

# IMATU MAIL

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## FINANCIAL SERVICES BOARD RULES THAT SALGA DID NOT HAVE THE RIGHT TO REGISTER THE LOCAL GOVERNMENT PENSION FUND

In August 2007 **IMATU**, FEDUSA and various other local government pension funds, lodged an appeal with the Financial Services Board against the Registrar's decision to register the Local Government Pension Fund (LGPF).

At the hearing, which was chaired by Advocate Sithole SC, **IMATU** and the others argued that SALGA's application did not meet with the requirements for a pension fund and that the Registrar's decision was based on wrong or unproven information. **IMATU** and the others also submitted that the registration of the LGPF was against the public interest.

The Financial Services Board of Appeal found that

SALGA's actions in trying to register the LGPF were 'highly suspect and deficient'. The Board agreed with the appellants that SALGA's application to create a new pension fund was not in the public interest. **IMATU** and the other parties were successful in their appeal to overturn SALGA's attempt to register the LGPF.

**IMATU** wishes to thank the various pension funds for their active role in this matter, and in particular, Hein Herbst, the former Chairperson of the Cape Joint Pension Fund. **Once again, IMATU wishes to assure the members that your union will continue to do its utmost to protect your pension rights.**



### IMATU NATIONAL EXECUTIVE COMMITTEE AUGUST 2008

**BACK ROW:** C Adams (Deputy General Secretary: Legal & Research), D. Joubert (Vice-President: Strategic Committee), J.Malematja (Vice President: Finance Committee), H. Duminy (Vice President: Labour Relations Committee), K. Goodsell (Vice President: Human Resources and Development Committee), S. Gray (Deputy General Secretary: Operations), T. Simelane (HR Manager).

**FRONT ROW:** S. Khoza (Deputy President and Chairperson of Executive Committee), D. Carstens (President), J. Koen (General Secretary).

## KGALEMA MOTLANTHE: SOUTH AFRICA WILL HAVE A SINGLE PUBLIC SERVICE AFTER THE ELECTIONS

Two weeks after Parliament decided to defer the Public Service Management Bill, the former Minister for the Presidency, Kgalema Motlanthe, now the President of South Africa, announced that the country would have a single public service after the elections. The government is still adamant that a single public service will enhance service delivery. However, those who oppose the proposed bill argue that national ministers will have the power to meddle in local and provincial government affairs.

Mr Motlanthe said that discrepancies between the different civil services have led to anomalies that have affected service delivery. Former

Public Service and Administration Minister Geraldine Fraser-Moloketi blamed the delay in passing the bill on Parliament.

**IMATU fears that the creation of an even bigger bureaucracy will lead to a further breakdown in service delivery, rather than the improvement that the people behind this bill use as a justification for transferring municipal employees to the Public Service. The Public Service is already struggling to cope with the various services under its command and there is no evidence to suggest that taking on even more burdens will benefit the people of South Africa**

## GAUTENG PROVINCIAL GOVERNMENT AND SALGA ANNOUNCE THAT REDS MUST BE ESTABLISHED WITHOUT DELAY

**IMATU** has noted with concern the recent report in the Business Day that, according to Ms Phindile Nzimande, the CEO of EDI Holdings, the three Gauteng REDS (Regional Electricity Distributors) will be established by March 2009. The Gauteng Provincial Government and SALGA (the South African Local Government Association), which represents the municipalities, have also announced that the REDS process must proceed without delay.

**IMATU** has objected to the establishment of the REDS from the onset and has raised its objections at the various organs of state and other stakeholders over the past number of years. **IMATU** has outlined many major concerns regarding the proposed establishment of the REDS companies. **To date these concerns have not been addressed by the EDI Holdings Company.**

These concerns are summarised as follows:

- There is no evidence that the proposed REDS companies can be financially viable. If the REDS are not viable, it will have a major impact on their ability to compensate municipalities for the transfer of assets.
- If the REDS should collapse or fail to deliver, this would have a hugely detrimental effect on electricity distribution in the country.
- Thousands of municipal employees would have to be transferred to REDS, and there is no guarantee that these workers will not suffer financially as a result.
- A substantial portion of the revenue generated by municipalities is derived from electricity sales. This revenue is in turn utilised to pay for other non-income-generating municipal services such as fire stations, municipal policing, libraries and environmental health. If the municipalities lose this income, it would have a serious impact on the municipalities' ability to render

these services.

