage employers to address the anomalies. At the moment, the employer contributes different percentages to various funds.

"If we have equal contributions, then the employer might be in a position to help those without benefits. Our members cannot rely on a gratuity for survival when they retire," Mr Dunstan said.

Samwu spokesman Caleb Mokoena said the union would propose to the bargaining council that the gratuity should be invested in a fund to help those due for retirement.

# Proper use of pension surplus upheld

(300) ARG4/9/99

CHARLENE CLAYTON

One of the hottest debates in the retirement fund industry – the right to a surplus built up in your retirement fund – came to a head late yesterday.

Appeal Court judge Mr Justice J A Marais handed down a landmark ruling in what is commonly known as the Tek case, which is widely regarded as the test case of who is entitled to surpluses which have accumulated in many funds around the country – you or your employer.

The judge made a complex 38-page judgment in a case where a fund member, Roy Lorentz, objected to the Tek Corporation taking a contribution holiday on the basis of a pension fund surplus. His ruling will be important to you if you belong to a traditional defined benefit fund, where surpluses have accumulated for various reasons.

It also has consequences for you if you are planning to, or have moved, from a defined benefit fund to a defined contribution fund, where you carry the investment risk.

Pension lawyers were last night pondering the consequences of the judgment and held different views on whether or not the issue of rights to pension fund surpluses has finally been resolved.

Pension lawyer Kobus Hanekom says the judge stopped short of stating whether members are entitled to a portion of the surplus.

The judge said that although members are entitled to such things as periodic increases in pensions, it was too bold a step to say members are entitled to a share of the surplus.

Rosemary Hunter, a pension lawyer with Edward Nathan and Friedland, says the Appeal Court ruling spells out that as a member of a fund you do not have a quantifiable claim to surplus assets – you are simply entitled to have your fund's trustees make appropriate decisions about how the surplus must be used.

But she says your employer also does not have an unfettered right to decide how the surplus assets in a pension fund are to be used.

But your company can, in appropriate circumstances, benefit from the surplus in your fund by taking a contribution holiday.

In saying this, the Appeal court judge "has remedied one of the unfortunately harsh features" of the High Court's rulings, which stated that your employer may only take a contribution holiday to the extent to which it has over-contributed to the fund.

Hunter says this approach could be counter-productive because it could drive employers away from defined benefit funds.

Other conclusions from this court case are:

◆ Your trustees have a fiduciary duty to you as a member;

◆ Your employer must act in good faith to ensure the objectives of the fund are met. For example, if your trustees propose a pension increase using the surplus, your employer cannot simply veto the proposal, because it may mean that your employer has to resume contributions to the fund;

◆ You do not have a right to demand that the surplus in your fund be used to improve benefits due to you;

◆ There is automatic right to a part of the surplus in the fund when you transfer from one fund to another, for example, from a defined benefit fund (which is surplus) to a defined contribution fund. The judge says it will depend on the transfer circumstances;

◆ Your fund cannot hide behind the fact that just because the Registrar of Pension Funds approved the transfer of money from one scheme to another (he has to approve all funds before the money can be transferred) this is the correct decision.

The trustees take the decision to move funds and they must take these decisions properly.

Hunter says pension funds, members and trustees now have greater clarity about the rights and duties of trustees and employers regarding surplus assets.

The judgment properly puts the trustees of funds in the driver's seat and warns them to exercise their discretionary powers for the purposes for which they are intended – to meet the objectives of the fund and not to please either the employer or the members, Hunter says.

Hanekom, who is with Sanlam Employee Benefits, says the Appeal Court ruling does not help the industry resolve the problem of surpluses in funds, because it relies on a strict interpretation of the rules of your fund. When actuaries designed the rules of defined benefit schemes they neglected to make sure the rules reflected their intentions. The result is that the rules governing surpluses in retirement fund are, in most cases, not clear.

The funds' rules by themselves are not enough, so what is left now is for retirement fund members, their employers and trustees to thrash out a solution. Or the government has to lay down guidelines via legislation.

