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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

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### DEPARTMENT OF LABOUR NOTICE 967 OF 2015

National Extraordinary Gazette No. 39265 of 7 October 2015 is hereby withdrawn and replaced with the following:

#### UNEMPLOYMENT INSURANCE AMENDMENT BILL, 2015

#### PUBLICATION OF EXPLANATORY SUMMARY OF THE UNEMPLOYMENT INSURANCE AMENDMENT BILL, 2015

#### NOTICE IN TERMS OF RULE 241(1)(b) READ WITH RULE 241(1)(c) OF THE RULES OF THE NATIONAL ASSEMBLY OF PARLIAMENT: THE INTENTION TO INTRODUCE THE UNEMPLOYMENT INSURANCE AMENDMENT BILL, 2015 IN THE NATIONAL ASSEMBLY

- 1 I, **Mildred Nelisiwe Oliphant**, The Minister of Labour, intends to introduce the Unemployment Insurance Amendment Bill in accordance with Rule 241(1)(b) of the Rules of the National Assembly of Parliament. The explanatory summary of the Bill is also published in accordance with Rule 241(1)(c) of the Rules of the National Assembly.

The Bill seeks to amend the Unemployment Insurance Act, 2001, so as to provide for the extension of the unemployment insurance benefit to learners who are undergoing learnership training and civil servants; to adjust the accrual rate of a contributor's entitlement to unemployment insurance benefits; to finance employment services; to extend a contributor's entitlement to benefits under certain circumstances; to provide for the process of application for maternity benefits; to repeal some enforcement provisions; to empower the Unemployment Insurance Board to provide in its constitution for the functions of regional appeals committees; to amend the schedule 2 to the Unemployment Insurance Act, 2001 so as to provide for the adjustment of the Income Replacement Rate; and to provide for matter connected therewith.

- 2 A copy of the Bill and the Memorandum on the objects of the Bill can be obtained from c/o the Department of Labour, The Unemployment Insurance Fund Commissioner.

**By Post or Fax or Hand Deliveries**

Department of Labour

The Unemployment Insurance Fund Commissioner

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**MN OLIPHANT, MP**

**MINISTER OF LABOUR**

23/09/2015

## **MEMORANDUM ON THE OBJECTS OF THE UNEMPLOYMENT INSURANCE AMENDMENT BILL, 2014**

### **1. BACKGROUND**

The Unemployment Insurance Act, 2001 (Act No. 63 of 2001) (the Act), came into operation on 1 April 2002. The purpose of the Act is to establish an Unemployment Insurance Fund (UIF) to which employers and employees contribute and from which employees who become unemployed, or their beneficiaries as the case may be, can benefit. In that regard, the harmful economic and social effects of unemployment can be alleviated. In order to improve service delivery by the Fund, the Unemployment Insurance Board decided to recommend to the Minister that the Act should be amended so as to meet these demands.

### **2. OBJECTS OF BILL**

#### **2.1 The Bill seeks to---**

(a) adjust contributor's entitlement to benefits and extend the unemployment insurance benefits so as to benefit the employees who are under contract of employment contemplated in section 18(2) of the Skills Development Act, 1998 (Act No. 97 of 1998) and employees as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994); and

(b) make certain adjustments in respect of Income Replacement Rate (IRR) and also amend the constitution of the Unemployment Insurance Board so as to provide for the functions of the regional appeals committee.

### **3. OVERVIEW OF BILL**

#### **Clause 1**

3.1 The Bill seeks to amend section 3 of the Act by extending unemployment insurance benefits to employees who are under contract of employment contemplated in section 18(2) of the Skills Development Act, 1998 (Act No. 97 of 1998) and employees as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

#### **Clause 2**

3.2 The Bill seeks to amend section 5 of the Act so as to make provisions for the refinancing of the unemployment insurance beneficiaries to facilitate re-entry into the Labour market.

#### **Clause 3**

3.3 The Bill seeks to amend section 7(1) of the Act which deals with the investment of money of the Unemployment Insurance Fund. The Bill also seeks to provide for the money of the Unemployment Insurance Fund, other than the money required to meet the current expenditure of the Fund to be deposited on behalf of the Fund with the Public Investment Corporation in accordance with the Public Investment Corporation Act, 2004 (Act No.23 of 2004) and other applicable legislation.

**Clause 4**

3.4 The Bill seeks to amend section 11 of the Act by providing for the designation of any employee or functionary of the Fund or Department to be the Accounting Authority should a need arise.

**Clause 5**

3.5 The Bill seeks to amend section 12 of the Act by providing for the payment of benefits to contributors who lose part of their income due to reduced working times and to provide for a fixed rate of the payment of maternity benefits.

