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FEDUSA

FEDUSA SUBMISSION ON THE UNEMPLOYMENT INSURANCE AMENDMENT BILL B 25 OF 2015

Portfolio Committee on Labour

Cape Town

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INTRODUCTION

The Federation of Unions of South Africa (FEDUSA) considered the proposed amendments to the Unemployment Insurance Amendment Bill (B 25 of 2015), and largely welcomes the proposals in principle. In light of the proposed amendments, FEDUSA would insist that sound administration of the Unemployment Insurance Fund (UIF) remains pivotal to ensure that it's long – term sustainability is not threatened or compromised, so that the intended vulnerable beneficiaries are not faced with any undue deprivation. Aimed at improving the service delivery of the UIF, these amendments have several important implications for both employers and employees. With South Africa's high unemployment rates and a significant number of job losses and retrenchments experienced in the last couple of years, the UIF plays a critical role in providing income support to the unemployed workers and it is a vehicle for payment of benefits to retrenched workers, those who take maternity leave or otherwise become entitled to benefits.

ECONOMIC OUTLOOK

According to (Robalino, D.A. and Weber. M, 2013), the mandate of an unemployment benefit system has four key parameters ; the replacement rate, the duration of benefits, the minimum benefit and the ceiling on covered earnings. The challenge is to strike the right balance between adequately protecting workers and holding down cost – both the direct effects on labour supply and the tax burden. The assertion is thus made that the increased replacement rate will be sufficient to maintain a basic level of consumption, now in particular that the scope of unemployment insurance has been extended to public servants and learnership beneficiaries.

GROWTH PRIORITY OF THE FUND AND THE REMUNERATIONS THRESHOLD

The UIF is designed to deal with frictional or short – term unemployment. Noting the current levels of unemployment and the significant reduction in employment due to the impact of the global economic crisis and other external factors, much dependency has been placed on the Fund during the last few years. Given the challenging economic environment and the downward revision in economic growth as a result of the aforementioned factors, FEDUSA welcomes the extension of unemployment insurance to public servants to ensure the continued sustainability and viability of the fund. This proactive approach will likewise ensure that the counter – effects of the proposed extension of the payment period for beneficiaries from eight months to one year, will not cause undue strain on the Fund. Government employees and fixed term workers required to leave South Africa on expiration of their terms will now also benefit from the UIF. We are pleased that this extension is being considered to cover these categories of workers which were previously considered unconstitutional.

The UIF has 8.5 million registered contributors, the fund has a surplus R72.3 billion and a net asset of R90.4 billion. It is imperative to utilize the UIF to support the creation of decent work vital for rapid inclusive economic growth, through investments instruments (Bonds) of the Industrial Development Corporation (IDC) which in turn provides funding to both existing and start-up businesses.

INCOME REPLACEMENT RATE

The Income Replacement Rate (IRR) determines the percentage of a contributor's previous income to which the contributor is entitled in the form of benefits. The IRR is a variable, so it defines a sliding scale. A contributor who previously earned a low wage is entitled to receive benefits representing a larger proportion of her or his previous income than a contributor who previously earned a higher wage.

The IRR is at its maximum when income equals zero, and it reaches its minimum where income is equal to the benefit transition income level. The maximum IRR is fixed at 60%. The minimum IRR is currently set at 38%. However, the Minister may vary the minimum IRR in terms of section 12(3)(b).

BENEFITS

The International Labour Organization (ILO) has adopted the Employment Promotion and Protection against Unemployment Convention, 1988 for promotion of employment against unemployment and social security including unemployment benefit. One of the major ideals of the convention is that it would lead to the creation and promotion of all forms of productive and freely chosen employment including small undertakings, cooperatives, self-employment and local initiatives for employment;

FEDUSA is fully supportive of the assertion that section 13(3) of the Act has been found to be out of line with Schedule 2, where a contributor is eligible to receive one day's benefit for every six completed days of employment, up to a maximum of 238 days (34 weeks). Given the changing nature of work, and with due cognizance to contractual and probationary periods in particular, FEDUSA is of the opinion that the eligible benefit must be revised up to a maximum of 365 days (52 weeks), essentially accruing one day's benefit for every four days of contributions. This upward revision would thus make provision for all different classes and categories of workers, to ensure that they are not deprived of accruing credits and accessing the maximum benefits due.

The economic turbulence experienced in the country has in many instances been a contributory factor to non - continuous employment. Henceforth, the undue effects of continued employment for a 4 – year period, poses an unfair advantage to the Fund's surplus accumulation, at the expense of workers. If a contributor has already drawn benefits in terms of this Act in the preceding four years, the number of days for which the contributor is eligible to claim benefits will be reduced accordingly. Similarly, benefits drawn as a result of ill – health, or otherwise in the preceding four years, should be carefully reviewed as the reduced benefits poses a discriminatory element, especially to those beneficiaries who are faced with job losses, lay – offs etc. and then subsequently face challenges to access their full benefits.

The provision of benefits to contributors who lose part of their income due to reduced working times is openly welcomed by FEDUSA. Economic instability and the scarcity of jobs continue to pose major challenges for ordinary South African citizens. The extension of benefits will thus permit many struggling families to remain afloat during the difficult periods following a job loss to an income earner or breadwinner.

The extension period in which the dependents may apply for benefits on behalf of the deceased from six months to 18 months is a welcoming gesture by government. The insertion of a new provision allowing contributors to nominate their beneficiaries in cases of death benefits is likewise a proactive approach to streamlining and simplifying the administrative process linked to the pay out of death benefits. This empathetic stance will ensure that accessibility can be facilitated once bereaved beneficiaries have had the necessary time and space to find themselves without facing time constraints for applying for benefits.

