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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 741 **18 August 2021**

MINISTRY
SOCIAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

GREEN PAPER ON COMPREHENSIVE SOCIAL SECURITY AND RETIREMENT REFORM (2021)

I, Lindiwe Zulu, Minister of Social Development hereby give notice for the publication of the Green Paper on Comprehensive Social Security and Retirement Reform (2021) for public comments.

Interested persons and organisations are invited to submit any substantive comments or representation by no later than **10 DECEMBER 2021**. Written submissions can be forwarded to the following address:

The Director-General: Department of Social Development, 134 Pretorius Street, HSRC Building, Pretoria; Private Bag X901, Pretoria 0001. For attention: Mr John Tebeila, Acting Director: Retirement Reform Email: GreenPaperCSS@dsd.gov.za Tel: 012 741 6820

……………………………………………..
MINISTER OF SOCIAL DEVELOPMENT

social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

GREEN PAPER[1] ON COMPREHENSIVE SOCIAL SECURITY AND RETIREMENT REFORM

CONSOLIDATED GOVERNMENT PAPER: PUBLIC CONSULTATION VERSION

03 AUGUST 2021

[1] **A Green Paper is a government policy discussion paper that details specific issues, and then points out possible courses of action in terms of policy and legislation. It articulates possible solutions that are yet to be adopted by government. The Green Paper is a precursor for a White Paper. The White Paper articulates a policy position of government that has been approved by Cabinet (National Policy Development Framework, December 2020).**

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GLOSSARY

Approved funds	Private arrangements authorised to manage tax-incentivised savings.
Beneficiaries	People who are entitled to social security benefits
Ceiling	The maximum income at which social security contributions are mandatory.
Contribution floor	The income level above which social security contributions are mandatory.
Contribution subsidy	A form of government incentive to participate in the system, under which part of the contribution to the mandatory retirement system is paid by government.
Contributors	Persons or entities required to make social security contributions.
Defined benefit	A retirement or social security arrangement in which the level of benefits is based on a pre-determined formula. Benefits can be either flat rate or earnings-related.
Defined contribution	A retirement arrangement in which benefits depend on the value of contributions plus investment returns, less operating expenses.
Income smoothing	The levelling out of fluctuations in lifetime income, usually achieved by workers allocating part of their salary to insurance against unemployment and disability, and to a pension, so that they receive an income when they are unable to work.
National Health Insurance	A statutory health care financing system that ensures the whole population for the cost of healthcare, and administered by the public sector, private sector or a combination of both with a view to ensure universal access to healthcare to all South Africans.
National Social Security Fund	A proposed statutory fund established by government to manage mandatory retirement and risk benefits.
Pay as you go	Any system of retirement or risk benefits paid from current contributions rather than being funded in advance from contributions paid while earning.
Social wage	Amenities that accrue to citizens through public funds, such as social grants and the provision of services such as education, health care, and housing.
Social security contribution	A member’s legally required contribution to social security.
Threshold	In this report, refers to a contribution parameter defined either as a rand amount or as a percentage of the member’s gross income.

ACRONYMS

FSB	Financial Services Board
FSCA	Financial Sector Conduct Authority
GDP	Gross domestic product
ILO	International Labour Organisation
NHI	National Health Insurance
NSSF	National Social Security Fund
RABS	Road Accident Benefit Scheme
RAF	Road Accident Fund
SARS	South African Revenue Service
SASSA	South African Social Security Agency
SRD	Social Relief of Distress
UIF	Unemployment Insurance Fund

1 EXECUTIVE SUMMARY: KEY CHALLENGES AND PROPOSALS

In 2002 the Committee of Inquiry into a Comprehensive Social Security System (Taylor Committee) made several recommendations for improving South Africa's social security system. Among others, this resulted in the extension of child support grants and the introduction of SASSA as the primary institution for the implementation of the social assistance programme.

Despite progress in some areas, significant gaps remain in our social security system. The current Covid-19 crisis amplified existing structural gaps, thus calling for Government to review and take drastic measures to accelerate the required comprehensive response.

This Green Paper on comprehensive social security and retirement reform addresses the following key gaps and proposals:

- **Absence of a mandatory system for social security pension provision for retirement, death and disability benefits for all workers**. This results in the exclusion of millions of workers from lifestyle preserving pension coverage, who are unable to access existing private sector options due to the structural complexity and high costs of the private system. This contributes to significant reductions in income at retirement, which results in old age poverty and reliance on the social grant system as the only source of income in old age. There is consensus that this gap must be addressed by introducing a mandatory retirement, death and disability insurance for all workers. These mandatory benefits should be provided through a publicly offered National Social Security Fund (NSSF); operated on the principles of risk pooling and social solidarity.
- **Systemic weaknesses in the private retirement system** exclude millions of workers due to voluntary participation resulting in poor risk pooling and low levels of income replacement. In addition to mandatory contributions for retirement, death and disability benefits, it is proposed that supplementary benefits should be offered by accredited private providers chosen by contributors, to enable those who wish to supplement their benefits and those in the informal sector to have access. To promote consumer protection, it is proposed that the private sector be subject to more proactive supervision through an approved funds framework.
- Although social assistance provisions provide much relief to millions of beneficiaries, there is **incomplete coverage**, where millions of vulnerable people continue to be excluded. In view of the continuing challenges of poverty, inclusion and exclusion errors, and the high costs of means testing, consideration is given to universal benefits for older persons, children and persons with disability.
- In addition, there are **no provisions to address the plight of individuals who have no income but do not meet the means test criteria to receive social grants (*the 18 – 59 age group challenge*).** The expectation that this group would derive their income primarily from selling their labour has proven to be ineffective in the context of persistent, long-term and structural unemployment. This gap also falls short of the constitutional mandate and the social protection floor envisaged in the NDP, and this led to the proposal to investigate the feasibility of a basic income grant. The Covid-19 crisis and the fallout has further galvanised the calls for a basic income grant. To address the fiscal space concerns,

consideration should be given to reconfigure the tax regime to promote equity while ensuring sustainability.

- Although it provides a myriad of benefits, **the current social security system is fragmented both at policymaking and implementation levels**, resulting in high cost, exclusion, duplication and complexity. To address this, this green paper proposes that the institutional framework for social security provision should be overhauled to improve coherence, efficiency and responsiveness through alignment of the benefits and administration systems. It is further proposed that social security policy development should be consolidated in a single Department of Social Security which will take primary responsibility for social security related policy development. This department would have the authority to drive and coordinate policy in cooperation with key departmental partners such as National Treasury, Employment and Labour, and Health.
- The paper acknowledges the improvements to the **UIF benefits** that includes the extension of benefit periods for unemployment insurance to twelve months, while the Road Accident Fund benefits are proposed to be converted from the **current fault-based system** to a social security paradigm of minimum benefits and social solidarity. In the intervening years between 2012, when the initial policy proposals were made and the present, these proposals have been advanced through the development of draft legislation initiated by the relevant departments.
- To address related **institutional fragmentation**, this paper makes significant proposals to enhance service delivery access and quality for all social security benefits. It is proposed that government should set up a single social security public interface platform, a single master social security registry and a more consolidated appeals adjudication arrangement for all social security provisions. This is expected to improve institutional performance of the social security system and enhance coherence and responsiveness.
- The paper also identifies some **governance weaknesses and inconsistencies among the different social security institutions**. To address this, a uniform governance approach is also proposed for all social security delivery agencies. In line with international good practice, it is proposed that we should have a *"social partner model"* for the supervision of social security generally to improve institutional responsiveness to affected stakeholders and promote accountability.

In light of the current Covid-19 crisis, global and domestic experiences have demonstrated the importance of mandatory social security coverage, large risk pools, high quality and accessible benefits, simplified administrative procedures (that harness digital technology), unified and coordinated systems, integrated policy frameworks, and the maintenance of broad social dialogue.

This crisis has also shown us that everyone is vulnerable, and we need a responsive social security system that can mitigate shocks as well as prevent and mitigate routine and predictable social harms that sustain inequality, poverty and unemployment. There is need to accelerate the implementation of a social security system that is centred on universal coverage, adequacy, affordability, efficiency, long-term sustainability and comprehensiveness.

This paper aims to present a long-term reform agenda aimed at a more comprehensive system of social security. There are several factors that will affect the prioritisation, sequencing, pace and scale of the reform programme.

2 SOCIAL SECURITY REFORM: AN OVERVIEW

2.1 INTRODUCTION

Since the dawn of democracy, the South African government has been implementing measures that address structural inequalities arising from the apartheid era characterised by limited access to social protection for all. Good progress has been made in broadening social assistance and expanding health care and, to a lesser extent, social insurance since 1994. However, the social security system requires some reform initiatives to meet Constitutional provisions.

The overall objective of the comprehensive social security reform agenda is to consolidate and strengthen social security provisions in South Africa by improving access, coverage, administrative efficiency, delivery and transparency. Government seeks to ensure that the lives of millions of South Africans are improved through expanded access to social security benefits within a system that is comprehensive, universal, efficient, affordable, sustainable and appropriate for all; thus, addressing a comprehensive set of life cycle and other vulnerabilities. A comprehensive and responsive social security system is key in addressing the needs, realities, conditions and livelihoods of everyone.

This green paper covers several policy and institutional issues to address wide range of vulnerabilities brought by systematic nature of the social security system. All workers including self-employed workers, rural workers, digital economy workers, informal economy workers also require adequate social security coverage.