# Pension surplus law revamp urged

BD 8/9/99 (300)

**Linda Ensor**

CAPE TOWN — There was an urgent need to amend pension legislation governing the use of the R80bn pension fund surpluses, Financial Services Board chief actuary Jeremy Andrew said yesterday.

Andrew told Parliament's finance committee an amendment would prevent the threat of a possible liquidation of these funds in the near future.

He said talks with the Congress of SA Trade Unions (Cosatu) on the issue had established significant areas of agreement and the board hoped to table a revised bill in Parliament soon to deal far more comprehensively with the issue of surplus disposition.

The bill would establish the rights of employers and employees to the surpluses and a process for distribution which had adequate safeguards.

A draft bill would hopefully go out for comment within a month or two depending on the progress made in the negotiations.

Andrew said the urgency for legislation arose because of two pending appeals scheduled to be heard by the appeal board set up under the Financial Services Board Act.

The appeals challenged the Financial Services Board's consistent refusal to amend the rules of pension funds to grant employers the right to take out residual surpluses of funds after the funds had met their obligation on liquidation.

The board was not confident it could successfully defend these appeals. "If we lose, we believe this will open the floodgates," Andrew said.

There was a danger that retirement fund surpluses — which in total amount to about R80bn — would be liquidated without any checks or balances. Most of the surpluses were concentrated largely in small funds after the conversion of many funds into defined contribution funds.

A previous bill tabled in Parliament — the Pensions Fund Amendment Bill, which provided for employers to use the surpluses under strict conditions — met with fierce opposition from Cosatu, including threatened strike action, and the bill had to be withdrawn.

Cosatu believed surpluses belonged to the fund, represented the deferred remuneration of its members and should be used exclusively for their benefit. The federation sought to ban repatriation of surpluses to employers and to prevent them from taking contribution holidays.

Andrew suggested this approach had been moderated somewhat after Finance Minister Trevor Manuel facilitated discussions between the Financial Services Board and Cosatu in a bid to resolve the disagreements.

The board believed both parties should have rights and these should be clearly spelt out in the proposed law. Last Friday the Appeal Court handed down a landmark judgment which ruled that in the particular case known as the Tek case, employers did not have the right to do what they wanted with the surplus within the fund.

It also ruled however that the employees in that case did not have specific rights to the surplus. It stressed the need for trustees to exercise their fiduciary duties and work towards the aims of the fund in question, as embodied in the rules.

# Shock at delay of elder abuse bill

ART 17/9/99 (300)

POLITICAL CORRESPONDENT

**Legislation approved by Parliament urgently last year to protect the elderly from physical and sexual abuse and racial discrimination has still not been put into effect.**

The Aged Persons Amendment Bill was approved by the National Council of Provinces on October 7 and by the National Assembly on November 6 last year.

James Selfe, the Democratic Party MP who in 1997 tabled private member's legislation against elder abuse, yesterday said it was "shocking" that the new law had not yet been put into operation.

Mr Selfe last year dropped his private member's legislation when then-Minister of Welfare Geraldine Fraser-Moleketi tabled a bill including his proposals.

Speaking in the NCOP in October, Ms Fraser-Moleketi said there was an "urgent need" for the legislation.

"Procedures for dealing with matters relating to the welfare of aged persons are not adequate and are too rigid to allow speedy and effective resolution."

Ms Fraser-Moleketi said at the time the ministry would introduce new legislation on the elderly in 1999, to address further issues not covered in what was to be regarded as interim legislation.

This week in the Assembly, Welfare and Population Development Minister Zola Skweyiya, replying to questions by Mr Selfe, said the legislation could not be put into operation because regulations had not yet been promulgated.

It was envisaged to have the regulations promulgated by the end of November, after consultation with the Assembly's committee on welfare.

Asked by Mr Selfe whether he was aware it was nearly a year since the bill was approved, and that months would pass before regulations were ready, Dr Skweyiya said: "I am aware.

"However, we are trying our best to consult with the concerned groups on this issue" Dr Skweyiya said.

"But, unfortunately, I found that the regulations had not been promulgated. It is only now when I have come into office that they have been promulgated."