FEDUSA wishes to emphasise its dissatisfaction with the fact that pay out of benefits remains a bone of contention which has yet to be resolved. Effective administration and monitoring of the system requires serious intervention as the current 2 – month waiting period for accessing benefits is simply disheartening. Losing your job is traumatic, but facing the reality of being deprived of your benefits whilst creditors come knocking at your door is demoralising. This matter must be addressed with haste, as the prevailing economic headwinds may see a marked increase in recipients needing to access their unemployment benefits.

FEDUSA would strongly urge government to review the current status quo regarding the non – payment of benefits as a result of resignations. Although the legislative landscape in the country has been praised for its proactive stance in embracing sound labour relations, many workers are faced with enduring circumstances in their workplaces. Domestic workers and vulnerable sectors, desperate to secure limited employment opportunities are therefore faced with frustrating circumstances and no hope of accessing benefits.

INVESTMENT OF FUNDS

Deposits on behalf of the Fund with the Public Investment Corporation, in accordance with the Public Investment Corporation Act, 2004 is welcomed by FEDUSA. However, FEDUSA would welcome responsible investment where job – creating opportunities are linked to investments.

EXTENSION OF MATERNITY BENEFITS

Maternity protection is a fundamental human right and indispensable element of comprehensive work – family policies. It is an obligation to all of us to ensure that we promote maternal and child health and prevent discrimination against women in the workplace. The new maternity benefits amendments are of critical importance and will see payment made at a rate of 66% of the earnings of the beneficiary at the time of the application. This provision also provides for the income replacement rate of 20% payable after 238 days until 365 days. Contributors who suffer from a miscarriage during the 3rd trimester or bears a still-born child, is now entitled to a full maternity benefit of 17 to 32 weeks. This is certainly a practical and highly welcoming approach by government, to mitigate the impact suffered by the contributor.

FEDUSA is of the opinion that the additional maternity benefits are a great step in the right direction, as they emphasize the commitment of government to protect the rights of women in the workplace and provide economic security and health protection for women workers during the period of pregnancy. This amendment to the Bill could also be a key element for several employers seeking to introduce more progressive policies to attract and maintain talented female employees.

Nonetheless, FEDUSA wishes to emphasise that both maternity and paternity benefits should be embraced, in light of the ever – increasing nature of parental responsibility, advocated by gender activists and supported by constitutional rights. FEDUSA further believes that the unintended financial burden placed on females (and now same sex union partners) during periods of maternity, should be adequately addressed to ensure that the historic sense of discrimination is reduced or eliminated. Henceforth, the federation embraces the creation of a distinct, stand – alone maternity benefit provision, separate from UIF provisions, to which all categories of workers including vulnerable sectors, can contribute to and benefit from. Thus, the payment of maternity benefits does not affect the payment of unemployment insurance benefits.

FEDUSA believes that the critical aspect of leave for adoptive parents has still not been given the necessary and urgent attention it requires. We believe that the matter must be incorporated as a priority, and be brought in line with the mandatory four consecutive months of maternity leave for women employees as stated in the Basic Conditions of Employment Act. Paid time-off for new mothers - whether through childbirth, adoption or surrogacy - is an employee incentive internationally, with companies such as Netflix, Adobe and Google setting the standard by offering new parents unlimited paid leave during the first 12 months and primary caregivers afforded leave of 16 weeks and 12 weeks respectively regardless of gender. Though South Africa does not regulate the provision of adoption, government institutions allow both adoptive parents a 45-working-day leave, whilst Stellenbosch University and Parliament lead the way in South Africa. They offer up to four months' leave to mothers who adopt a baby. FEUSA notes with serious concern that this is not yet widely offered in the private sector, where adoption leave is at the discretion of employers, resulting in many adoptive mothers being forced to settle for either unpaid leave or the minimum three days of paid family responsibility leave, similar to that provided to fathers for paternity leave. FEDUSA therefore believes that this is highly insufficient and unfairly discriminatory.

FEDUSA believes that the missing legislative provision is an insult to citizens who undergo the tough adoption system. By not allocating primary caregivers or adoptive parents the same time off as natural mothers to bond with and care for their children is unconstitutional in that it violates the rights of both the child and parent. FEDUSA thus appeals to the Department of Labour to incorporate this provision, so that South Africa could join Denmark, Singapore, the US and UK in making provision for statutory adoption leave through legislation.

LEARNERSHIPS

FEDUSA welcomes the proposed extension of UIF benefits to learners who are undergoing learnership and training programmes. The main purpose of learnerships is to enhance employability within economic sectors. The extension and provision of UIF benefits will offer the learners who are not employed at the end of the learnership a bit of a life line, and some capital to pursue employment opportunities with their new found skills and become active participants in the labour market who contribute towards inclusive economic growth our country.

CONCLUSION

FEDUSA embraces the forward – thinking approach by Government to advance the prospects of a safeguarding unemployment benefits. Fine tuning of the UFiling system should also be finalised, so that accessibility, streamlining and simplification of the system can be realised, as the site is hampered by continued inaccessibility and user unfriendliness.

However, FEDUSA would encourage the Department of Labour to stage extensive roadshows to raise awareness and popularise the various initiatives that have been put in place. Similarly, employers should take added responsibility to equip their employees with the information required to access their benefits.

It is therefore imperative that the ideals of Decent Work and Decent Life For All prevails and resonates throughout this legislative framework, to ensure that the safety and security of our members and desperate South African citizens are prioritised, whilst restoring their sense of dignity during these vulnerable times.

Thank you,