- Should the revenue derived from electricity sales be lost to the municipalities (and not adequately compensated for by the REDS companies for the reasons cited above), there will be a dire impact on the ability of the municipalities to render these services and have a commensurate negative effect on ratepayers and communities.
- Unless the REDS should find a formula for compensating municipalities for the loss of the income from the sale of electricity, every community will have to pay much more for services, or run the risk of losing these services altogether.
- There is no clarity as yet, as to what effect the transfer will have on electricity employees who have contributed to local government retirement funds. **IMATU's** attorneys have taken the matter up with National Treasury and we await their response.

**IMATU is gravely concerned that the unrealistic timeframes that have been set for the establishment of the REDS companies would lead to the failure of the REDS, and that in the rush to comply with politically set timeframes, certain realities will be ignored.**

### **Shop Stewards Training Course. Johannesburg: 2 September 2008**

City Power Shop Stewards proudly displaying their diplomas at the graduation ceremony



# WAGE DEDUCTIONS: WHAT ARE YOUR RIGHTS?

Section 34 of the Basic Conditions of Employment Act is very specific about the circumstances that permit an employer to deduct any monies from an employee's wages.

Employees cannot refuse to allow the employer to deduct monies for the payment of income tax and unemployment insurance. The employer is also compelled to obey garnishee orders issued by the court to deduct monies for the repayment of debts and child support. In addition, if it is a condition of employment or a collective agreement that an employee will be required to join a medical aid and retirement fund, the employee will not be able to prevent the employer from deducting contributions to these funds and schemes.

**In terms of Section 34A of the BCEA an employer that deducts any amount from an employee's wages for the payment of a benefit fund (medical aid or retirement fund) must pay the amount to the fund within 7 days after the deductions were made. Please inform IMATU if you become aware that your employer has failed to pay these amounts within the required time period.**

## DEDUCTIONS FOR LOSS OR DAMAGE TO EMPLOYER PROPERTY

The employer does not have an unrestricted right to make deductions for the repayment of loss or damage of employer property.

Firstly, the loss or damage must have occurred during the course of employment.

Secondly, it should be clear that the employee is responsible for the loss or damage. The employer must



follow a fair procedure and provide the employee a reasonable opportunity to explain why s/he is not responsible for the loss or damage. The employee is entitled to be assisted by a shop steward or fellow employee during this process.

The total amount of the debt may not exceed the actual amount of the loss or damage. In other words, the employer may not add any interest, collection or administration fees, nor may the employee be compelled to pay a fine.

The employee has to agree in writing to the deduction. However, if the employee should refuse to agree to the deduction without good reason, the employer may refer the matter to the court or to arbitration, whereafter the employee may be compelled to repay the cost of the loss or damage.

In terms of the BCEA, the employer may not deduct more than a quarter of the employee's remuneration.

## OVERPAYMENTS OF WAGES, OVERTIME OR ALLOWANCES.

The bad news is that if the employer should mistakenly overpay an employee, the overpayment may be recovered from the employee's wages without the employee's consent. Employees are advised not to regard overpayments as an unexpected bonus, but should rather consult the employer if they are unsure whether they are entitled to the sudden windfall!

Nevertheless, employers are advised to consult the employee before summarily recovering the overpayment from the employee's wages in order to negotiate a reasonable repayment plan.

PLEASE CONSULT YOUR SHOP STEWARD IF YOU SHOULD NEED ANY ASSISTANCE IN THIS REGARD.

## SHOP STEWARDS TRAINING: WESTERN CAPE



The Western Cape Region trained **85** shop stewards during the week of 25-29 February. The training was held at Nekkie's Conference Centre in Worcester and the delegates worked and 'played' very hard!

The trained shop stewards received their formal certificates at the Regional Conference held in Plettenberg Bay.



The Region plans to provide some follow up training in the near future.

(Ettiene Bruwer: Regional Manager: Western Cape)

## IMATU COMES TO THE RESCUE OF CAPE TOWN'S METRO POLICE

In August 2007 more than 100 Metropolitan police officers blockaded the N2 in protest against their placements and other issues.

**IMATU** advised its members that the proposed action would be unlawful, which is the reason why the vast majority of the officers that took part belonged to the other union in local government.