These far-reaching reform proposals respond to Section 27 of the Constitution which states that: *"everyone has the right to have access to social security, including if they are not able to support themselves and their families, appropriate social assistance"*. The Constitution goes further to require the state to *"take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of these rights*". Furthermore, these reform proposals are consistent with the National Development Plan (NDP) which states as its vision that South Africa would, by 2030, *"have a comprehensive system of social protection that includes social security grants, mandatory retirement savings, risk benefits such as unemployment, death and disability benefits and voluntary retirement savings*".

This paper considers the recommendations and inputs by NEDLAC social partners in response to the initial discussion paper tabled by Government in 2016. Government values the contributions made by social partners to ensure that the country achieves a comprehensive social security system that leave no one behind or falling within cracks. A well-designed comprehensive social security system reduces risks to individuals associated with economic change or loss of work and contributes to household income security and social cohesion. Whether funded by the fiscus or mandatory contributions, it shares risk between the vulnerable and the not-so-vulnerable, offering protection to those that need it most and promoting social solidarity.

2.2 SOCIAL SECURITY REFORM PATH: SOUTH AFRICA

Since the publication of the report of the Taylor Committee of Inquiry into a Comprehensive System of Social Security in 2002, there has been progress both in the progressive implementation of social security and in the review of options for longer-term reforms. The Taylor Committee concluded with a set of recommendations for the complete overhaul of the social security system. This included consideration of a mandatory earnings-related regime, the implementation of a publicly offered contributory retirement scheme, regulatory reform of private funds, and the extension of social assistance coverage. The recommendation for the introduction of a mandatory earnings-related regime remains the key intervention to be implemented.

In 2007, Cabinet mandated an Inter-Ministerial Committee (IMC) including the Ministers of Social Development, Labour and Finance to review progress and make further recommendations for social security reform based on the recommendations by the Taylor Committee. The IMC appointed an Inter-Departmental Task Team on Social Security and Retirement Reform (IDTT) to provide technical advice and make recommendations for long-term reform options for consideration by Cabinet and South Africans. The work of the IDTT culminated into a Comprehensive Social Security Reform discussion paper, which presented its findings and proposals for the next steps to be taken in progressively realising the right to access social security envisaged in the Constitution.

The National Planning Commission (NPC) considered the recommendations by the IDTT and included them in the National Development Plan (NDP) [2] adopted by Cabinet in 2012. The NDP locates social security reforms within the comprehensive social protection agenda, and supports, among others, working towards the universalization of grants and introduction of mandatory contributions for retirement, disability and survivor benefits cover. The NDP’s social protection framework emphasizes the inter-linkages between social insurance, employment promotion, youth programmes, welfare services and other dimensions of “an acceptable social protection floor, including health, education, transport, shelter and food security.

In June 2016, Cabinet also approved the recommendations of the Ministerial Committee on the Review of the White Paper for Social Welfare (1997). After reviewing the 2012 and 2015 versions of the Comprehensive Social Security Discussion paper, the Committee recommended that Cabinet should: (i) adopt and implement the proposals on comprehensive social security; (ii) adopt the options with strongest alignment to the proposals in the 2012 paper, for establishment of a single National Social Security Fund.

In November 2016, Government tabled the Government’s consolidated comprehensive social security discussion paper at the National Economic Development and Labour Council (NEDLAC) for social partners to engage on the gaps and recommendations. A NEDLAC Comprehensive Social Security and Retirement Reform Task Team was subsequently established to coordinate these engagements since April 2017 to produce a Nedlac Report, which notes social partner’s views, areas of agreements and disagreements as well as areas requiring further research and investigation.

This green paper has considered the engagements with social partners, and updated various sections since the tabling of the initial discussion paper in NEDLAC. Government will publish this Green Paper and engage in further consultations to contribute to the refinement of the policy proposals contained herein.

Recommendations in this paper will take several years to implement, and transitional measures will require careful attention to build a comprehensive social security system in South Africa. Following the consultation process, a phased-in implementation approach is proposed. This will entail creation of an institutional framework that will drive the reform process, establishment of the NSSF and implementation of complementary reforms as a path towards establishing a comprehensive social security system in South Africa.

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[2] The National Planning Commission, 2012, *National Development Plan 2030 Our Future make it work.*

2.3 KEY GAPS AND REFORM PROPOSALS

In reforming social security in South Africa, some key reform initiatives proposed in this paper include:

2.3.1 Establishment of a national social security fund

The most notable gap in our social security system is the absence of a mandatory contributory public social security fund that provides retirement, disability and survivor benefits to the workforce. Although private occupational and voluntary schemes partially fill this gap, some 6.2 million formal sector workers – primarily low-income earners, informal workers[3] and informal sector workers are excluded from such arrangements. Several countries have mandatory schemes that provide retirement savings for their citizens. Although some occupational schemes are mandatory as conditions of employment, South Africa does not have a mandatory public social security fund that is based on social security principles of risk pooling and social solidarity.

