

Declaration on retirement funds

Labour demands say

Dissatisfied labour federations met earlier this year to discuss the state of retirement funds. **Elijah Chiwota** reports on some of the main points that emerged from a conference declaration which outlined the transformation of funds, expectations of a social security policy and responses to national treasury proposals.

A recent conference in April on retirement funds that was organised by South Africa's three main labour federations, the Congress of South African Trade Unions (Cosatu), National Council of Trade Unions (Nactu) and the Federation of Unions of South Africa (Fedusa), put forward what labour wanted from government policies on retirement funds.

They discussed how the funds could be transformed; progress towards a long-awaited comprehensive social security policy document; and the national Treasury's policy proposals on the financial sector and retirement funds that were released earlier this year.

Attended by more than 100 delegates, the conference which was held in Rustenburg was the third in which the labour constituency came together to discuss retirement funds. The key recommendations that came out of the conference included the need for a complete overhaul and transformation of the social security system in a way that improved workers' lives.

Although the conference organisers expected a 'high-level political engagement' with the minister of Finance, Pravin Gordhan,

who initially confirmed attendance, this did not happen as an official from the national Treasury attended instead.

This irked the organisers: 'Treasury's approach to handling this matter, as well as the tone of this "engagement", is further proof of the paternalistic and unilateral attitude of Treasury that feels it is best able to decide what is good for labour.'

Furthermore, labour was unhappy that it had been excluded from the policy processes which were reportedly at an advanced stage with dates even set up for the implementation phase.

'Yet there has been no significant engagement with labour to identify policy choices which take forward the previous discussions, which were abandoned by the government in 2007.'

CONTEXT AND CHALLENGE

The debates on retirement funds and social security have been going on for some time. The *Taylor Committee of Enquiry into Comprehensive Social Protection (2002)* found out that there was incoherence between the pillars of the current social security system such as the Unemployment Insurance Fund, social grants and

retirement funds. As a result large groups in society fell out of the loop and did not have social protection.

Discussion papers from the Treasury (2004) and Department of Social Security and Treasury (2007) had proposals on social security, a national social security fund, and the transformation of retirement funds. However, there was no clarity on various government documents from different departments. The documents said different things and sometimes even had competing mandates.

Despite the government's promise to address this discord through the National Economic Development and Labour Council (Nedlac), there were repeated delays, endless deliberations by an intergovernmental task team, and unfinished policy documents. To labour this was not acceptable.

'We are therefore concerned about a re-run of the 2007 fiasco: the country cannot afford to wait another four years before such critical matters are resolved ... Labour is also unhappy with the continued collusion between Treasury and the industry, which prioritises the interests of the industry over the legitimate owners of retirement funds.'

CONFERENCE CONCERNS

The conference did not support the national Treasury's 'piecemeal' and 'bull dozing' approach to the reforms. The delegates argued that retirement funds did not function outside of a comprehensive social security system but was part of it.

Mandatory preservation, which the conference did not support, means that a worker will not be allowed to withdraw their retirement funds before the retirement date. This meant that the funds were not available to the worker in the event that they needed them. The conference agreed that mandatory preservation could not be implemented in a situation where there is no income support for the majority of unemployed workers.

Furthermore, 'Treasury is calling for the termination of provident funds, a complex and explosive issue, which cannot be addressed in such a high-handed way. We therefore wanted to assure workers that nothing will happen without their consent. The conference called on Treasury to cease these counterproductive interventions, and to submit to the process of discussing the comprehensive reforms.'

It was noted that consultation with labour was superficial. 'Extensive consultation appears to have taken place between the Treasury and the Financial Service Sector, both on their piecemeal proposals and the pending policy paper, over a prolonged period of time. However, organised labour has been excluded from this process which has evolved since 2007, apart from minimal and superficial contact. This is an insult to workers, since decisions are being taken about them on critical issues of interest, including how their pensions, which are deferred pay, are managed. "Nothing about us, without us"!'

Representations that were made at the conference showed that clarity continued to dodge the process. 'Signals from departments,

including inputs which were made to the conference, suggest that there remains vagueness and incoherence within government on important aspects of the proposals, including key questions such as income support for the unemployed.'

The conference also called for the reforms to take into account international conventions. 'Furthermore, we call on government to align its policy proposals with the commitments and pillars set out in the documents and conventions of the International Labour Organisation; and the conclusions of the Second African Decent Work Symposium held in Yaoundé, Cameroon on 6-8 October 2010, which set out the horizontal and vertical components of a comprehensive social protection system.'

