



BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY OF THE WESTERN CAPE

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Provident Fund for the Furniture Industry of the Western Cape

Surplus Communication Number One

Introduction

With effect from May 2009 all Bargaining Council retirement funds became subject to the Pension Funds Act, under the supervision of the Financial Services Board.

One of the requirements of the new legal framework now governing the **Provident Fund for the Furniture Industry of the Western Cape** ("the Fund"), is that the trustees of the Fund comply with legislation that requires that any "surplus" monies in a retirement fund must be divided amongst all the stakeholders of the fund, including any members who had left (resigned, retired, etc.) that retirement fund since 1980.

The wording of this legislation is quite complicated and there may be different interpretations. This document is based on the interpretation of Old Mutual Corporate, and has been prepared to assist you to understand the main features of the Surplus Act and its impact on funds and their stakeholders. For more details you can refer to the Surplus Act which may be found on the website of the Financial Services Board ("FSB") at www.fsb.co.za (follow links from there).

This document is intended to help you, as a member of the Fund, to understand what needs to happen going forward regarding any "surplus" in your Fund, and, importantly, to manage your expectations of what this may mean for you personally.

It is very important to understand from the outset that:

- There is a long and complicated process to be followed before it will become clear whether there is any "surplus" money which must be distributed to stakeholders
- It is unlikely that there will be any allocations of money to current active members of the Fund, and if there are, this money will be added to fund balances and not available in cash

The rest of the document is in a question and answer format, and aims to address some of the common questions Fund members have about the process.

Question 1: When will we know whether the Fund has a “surplus”?

Answer:

The Fund’s trustees need to decide on the “**Surplus Apportionment Date**”, which is the date an evaluation of the Fund must be conducted by a qualified actuary, registered with the Financial Services Board, to find out whether there is a surplus which needs to be distributed.

The Surplus Apportionment Date approved by the trustees is **31 October 2010**. In order for the actuary to complete his investigation, audited financial statements of the Fund, as at the Surplus Apportionment Date, must be completed. The preparation of financial statements and the audit conducted by an independent auditor, will only be completed well into 2011, where after the actuary will begin his evaluation. The final report from the actuary will probably only be completed early in 2012, which will identify whether the Fund has a surplus as at 31 October 2010.

Question 2: What happens if the actuary determines there is no surplus?

Answer:

This would mean that there is no extra money in the Fund, and thus nothing to distribute between the stakeholders. The Financial Services Board will check the surplus report completed by the actuary, to ensure it has been done in terms of prescribed principles and guidelines.

Question 3: What happens if the actuary determines there is a surplus?

Answer:

If there is a surplus in the Fund, the Trustees are required to develop a **Surplus Apportionment Scheme** by following a series of steps:

- The Trustees must appoint a Former Member Representative. This person, who does not necessarily need to have been a former member of the Fund, is responsible for the protection of the rights of the former members.
- The Trustees are required to facilitate the provision of necessary data in respect of former members (dating back to 1980) to enable the actuary to allocate surplus between stakeholders.
- If there is insufficient data to perform this function, the Trustees are required to place advertisements encouraging former members to register and provide necessary data. At least 6 months must be allowed for this process.
- The Surplus Apportionment Scheme must allow for the allocation of surplus in line with the Surplus Act, which will require upgrades to be paid to former members who left the Fund before the Surplus Apportionment Date.

- The Surplus Apportionment Scheme must be communicated to all stakeholders, who are then granted a 12 week period in which to provide feedback.
- The Surplus Apportionment Scheme can then be finalised and submitted to the Registrar of Pension Funds.
- The Surplus Apportionment Scheme is to be submitted within 18 months after the Surplus Apportionment Date – that is, by 30 April 2012. (Experience from other Funds has shown that it is extremely difficult to complete the entire process in 18 months).
- The Surplus Apportionment Scheme has to be formally approved by the Financial Services Board before any payments can start. This approval process can take many months.

Question 4: If there is a surplus, who is entitled to the money?

Answer:

The law in this regard says that the first claim on the surplus is from former members who did not get a fair payment (defined as their “Minimum Benefit” in the Surplus Act) when they left the Fund. Additional payments must thus first be made to all these people.

Given the nature of the Fund, it is likely that if there is a surplus at Surplus Apportionment Date, the bulk, if not all of it, will be used to top up the benefits originally paid to former members of the Fund who did not receive their Minimum Benefit. “Minimum Benefit” means all member and company contributions, plus Fund interest. If there is any surplus left after this, the balance of the money can then be divided between all stakeholders, being the former members of the Fund, the current active members of the Fund, and the Employers. The Trustees need to agree a fair allocation in this regard.

Question 5: I am an active fund member. If I am allocated any surplus money, can I get it paid to me in cash?

Answer:

No. The law does not allow cash payments to active fund members. If you do receive an allocation, it will be added to your balance in the Fund, and will only be available when you leave the Fund.

If you left the Fund, and re-joined at a later date, and are currently an active member of the Fund, any entitlement you may receive as a former member will be added to your balance in the Fund.

Question 6: What happens to former members of the Fund who have died? Will their families receive any money?

Answer:

The precedent is that only former members who are alive at the Surplus Apportionment Date will be entitled to a benefit. Thus, only the beneficiaries of former members who die after 31 October 2010 would be potentially entitled to a benefit.

Question 7: This is all very complicated and I don't understand it ! As an active Fund member, what are the key points I need to understand about this process?

Answer:

There are three main points to understand at this stage:

1. The process is going to take **a long time** to complete. This is not the fault of the trustees or the administrator of the Fund, but simply due to the complexity of all the required steps, as prescribed in legislation.
2. It is unlikely that there will be much money, if any, to distribute to active fund members.
3. **No cash payments** can be made to anyone who is still an **active fund member**.

Question 8: Will I be informed regarding progress with the process?

Answer:

Yes. The Trustees will provide further communication going forward, so all stakeholders are kept informed.

This summary has been prepared by the trustees of the Fund, with input from Old Mutual Corporate.