Unfortunately, a number of **IMATU** members did not get the message and took part in the blockade, which caused major traffic jams. All those who took part in the protest action were suspended, pending disciplinary action. **IMATU** wisely chose to accept the employer's offer of private arbitration in order to ensure that the members would receive fair and unbiased treatment,



and that no one from the City of Cape Town could influence the outcome.

The other union refused to take part in the agreement and insisted that their members' cases be heard by an internal manager employed by the City. As a result 93 of their members were dismissed (whereas only one **IMATU** member was dismissed by the private arbitrator). The other union went out of their way to tell the employees that **IMATU** had 'sold them out', but the results tell a different story.

**IMATU** does not make hasty emotional decisions. Your union will always ensure that we act in the interests of our members in order to protect their jobs and promote their rights.

## ONE IN THREE MUNICIPAL COUNCILLORS NEED EXTRA TRAINING TO IMPROVE THEIR READING AND WRITING SKILLS

**SALGA finds that the poor literacy rate among councillors has contributed to poor service delivery**

A survey carried out by SALGA has revealed that one in three of South Africa's municipal councillors need to undergo basic adult education to help improve their reading and writing skills. Many councillors are unable to follow the proceedings at Council meetings because they cannot understand English.

Another shocking fact that was highlighted by the survey is that at least half of councillors (who were elected to look after the needs of their constituencies) do not understand how tariffs are set. Two thirds do not know what is required of them in their role as councillors, nor are they conversant with the various acts, ordinances and by-laws that affect local government. A fair number

of the councillors in this group serve on mayoral committees.

At least 32% require ABET training (Adult Basic Education Training) as they lack the reading and writing skills needed to deal with Council agendas, minutes and reports. Some councillors (about 5%) are totally illiterate.

Sifiso Mabata, who heads SALGA's skills development program, announced that R32 million has been set aside to train councillors and register them for ABET courses.

According to Sifiso, the problems revealed by the survey also exist among municipal employees.

## IMATU RE-REGISTRATION CAMPAIGN

**Members who participate in the campaign stand to win fantastic prizes**

**IMATU** will shortly be launching a re-registration campaign of all our members. Members will be requested, by their Branch/Regional structures to complete a simple form containing certain information so that we can update our database.

We want to communicate more frequently and efficiently with our members, and will be requesting members to inform us of their cellular telephone number, e-mail and

postal addresses.

Members are urged to participate in the re-registration campaign in order for **IMATU** to render a better service to our membership. All completed and received forms will be entered into a lucky draw, and three members stand to win fantastic prizes.



## NO ONE WILL BE FORCED TO TRANSFER THEIR PENSIONS TO A GOVERNMENT-CONTROLLED FUND

There are a number of 'financial advisors' who are trying to convince employees to resign from their jobs and re-invest their pension funds into a scheme recommended by the 'advisor'. These unscrupulous people are trying to take advantage of false rumours that the government

intends forcing people to transfer their pension funds into a new government controlled fund. The only people who stand to gain anything from spreading these false rumours are the so-called 'financial advisors' who hope to gain huge commissions.

# IMATU'S 2008 SOCIAL RESPONSIBILITY PROJECT

IMATU'S National Executive Council (NEC) recently resolved to launch a number of social responsibility projects to help the needy. One of these is an IMATU Golf day and another project was focussed on collecting food and blankets for various charities.

The various Regions also launched projects in their areas. The Johannesburg Region's members have donated canned food and clothing. The children's clothing and the food was given to the Mini Care Centre for abused children, whilst the adult clothing was donated to the Alberton Social Christian Council.



The Western Cape Region is supporting the Shoe Box Project. Donors are asked to fill a shoe box with small gifts, toiletries and toys for young children, which will be given to the needy. Theewaterskloof Branch collected soup and tinned food, which was donated to a local charity.



The Tshwane Region's contribution to IMATU's Social Responsibility project is to donate stationery packs to each of the 153 children who live at the Pretoria Branch of the SOS Children's Homes. The Region hopes to bring this project to a close by the end of November 2008.



## IMATU NATIONAL EXECUTIVE COUNCIL AUGUST 2008

**Back row:** R. Veerapen (eThekweni Metro), F.O'Kennedy (Gauteng), T. Simelane (HR Manager), K. Swanepoel (Johannesburg Metro), R. Smit (Cape Town Metro), B. Stols (North West), A. Smit (Kwa Zulu Natal), G. Voigt (Johannesburg Metro).