# Pensioners worse off, says study

(300) ARG 5/11/99

## Inflation erodes increases

**CLIVE SAWYER**
POLITICAL CORRESPONDENT

**The average pensioner gets almost R40 a month less in real terms than in 1994, Parliament's finance committee has heard.**

The allegation was made by the Institute for a Democratic South Africa (Idasa) in evidence to the committee on the government's medium-term budget policy statement, unveiled in Parliament last week by finance minister Trevor Manuel.

The budget policy statement reviews past performance and outlines policy and spending goals for a three-year budget cycle ending in 2003.

Idasa's allegation about the effective cut in pensions was disputed by Laloo Chiba, an African National Congress member of the committee, who said Idasa had used the wrong basis for its calculations. But Idasa insisted its figures were correct, and that the erosion in the value of pensions was because of inflation.

In 1994, pensions were R395 a month, and rose in nominal terms each year to R520 a month this year. But each year the increases were less than Consumer Price Index core inflation, representing a cut in real terms.

Barbara Hogan, head of the committee, noted that Idasa's figure was in dispute but said it was a "major issue" as to what extent social old-age pensions were adjusted for core inflation. She said Parliament's portfolio committee on welfare should look into the issue.

Cas Salojee, head of the welfare committee, said his impression was that pension increases had not been taking inflation into account.

The Congress of SA Trade Unions told the finance committee that its calculations showed that the medium-term budget policy statement meant that spending on welfare and social grants would be the lowest of other items of social spending such as health and education.

Cosatu queried government claims that social spending in the medium-term to 2003 would be "well above" projected inflation.



**Figured out:** Finance Minister Trevor Manuel

Given anticipated increases in demands for grants, the welfare budget would be under severe strain, Cosatu predicted.

■ In other comments on the medium-term budget policy statement, Idasa said there would be a shift in spending towards national functions, mainly because of the impact on the defence budget of the multi-billion rand arms procurement programme.

The R2,8-billion to be spent on the arms procurement package next year could have paid for a 50% increase in old-age pension levels, Idasa said.

Idasa criticised allocations for poverty relief and job creation programmes as limited in scope.

Cosatu said the small increases in social spending envisaged in the statement were dependent on "ambitious" growth projections.

Rejecting the statement as a framework for macro-economic policy for the next three years, the trade union federation called for an "open and participatory" rethink on the government's Growth, Employment and Redistribution strategy and its replacement by a more appropriate framework.

# R625m goes to ghost pensioners

(300) CP 7/11/99

By PATRICK BURNETT

THOUSANDS of ghost pensioners using as many as four faked ID books are ripping off millions of rands a year from the Eastern Cape welfare department's purse.

The province's welfare MEC Ncumisa Kondlo said this week that the fraud by the estimated 100 000 ghost pensioners who were not entitled to welfare grants was costing her department R625 million a year.

The loss amounted to R52 million a month which was paid to the 100 000 people.

Each pensioner receives R520 a month.

The Eastern Cape is the poorest province in the country and the money being paid to the fraudsters could go a long way to creating jobs and easing poverty experienced by thousands of people.

Kondlo said the 100 000 were duplicated applications or even multi-duplications.

The welfare cheats either claim several grants under different names, or claim a couple of grants under the same name.

Kondlo said the way the system was being abused was unbelievable.

"It is no joke when you say one beneficiary will have four different identity documents," Kondlo said.

Even the child support grant (CSG) introduced in April had become open for abuse and children were in some cases used as a business.

This was done through communities sharing a child whereby three women in the same area would use one child to claim several grants.

In a hardline attitude on fraud, Kondlo said:

"We are determined not to show any mercy to government officials or anyone else found to be siphoning public funds for personal gain."

While refusing to be pinned down on a breakdown of the figures, Kondlo said that after her department's re-registration drive which starts on November 15 and ends on March 31, the number of beneficiaries on the system would be less.

Kondlo said the targeted date of November 15 would only be shifted if loopholes were found which could lead to problems.