**Clause 6**

3.6 Section 13(3) of the Act provides that a contributor's entitlement to benefits accrues at a rate of one day's benefit for every completed five days of employment as a contributor subject to a maximum accrual of 365 days. It has been found that the maximum of 238 days is not in line with Schedule 2 as proposed in the Act. In order to address this anomaly, an amendment to section 13 of the Act is proposed in order to provide for 365 days instead of 238 days.

**Clause 7**

3.7 Section 13 is further amended by the insertion of a new provision which seeks to allow contributors to claim benefits if they have credits regardless of whether they claimed within that four year circle.

### **Clause 8**

3.8 Section 14(a)(ii) and (iii) of the Act provides that, amongst other things, a contributor is not entitled to benefits for any period that a contributor was in receipt of benefits from Compensation Fund or benefits from any unemployment fund or scheme. Since similar provisions of this section (a person receiving a monthly pension from the State) have been repealed by the Revenue Laws Amendment Act, 2006, the Bill seeks to repeal paragraph (a) of section 14 of the Act to be in line with Revenue Laws Amendment Act, 2006.

### **Clause 9**

3.9 The Bill seeks to amend section 15 of the Act so as to provide that the date of unemployment is deemed to be the date of the application of benefits

### **Clause 10**

3.10 Section 17 is amended in order to increase the period of submitting application for unemployment benefits. Currently applications must be submitted within six months and the proposal is to extend the period for submitting unemployment benefits from six to twelve months.

### **Clause 11**

3.11 The Bill seeks to amend section 20 of the Act so as to provide that a contributor is entitled to illness benefits if the days of illness are less than 14 days.

### **Clause 12**

3.12 The Bill seeks to amend section 24 of the Act so as to provide for a period when a contributor is entitled for maternity benefits in case of miscarriage.

### **Clause 13**

3.13 Section 25(1) of the Act stipulates that an application for maternity benefits must be made in the prescribed form at an employment office at least eight weeks before child birth. If a person submits an application form at least eight weeks before child birth and that person is not yet on maternity leave, the application is not considered. The Bill seeks to amend section 25 of the Act and provide for the application to be made within two weeks of the date of commencement of maternity leave.

### **Clauses 14**

3.14 The Bill seeks to amend section 26 of the Act by providing that the maternity benefits must be paid at a flat rate of 66% of the last earnings of a contributor.

### **Clause 15**

3.15 The Bill also seeks to amend section 30 of the Act by extending a period in which the dependents may apply for benefits on behalf of the deceased from six months to 18 months.

**Clause 16**

3.16 Section 30 is further amended by the insertion of a new provision allowing contributors to nominate their beneficiaries in cases of death benefits.

**Clause 17**

3.17 The Bill also seeks to amend section 33 of the Act by prohibiting any agency or a person purporting to be acting on behalf of the applicant to levy any charge or levy against the applicant.

**Clause 18**

3.19 The amendment seeks to empower the Board to appoint regional appeal committees for each region determined by the Minister.

**Clause 19**

3.19 The Bill seeks to repeal sections 38, 39, 40 and 41 of the Act.

**Clause 20**

3.19 Section 50 of the Act deals with the adoption of a constitution by the Board which must provide for the establishment and function of committees of the Board and which must include an appeals committee. When the Act was amended in 2003 the regional appeals committee was never made a committee of the Board. In order to remedy that, the Bill seeks to amend section 50(2)(a)(i) of the Act by giving powers to the Unemployment Insurance Board to stipulate functions of the regional appeals committee.

**Clause 21**



3.20 The Bill seeks to amend Schedule 2 of the Act so as to empower the Minister to vary the Income Replacement Rate and the benefit period through Regulations.

#### **4. CONSULTATION**

The following bodies were consulted:

- The Unemployment Insurance Board which is constituted by appointees of NEDLAC.
- Interdepartmental Task Team on Social Security and retirement reforms. The Task Team consist of :  
National Treasury, Department of Public Service and Administration, South African Revenue Services, Department of Social Development, Department of Labour, Department of Transport, Road Accident Fund, Department of Health and South African Social Security Agency.
- National Treasury was also consulted separately.
- The Bill was tabled and discussed with Social partners at NEDLAC and a report was issued

#### **5. FINANCIAL IMPLICATIONS FOR STATE**

The Bill has the following financial implications for the State:

- The Actuaries has issued a report on the proposed amendments and their findings is that the proposed amendments are not going to have a negative

impact on the Financial status of the Fund and that the Fund will be able to cover the cost of the proposed amendments without any difficulties.

- The inclusion of public servants will not affect the budget of the State since the UIF will pay benefits and Government reimburse the actual expenses paid as benefits.

## 6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Labour are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution of the Republic of South Africa, 1996, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 1(1)(a) of the Traditional Leadership and Government Framework Act, 2003 (Act. No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.