RETIREMENT FUND PRESERVATION

On mandatory preservation, the conference felt that this was probably desirable in societies where the unemployed had guaranteed income. However, implementing this policy in the absence of a comprehensive social security system that includes universal income support for the unemployed does not make sense.

Delegates believed that widespread consultation and discussion with affected workers was necessary before any policy could be adopted. The historical, social and economic contexts also had to be taken into account. It is from these contexts that one understood unemployment and poverty faced by workers.

Other related issues were the replacement rates on retirement. A replacement rate is the percentage of a worker's pay that will be paid after retirement. There is also a percentage which could be taken as a lump sum. In the event that preservation was introduced, how could workers access savings for unforeseen life events?

The conference resolved that before a conclusion was reached

on retirement fund preservation, there should be an investigation into ensuring fairness and equity and protection of workers including adequate provision for old age, when changing jobs, in unemployment, divorce and retirement.

'Different considerations apply to each of these situations and rigorous investigation is required on the appropriate policy options. Labour has resolved to set up a working group in Nedlac, with the support of the necessary expertise, to thoroughly debate and consider the options.'

TRUSTEE EDUCATION

The capacity of trustees, the type of training available and how it was delivered, and the need for advanced training for experienced trustees came up for discussion. From this a training approach was developed.

'The concept includes basic trustee training that we suggest should, by law, have to take place at least within the first six months of trustees being appointed. The Act should also compel employers to give employees sufficient time off to undergo this training. The training should be pitched at different levels, starting with the mandatory basic training covering a basic understanding of the Act, rules and terminology used. It should provide a basic understanding of all types of funds.'

The training would include some of the following topics:

- retirement/annuity, preservation, pension contributions and benefits and provident funds; different types of trustees and their fiduciary duties;
- the Pension Fund Act, rules, regulations and all relevant legislation and pension fund adjudicators such as the Financial Services Board and the Tax Act;
- investments including issues such as different asset classes and fund management; responsibilities and accountability of trustees; as well as communication and general member education.

DISCLOSURE AND TRANSPARENCY

Non-disclosure and transparency issues will be addressed by the Nedlac labour constituency. This would help to clarify a number of issues:

- inability to compare fund products;
- unclear mechanisms such as fees and premiums of which create confusion;
- pricing and risk diversion not being understood by most contributors;
- statutory requirements to ensure disclosure of information.

The Nedlac labour constituency will also look at making documents and statements available in simple language. This will apply to regular *annual statements* including: contributions already accumulated from both the employer and employee; likely pension benefit if the worker continues with contributions until retirement, adjusted for inflation; and investment risk.

The member must also receive simple language documents that explain contributions needed to reach a level where workers would get at least 75% of their salary during retirement and benefits due to beneficiaries upon death or disability. The breakdown of administration, investment fees and benefits must also be explained clearly to members.

PUBLIC SECTOR RETIREMENT FUNDS

The difference in the application of laws between public and private sector pension funds needs attention.

The conference recommended 'a single legislative architecture that requires all retirement funds to register under the ambit of the Pension Fund Act and to be under the scrutiny of the Financial Services Board.'

For example, if local government funds are put into a single fund this will eliminate 'discriminatory, differing and



L-R: Bheki Ntshalintshali and Dennis George part of labour's team on retirement funds.

incoherent benefits with regards to employer contributions awarded to employees in the 27 local government sector funds,' states the declaration.

WAY FORWARD

The conference resolved to urgently seek a high level meeting with government to get clarity. These issues including those identified above as well as the proposed process around the release and engagement on government's pending proposals, government's time-frames for negotiation and implementation and the scope and character of its proposed policy interventions.

'Organised labour will set up working groups to prepare for engagement at Nedlac; to commission appropriate research and expert input; and to analyse and assess the various policy options.

'We appeal to the president to ensure that there is coherence and

integrity in the proposals being put forward by various government departments, and that identified problems of non-consultation, paternalism, and piecemeal interventions, are decisively addressed and brought to an end.

'Organised labour commits itself to addressing the identified challenges with the urgency and seriousness they deserve, and to engage more broadly with civil society, to ensure that the issues of workers, the unemployed, and other sectors are taken on board.' ^{LE}

This is a summary of the Declaration of the Third Labour Constituency Retirement Funds Conference. For further information contact the Overall Labour Convenor: Bheki Ntshalintshali 082 563 6973; Cosatu - Isaac Ramputa 082 652 8121; Fedusa - Dennis George 084 8051529 and Nactu - Manene Samela 082 416 6723.