She said if the March 31 date had to be extended to ensure positive results, her department was prepared to engage with the national department so enough time was made available. – ECN Weekend News Service

# Retirement fund watchdogs express their concerns

(300)

## Worker trustees need to be vigilant in preserving their funds' assets, writes LEIGH ROBERTS

ST(BT) 21/11/99

GET cracking, worker trustees! There's lots to be done to safeguard the interests of your pension and provident fund members.

This week, retirement funds were in the spotlight with the release of two industry reports. The Pension Fund Adjudicator, Professor John Murphy, put out his quarterly review, and the Registrar of Pension Funds, Rick Cottrell, released his 1998 annual report.

The reports highlight the concerns facing pension funds and their trustees. And the reports bring home the need for worker trustees — elected by the members to sit on the fund's management board — to be alert to increasing attacks on fund assets by employers.

Adjudicator Murphy tackled the hotter than hot issue of who owns the surplus in a pension fund. The surplus is the excess of the fund's assets over the actuarially-determined liabilities (benefits to members).

A surplus occurs usually in a defined benefit fund where a member's retirement benefit is calculated on his final salary and not on his past contributions, as is the case with a defined contribution fund. Half of all pension and provident funds operate on this basis.

In the past few years, some employers have made attempts to repatriate their fund's surplus for their own gain — taking a leaf from global trend, the most famous case being the Maxwell affair.

Fairness issues aside, there is no legislation at present prescribing the employer's ownership of the surplus. And the case law — the Tek judgment among others — suggests the distribution of the surplus must be assessed on a fund-by-fund basis with reference to the particular facts and circumstances.

Murphy's view — and it is the manner in which he adjudicates complaints to his office involving the surplus issue — is that neither employer nor fund members have exclusive rights to the surplus.

Pending new legislation, the only right the employer has is to take a "contribution holiday", that is, to use the surplus to feed the company's current monthly contribution obligations. The answer to this vexing issue, says Murphy, lies in the rules of the fund — which alone determine what trustees may do with their fund assets.

Difficulty arises when the fund's rules do not cover the situation. In this instance, says Murphy, the fund rules can be amended — but only after there is consensus between employer, trustees and members.

"Failing consensus, there'll be a stalemate, and the surplus will remain where it is — in the pension fund."

Employers are increasingly eyeing the rich spoils of their pension fund — this can be effected by a direct hit on the surplus, or by liquidating the company and then the fund.

Last year, the Registrar refused to register rule amendments by a number of funds that sought to repatriate the surplus. The Registrar's office was also involved in a number of investigations into surplus manipulation.

So what's a worker trustee to do when faced with a predatory employer? The Registrar is in the process of drawing up a guidance note for trustees on the surplus issue. And any concerned fund member can report suspect transactions to the Registrar's office.

Giselle Gould, executive director of the Institute of Retirement Funds, which represents the interests of fund members, advises trustees to scrutinise the rules of their fund carefully. If the rules do not address the surplus issue, trustees should allow the basic imperative of trusteeship to guide them when making a decision.

Another issue of great concern raised by Murphy are the "unfair practices" applied when paying benefits to members who withdraw from the fund on changing jobs.

Many funds grant "totally inequitable" benefits on withdrawal. These funds may repay only a portion of the employer's contributions to the member, or repay with only a nominal interest rate.

Murphy points out that the socially desirable objective of greater equity on withdrawal will be best achieved by legislation, rather than by his adjudication. Fund entitlement benefits should be paid according to the fund's pre-determined formula, rather than left to the "arbitrary whim" of the fund's actuary or administrator, he says.

Gould's advice to trustees is to ensure that the fund rules on withdrawals are fair. The employer's contributions are deferred remuneration due to the fund member and as such should definitely not be withheld, she says.

The Registrar also voiced concern at the number of employers who fail to pay their fund contributions within the required time, and at the high level of arrear contributions in some funds. Legislation is on the cards to enforce tighter reporting procedures and impose penalty interest payments.