**Middle Row** B. Joubert (Gauteng), J. Samuels (Northern Cape), D. Bernardo (Cape Town Metro), T. Makama (Tshwane Metro), R. Field (Cape Town Metro), J. Wrogemann (Tshwane Metro), B. Smit (Limpopo), M. Vlok (Western Cape), W. Kilian (Gauteng), P. Cheesman (eThekweni Metro), J.J. van Rensburg (Johannesburg Metro), R. Velan (Kwa Zulu Natal), J. Beukman (Eastern Cape), G. Scheepers (Eastern Cape).

**Front row:** K. Goodsell (eThekweni Metro and Vice President), D. Joubert (Cape Town Metro and Vice President), H. Duminy (Free State and Vice President), S. Khoza (eThekweni Metro and Deputy President), D. Carstens (Western Cape and President), J. Koen (General Secretary), J. Malematja (Tshwane Metro and Vice President), S. Gray (Deputy General Secretary: Operations).

# SERIOUS QUESTIONS ARE BEING ASKED ABOUT THE TSHWANE METRO'S MANAGEMENT

On 5 October 2008, M-Net's Carte Blanche team broadcast an expose on Tshwane Metro's alleged lack of financial management and proper controls. The program highlighted the following issues.\*

- **In the past year, the Municipal Manager has authorised over R4-million worth of payments to Khabo-on Time Inc, which belongs to Kennedy Khabo. (Kennedy is alleged to be a close personal friend of the Municipal Manager).** *\*(According to the Tshwane website, the City Manager was a councillor at the time the contract was initially awarded, therefore the fact that they are friends is irrelevant).*
- **Over R2- million was spent on a music festival, two gala dinners, a business forum and exhibition space to market Tshwane's 2010 Football World Cup matches in Atlanta and New York.**



- **Tshwane does not seem to like to use local facilities to hold its monthly meetings, but prefers to travel to lodges and spas, some as far away as**

**Mpumalanga, at a cost of R300 000 per meeting (excluding the alcohol.)**

In December 2007, the Auditor General sent a report to the Tshwane Municipal Manager detailing 23 pages of discrepancies, such as:

- **Assets worth nearly R6 billion could not be verified.**

- **The monies owed by creditors was underestimated by R40-million.**



- **R8-million worth of grants was paid out without any details showing who had received the money.**
- **In 2007, the Head of Procurement was suspended for allegedly failing to follow tender procedures and paying R8-million extra for computer equipment, but was reinstated.** *\*(According to the website, he was found guilty of a 'minor offence' and given a written warning).*
- **The Metro paid auditing firm Price Waterhouse Coopers R7.9-million to compile a financial report, and almost R800 000 to assist with financial statements.** *\*(According to the website, this expenditure is considered entirely reasonable).*

**Another R22-million has been spent on managers who have refused to sign voluntary termination agreements. They are still receiving their salaries and other benefits, although only one of them of still comes to work.**

*\*The Tshwane Metro has published a rebuttal on its website, which proclaims that the City Manager is satisfied with the Metro's finances and internal procedures, even though the Internal Audit Services is investigating 45 cases of fraud totalling over R20-million. (Only half a million rand of this sum has been recovered, according to the website.). No mention is made of the costly monthly meetings held at spas and lodges, nor are the issues raised by the Auditor General specifically addressed.*

## TSHWANE WHISTLE BLOWER STILL SUSPENDED IN SPITE OF HIGH COURT RULING

In the June/July 2008 issue of **IMATU MAIL**, we reported on the case of the employee who was concerned about the fact that the Metro had appointed employees who were not qualified to operate electrical equipment. He raised the issue with management, but when they failed to respond, he sent a copy of his report to the Engineering Council and the Dept of Labour. The employer responded by threatening him with disciplinary action and suspended him.



submitted an affidavit describing three incidents where two employees and one member of the public died from electric shocks because of the inexperienced electricians.

In spite of the fact that the High Court ruled against the Tshwane Metro, the employee's suspension has not yet been revoked.

The Engineering Council referred the case to the Pretoria High Court. During the proceedings, the employee

**It seems that those who run the Tshwane Metro consider themselves to be above the law.**