

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 37

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DUE TO PARLIAMENT: 13 MARCH 2009

DR D T GEORGE (DA) TO ASK THE MINISTER OF FINANCE:

- (1) With regard to the implementation of the Pension Funds Second Amendment Act, Act 39 of 2001, how many surplus apportionment schemes have been (a) approved and (b) remain outstanding;
- (2) whether any specific steps are being taken to hold to account those funds whose schemes have not been submitted; if not, why not; if so, what steps?

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REPLY:

- (1) A significant number of the approximately 13 500 registered retirement funds are dormant, and the FSB has initiated a project to get these funds deregistered. Consequently, the surplus schemes to be submitted are significantly less than previously estimated by the FSB.

To date, according to the FSB, the actuarial surplus schemes amount to R18,7 billion, of which R15,7 billion has been approved for distribution.

Stand-alone funds

The bulk of the surplus is in stand-alone funds. The latest estimate by the FSB of the number of stand-alone funds that ought to submit surplus apportionment schemes is approximately 7 800.

Up until 31 January 2009 a total of 7 213 surplus submissions have been made to the FSB. Of these, 649 surplus apportionment schemes have been approved and 5 915 nil schemes have been noted.

Umbrella funds

These multi-employer funds are mostly defined contribution arrangements with little or no surplus.

As each participating employer in an umbrella fund has to comply with the surplus legislation, the number of submissions is significantly higher than for stand-alone funds.

Up until 31 January 2009, a total of 11 925 surplus submissions have been made to the FSB. Of these, 374 surplus apportionment schemes have been approved and 10 762 nil schemes have been noted.

For the balance of submissions, more information has been requested, as the Registrar of Pension Funds has to be satisfied that the submission complies with the Act.

Number of surplus apportionment schemes outstanding

The latest estimate available to the FSB indicates that approximately 500 to 600 surplus apportionment schemes remain outstanding.

Bargaining Council Funds

Retirements funds established through bargaining council arrangements were only brought under the auspices of the Pension Funds Act following the promulgation of the 2007 Amendment Act.

The surplus apportionment dates of these funds will be determined upon finalization of their registrations.

- (2) The following steps are taken by the FSB to ensure compliance:
- The Registrar of Pension Funds is issuing a Directive to make funds aware of the legislative requirement to make a surplus submission, especially nil schemes, following the promulgation of the 2007 Amendment Act.
 - The Chief Actuary regularly interacts with the major administrators to request updated information of the surplus submissions relating to funds under their administration.
 - Where a fund has a surplus available for apportioning, the Registrar is actively appointing *ad hoc* specialist tribunals to complete the surplus exercise. This has occurred in no less than 317 stand-alone funds, and 136 participating employers of umbrella funds. The remedy of appointing a tribunal is not available to nil schemes.

- The Registrar may revert to levying penalties in respect of funds who fail to submit schemes or who fail to respond to queries.
- Many of the processes relating to the day-to-day running of funds, such as section 14 transfers and some rule amendments, are placed on hold until the Registrar is satisfied that the fund has complied with the surplus legislation. In many cases, this serves as an incentive for funds to expedite the process.
- The implementation of a risk-based supervision approach penalizes funds that fail to make surplus submissions, hence influencing the assessed risk of the funds in question.
- As a last resort, once all other remedies have been exhausted, the Registrar may also remove and / or replace boards of trustees.
- Complications arise in the case of dormant funds and / or funds without properly constituted boards. The Registrar deals with these based on the guidance of its own legal advisors.