Of concern too are the number of funds that do not timeously submit statutory returns to the Registrar's office. These funds are fined R50 a day — and sadly, the fund members foot the bill. Almost 280 funds fall into this category. The list includes some interesting names, like the Alexander Forbes Provident Fund, the Caltex Pension Fund, and the Discovery Health Pension Fund.



CARING: Fund guardians have a duty to protect the fund's members and their dependants

Over ten million South Africans are members of pension funds. The combined assets of these funds at the end of 1998 were valued at R605-billion.

Last year members contributed R262-million to their funds, while their employers contributed R659-million. Members received benefits of R62-million in 1998.

Only 60% of funds have complied with the statutory requirement that half or more of the fund's trustees are to be elected by the members.

The Pension Funds Act is to be redrafted under the guidance of a "Wise Persons" committee!

### CONTACT DETAILS

The Registrar of Pension Funds,
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Menlo Park 0102.
Toll-free: 0800 110 443
The Pension Fund Adjudicator,
PO Box 23005,
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Phone: (021) 64-0209

### WHERE DO PENSION FUNDS INVEST THEIR ASSETS?

| ASSETS | % OF TOTAL ASSETS | | | | |
|---|---|---|---|---|---|
| | 1994 | 1995 | 1996 | 1997 | 1998 |
| Immovable property | 4.8 | 4.3 | 2.9 | 4.1 | 4.2 |
| Bills, bonds and securities | 14.0 | 12.6 | 13.8 | 14.8 | 14.3 |
| Debentures and loans | 1.1 | 1.0 | 1.0 | 1.0 | 0.8 |
| Shares in companies | 40.4 | 47.7 | 45.5 | 43.0 | 37.4 |
| Unit trusts | 1.4 | 1.5 | 1.8 | 2.9 | 4.8 |
| Insurance policies | 26.8 | 24.6 | 26.8 | 26.2 | 26.1 |
| Deposits and Krugerrands | 9.3 | 7.5 | 6.5 | 5.4 | 6.4 |
| Other assets | 2.2 | 0.8 | 1.7 | 2.6 | 6.0 |
| | 100 | 100 | 100 | 100 | 100 |

Excludes state and parastatal funds

Source: REGISTRAR OF PENSION FUNDS, ANNUAL REPORT 1998

## CASHBOX

### DON'T PAY COMMISSION

Warning: When buying life cover or any other type of insurance from a financial adviser, do not sign a commission agreement.

By signing such an agreement you undertake to pay any costs incurred by the adviser, as well as commission reclaimed by the insurance company should you lapse or surrender your policy within 12 months.

The Financial Services Board (FSB), the industry watchdog, has declared the agreements undesirable and advises that you are under no obligation to sign.

So don't — let the unscrupulous adviser get his commission kicks elsewhere.

### RECORD HIGH FOR JSE

The JSE All Share Index this week achieved a record high for the year on the back of commodity stocks which rallied on Thursday.

The overall index ended up 42 points, or 0.56%, at 7 476 when the stock market closed on Thursday. Traders described the day as buoyant as R2.1-billion was traded.

Online stockbroker Tradek.com said a renewed rally in the resource sector offset the negative sentiment in financials and industrials.

Financials lost 4 points on the day, while industrials were up 33 points.

Market heavyweights Anglo and De Beers accounted for nearly a quarter of the JSE's activity for the day.

Here's hoping the good day heralds a new start to the local market, which has had a miserable decade.

And bad luck to the fearful investors who got out of equities and into cash ahead of Y2K (or we will have to eat our words).

### WATCH YOUR NIB FUND

If your money is invested in the NIB Growth Fund, NIB Intellectual Capital Fund or NIB Selected Financial Opportunities Fund, you have a new fund manager.

Each fund now has its own manager after NIB lost sole operator Francois van Wyk, to Gensec Asset Management. When a fund is handed over to a new fund manager it is important for investors to closely monitor performance — different fund managers have different investment styles and strategies.

# R80-billion pension surplus under spotlight

(300) ARG 27/11/99

CHARLENE CLAYTON

Employer attempts to raid pension fund surpluses have been placed on hold with a key decision to be made by the Financial Services Appeal Board.

