

NEWS FLASH: 7 JANUARY 2019



MGF

MUNICIPAL GRATUITY FUND

1. BEST WISHES FOR 2019

The trustees and staff of the MGF wish all members a wonderful 2019. May you through your service to the local community add value to our municipalities and be personally enriched accordingly.

2. RATIONALISATION OF MUNICIPAL RETIREMENT FUNDS

A comprehensive summary of the sequence of events regarding the rationalisation of municipal retirement funds since 2001 was included in the 22 June 2018 News Flash. Since then the following transpired in this regard:

- 2.1 The Bargaining Council released a "Draft Retirement Fund Collective Agreement" on 28 August 2018, inviting comments from municipal retirement funds. The Fund submitted comprehensive comments.
- 2.2 A meeting was held with the Pension Fund Task Team of the Bargaining Council on 26 September 2018 to discuss the contents of the Draft Retirement Fund Collective Agreement. At this meeting the acting chairperson of the Pension Fund Task Team mentioned that an application was submitted to National Treasury to amend the Pension Funds Act to allow a municipality to unilaterally withdraw from participating in a pension fund.
- 2.3 A legal opinion was obtained by the Fund from a prominent senior retirement fund advocate about the position of a retirement fund in the event of a bargaining council collective agreement introducing new arrangements. It is clear from the legal opinion that retirement funds are not parties to the bargaining process in terms of the Labour Relations Act. As long as the parties to the bargaining council follow the law, the retirement funds cannot prevent a collective agreement being reached. Negotiations regarding a bargaining council collective agreement are fully within the domain of the participating parties, namely in this event, SALGA on the employer side and IMATU and SAMWU on the employee side. Therefore, if members of the retirement funds are concerned about the rationalisation process as captured in the draft collective agreement, they must voice their concerns with their trade unions, IMATU and SAMWU. The Fund and other retirement funds have no authority in law to enter the bargaining arena created by the Labour Relations Act. The Fund may and does engage with the Pension Fund Task Team in the best interest of Fund members. However the Fund has no legal enforcement power. Such power lies with the concerned members by addressing the matter with IMATU and SAMWU who are representing them in the bargaining process.
- 2.4 As indicated in paragraph 13 of the 22 June 2018 News Flash, section 9 of the Fund Rules requires a 90% approval by Fund members for a municipality to withdraw as a participating employer. If however, as mentioned in paragraph 2.2 hereinbefore, the Pension Funds Act is amended to allow a participating employer to withdraw unilaterally, section 9 will become nul and void. Notices of draft amendments to the Pension Fund Act are closely monitored to ensure that the opportunity to comment on such proposed amendment is not missed.
- 2.5 Members will be kept informed of further developments as and when the Fund becomes aware of it. However, members are urged to insist on being kept informed by IMATU and SAMWU which are much closer to the fire and are in a much better position to provide information, having direct access thereto.

3. ONE THIRD PAYMENT

Members will recall the controversial matter and many news flashes since 2012 about the amendment of the law providing that a maximum of one-third of the retirement benefit may be paid in cash and that the remaining two-thirds be converted to a monthly pension. Implementation of this arrangement was eventually postponed to 1 March 2019. Government announced that implementation has once again been postponed to 1 March 2021.

Yours sincerely

Dewald Jacobsohn
CHIEF EXECUTIVE OFFICER