Employers are eagerly eyeing the R80 billion in surplus funds sitting in retirement funds around the country.

The Registrar of Pension Funds has received several requests to approve amendments to the rules of pension funds which will allow funds to transfer any surplus to the employer on liquidation of the fund.

The Registrar has placed a moratorium on such transfers pending the passage of the Pension Funds Amendment Bill through Parliament.

After taking legal advice, the Registrar has decided that no repatriation of surpluses is allowed on liquidation of a fund to the employer until the legislation is changed to make it permissible.

The Paarl Municipal Widows and Orphans Pension Fund is not happy with the Registrar's decision and has appealed against it to the Financial Services Appeal Board. The ruling of this Board, under the direction of Judge Gerald Friedman, is expected next week.

The legal advice to the Registrar is that:

- The assets of the pension fund are owned by the pension fund which is a legal body in its own right;
- These funds are held for the benefit of members of the fund and their dependants by way of lump sum benefits and pensions on retirement or death;
- If a fund is liquidated the assets still belong to the fund, even if there is a surplus; and
- Until the Pension Funds Act is amended the Registrar has no power under the Pension Funds Act to allow any repatriation of surplus to your employer on liquidation of your fund and he has to refuse to register any rule amendments which would allow this.

The amendment which the Registrar is proposing to the Pension Funds Act will permit distribution of the surplus among all stakeholders, including the employer, under conditions designed to prevent abuse and to protect the interests of members.

# A new threat to your pension fund surplus

(300) ARG 11/12/99

CHARLENE CLAYTON

A landmark judgment by the Financial Services Board of Appeal could open the door for your employers to get their hands on the surplus assets of your retirement fund.

Surpluses in retirement funds around the country amount to a whopping R80 billion and some industry watchers fear that unscrupulous employers might close down funds (and move you to a new fund) in a bid to get hold of the surplus.

Controversy over who can lay claim to surplus assets in a fund – the members or the employers – has been raging for months as many defined benefit funds restructure into defined contribution funds where the employer has limited obligations to you.

Surpluses have accumulated over the years in defined benefit funds for different reasons: better than expected performances from investments, overfunding by employers and overestimates of a fund's future liabilities.

A recent Appeal Court ruling – commonly referred to as the Tek case – on whether the employer was entitled to a contribution holiday when there was a surplus in the fund, did not clear up the issue.

In the absence of much-needed legislation, legal opinion and indications from the Tek judge are that the surplus belongs to your fund, which is a separate legal entity from your employer.

Furthermore, neither the employer nor the members have an automatic right to a surplus and if it is to be divided out, this must be done by negotiation between the trustees, the employer and the fund members. If consensus cannot be reached the surplus has to remain where it is, in the fund.

The thorny question is what happens to the surplus in a case where the fund is closed.

This was the issue Judge Gerald Friedman, head of the Financial Services Board of Appeal, had to consider.

His judgment this week concerns the employer's right to delve into the surplus in a pension fund if the fund is voluntarily wound up.

The Paarl Municipal Widows and Orphans Pension Fund appealed against a refusal by the Registrar of Pension Funds to register a rule amendment which would allow part of the surplus to be paid to the employer, the Paarl Municipality

Rules that are not approved by the Registrar of Pension Funds are not valid.

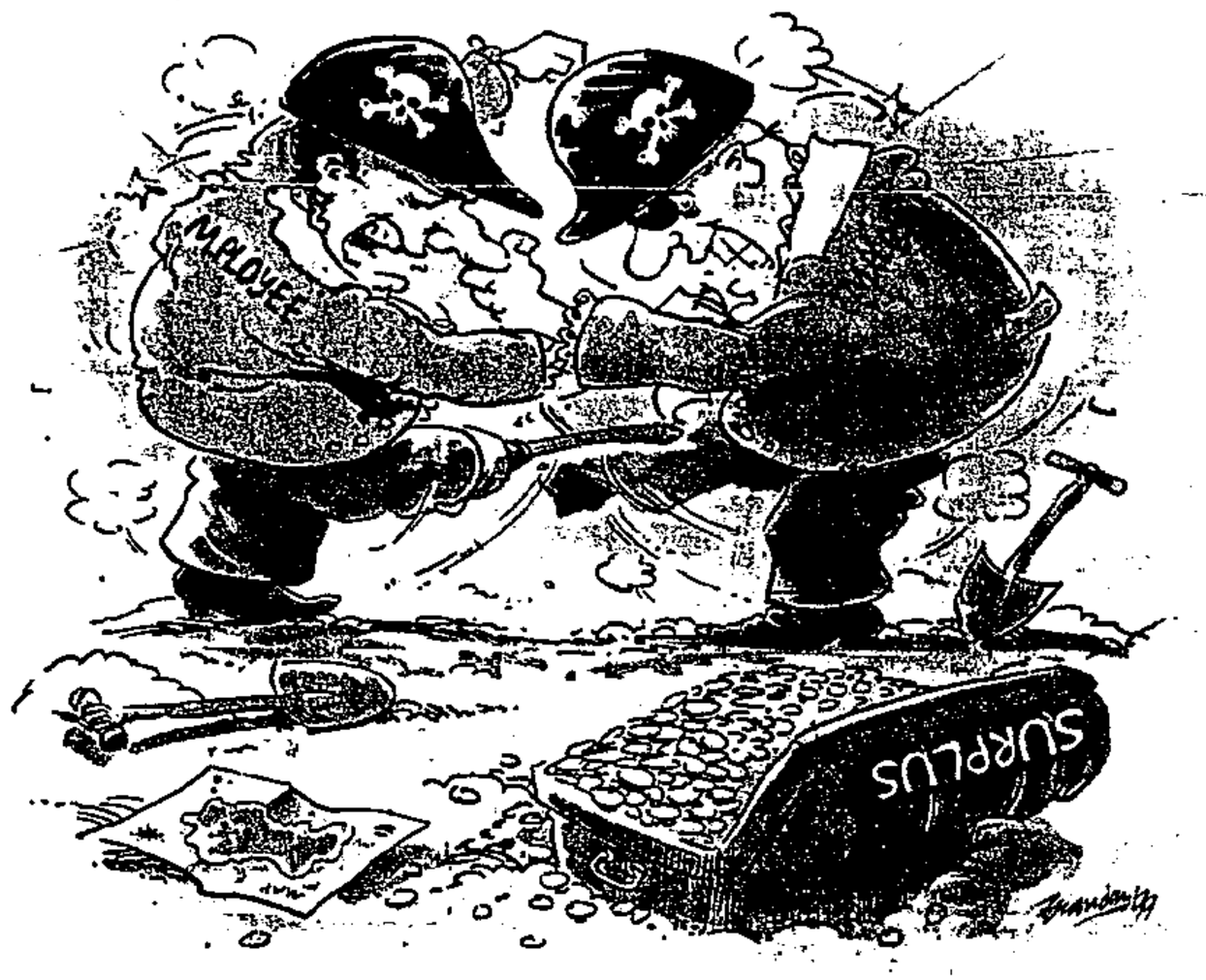
For the past year the Registrar has refused to register rule amendments of this nature, pending legislation on the repatriation of surpluses.

The Registrar's lawyers argued that paying part of the surplus to an employer does not fall within the ambit of a fund's business and is contrary to the Pension Funds Act. The business of a fund is to pay benefits to beneficiaries and this does not include the employer.

But Judge Friedman says there is a vast difference between a fund which is carrying on its normal business and one that is being dissolved.

He says nothing in the Pension Funds Act dealing with the winding up of a fund prohibits payment of surplus funds to an employer, provided the rules allow it and the Registrar is satisfied with the financial soundness of the surplus distribution plan. The Registrar is satisfied with the Paarl Municipality plan which will see about 71 percent being used for the benefit of present and past members of the fund.

Judge Friedman upheld the appeal and ordered the Registrar to register the rule amendment that would allow part of the surplus to be paid to the Paarl Municipality if steps are taken to wind up the fund.



# Cosatu may strike over 'pension surplus theft'

Sowetan 13/12/99

By Jimmy Seepe (300)
Political Correspondent

MILLIONS of workers around the country are likely to take to the streets in the new year in a historic pension strike, following accusations by the Congress of South African Trade Unions (Cosatu) that millions of workers' pension savings are being plundered by big business.

In a statement over the weekend raising concern about the matter, Cosatu warned about the impending pension strike. The union accused employers of awarding themselves part of the surplus from the pension scheme funds of workers.

"There is currently R80 billion in surplus in pension funds in our country," Cosatu said. "This money belongs to the members."

The union, which went on a national public wage sector strike during the first few months of President Thabo Mbeki's administration, also called on Labour Minister Membathisi Mdladlana to challenge attempts by the private sector to change the Pension Fund Act.

The union said the way the present pension fund schemes had been set up meant that bosses have not had to contribute at all to the fund after the first couple of years.

"The members and the bosses make their contributions, which are then invested. If these investments bring in enough money – as is the case at present – bosses are not required to contribute to the fund and take a contribution holiday," the union said.

"This has meant that many bosses have saved a great deal by not having to contribute to the pension funds of their workers.

"To now attempt to take some of the profit from these investments amounts to stealing from members. These are trust funds," the union statement said.

The union said it was negotiating changes to the Pension Fund Act at present that would redistribute surplus funds to members.

However, at the same time, the Financial Services Appeal Board ruled that the current law – which does not allow employers to take money from the pension funds – could be amended to allow access to these funds.

"This will lead to a rush of unscrupulous bosses trying to raid the fund surplus," the union warned.

Cosatu said workers had often lost money when they retired early because they had not been paid out the full amount of their pension.

In addition to this, much of the profit in the schemes was made from the conversion from pension to provident funds. In the past workers went out on strike over the pension fund system.

"The money in the schemes today belongs exclusively to fund members," it said. "Cosatu will resist any attempts by bosses to get their hands on that money.

"Cosatu will once again be compelled to take to the streets to halt the blatant theft of workers' funds. We cannot allow business to thrive on stolen money that rightly belongs to an already poorly paid and impoverished workforce," the union said.

# New law holds out hope for elderly

(300) ART 18/12/99

ASHLEY SMITH

Christmas is a sad time for thousands of elderly South Africans who are physically attacked by their families.

Some are beaten up in arguments, and others are robbed of their pensions for alcohol and drugs.

But this Christmas, elderly South Africans have recourse to the law.

They too are protected by the Domestic Violence Act, which came into force this week and which outlaws a range of abuse in households.

Much has been made of the law's protection of women and children from the hell of domestic abuse, but the elderly will also benefit.

Experts say the new legislation, which replaces the old Prevention of Family Violence Act, will step up the help the police and courts can offer to the one in four South African women who are abused by their partners.

Community organisation Focus on the Elderly says that proportionally people over the age of 50 fall victim to crime more than those under 50.

Of the national population of 43 million, about 5,6 million people are over 50. About 35 000 of these people fall victim to crime each year.

Children are also targeted, with about 62 000 of the country's 15,8 million becoming victims of crime.

The legislation's biggest improvement is the broadening of the types of relationships covered by the law.

Previously, only married couples and women living with their partners or who had lived with their partners were included.

The new act includes the elderly, who are often abused by their children or staff at retirement homes.

Police who fail to act on complaints could be charged with misconduct.

The new law has also extended the definition of domestic abuse, and protection orders, which replace interdicts, will be available from courts day or night and will be served free of charge. Previously this service cost R75.

The law allows police to arrest alleged abusers without a warrant and makes provision for the seizure of firearms and other weapons from alleged abusers.

Marilyn Lilley, of Focus on the Elderly, said the organisation had recently been inundated with stories of "incredible abuse" against people as old as 96.

The organisation was the only group to make a submission about the rights of the elderly in the drawing up of the new Domestic Violence Act.

Ms Lilley cited stories of pension money being used by family members to buy drugs and alcohol, and the physical, verbal, emotional and financial abuse of the elderly by their children.