Therefore, the key reform proposal is the introduction of a National Social Security Fund (NSSF), a centrally managed public fund to provide retirement, survivor, disability benefits and unemployment benefits. All employers and employees will be obliged to initially contribute between 8 and 12 per cent of qualifying earnings up to a ceiling, based on the Unemployment Insurance fund (UIF) ceiling, which is currently at R276 000[4] per annum. The final contribution rate will be informed by the funding approach agreed following consultations. Government should subsidise the contributions of low-income workers to minimise disruptions to the demand or supply of labour associated with the introduction of mandatory contributions.

It is proposed that employees earning below an income threshold (R22 320 per year)[5] should not be obliged to contribute to the NSSF for retirement or risk benefits but will continue to contribute to the UIF. A simplified contribution arrangement for self-employed individuals and informal workers will also be established.

The NSSF tier 2 will run on a defined-benefit basis. A worker's pension in retirement will be based on career earnings and the duration of contributions. The disability and survivor benefits will be based on salary at the time of injury or death. The NSSF will also pay a flat-rate funeral benefit.

The NSSF will provide income protection benefits for all workers and their families. However, those earning above the tax threshold will need to contribute to supplementary retirement savings and insurance arrangements to ensure an adequate replacement income.

To achieve this, it is proposed that the NSSF tier 2 be augmented by introducing an auto-enrolment based third tier. The NSSF will also provide the default fund (NSSF-Default), which will operate within the new third tier framework and offer annuities. To enhance the quality of a third tier offering, an approved funds framework should be introduced, which would provide a regulatory standard applied to private and public tier-3 providers and products[6].

The NSSF will be governed by a Board, which will have ultimate responsibility for the supervision of the fund and will ensure that they steer the fund towards a sustainable future by adopting sound, ethical, and legal governance and financial management policies and importantly ensure its ability to undertake its

[3] Many informal and precariously employed workers work in the formal sector.

[4] Adjusted amount for the model.

[5] Aligned to the current Older Persons Grant amount of R1860 per month (2020/21)

[6] ILO, 2020. *Report to the Government – Pensions in the Comprehensive social security framework: regulatory changes, an approved funds framework the design of a tier-3 pension default fund.*

responsibilities. The Board will appoint and, if needed, dismiss the Chief Executive Officer (CEO) and will supervise the management team, strategic plans, procurement, business processes, organizational structure, work force appointments and management, transparency, accountability, data and reporting. The executive management of the NSSF will execute the policies as set out by the Board operating the Fund according to law[7].

All board members must be fit and proper and have the time, expertise and resources to undertake the duties of a board member. While the individual board members may be nominated by a particular stakeholder constituency, the board member is not a representative of that constituency. It is envisaged that once on the board, the obligation of the board member will be to focus on the best interest of the Fund and its members regardless of the views held by the nominating constituency.

2.3.2 Expanding social assistance

The social assistance framework does not presently provide a comprehensive floor and as a result, the largest portion of the population remains without any, or very little social protection coverage.

It is proposed that the means tests for social grants be phased out through alignment of social assistance with the structure of personal income tax rebates, and the safety net be expanded to include working age individuals.

The objective is that all dependent children, the disabled and the elderly and those of working age, should be eligible for income support, regardless of their income or assets. This basic income will form part of a comprehensive social protection floor and is the basis of the Pillar 1 reforms. The additional expense to the fiscus could be phased in over time through changes to the structure and value of tax rebates, subsidies and the possible introduction of additional tax.

The proposal for the universalisation of the existing grants is premised on the fact that State benefits are mostly universal already, but fragmented, with different systems, criteria and benefit values. For example, there are 4.4 million older persons in South Africa, of which, 3.1 million receive the Older Persons Grant (OPG) and 400 000 older persons who receive tax rebates. The group whose income is too high for a grant or too low to benefit from the tax system, receive no benefit from the state (STATSSA, SOCPEN and Tax Report, 2016).

About 1 million older persons are excluded in the existing State benefits. This mainly due to the fragmented nature of state benefits, where the poor and the wealthier have relatively some coverage, and those falling between the tax and the social assistance receive little to no benefits. This is further complicated in certain instances where high income older persons receive more income support from rebates compared to their poorer counterparts. For instance, grant recipients aged 75 receive a fixed additional R240 per annum from the state while those who are wealthier and can access tax rebates, of the same age cohort receive an inflation adjusted amount of R2 466 in tax rebates per annum in 2017/18. The Old Age Grant is R1, 890 per month for qualifying individuals between the age of 60 and 75 and is R1, 910 for those above the age of 75, which is R22, 680 and R22, 920 per year respectively. Taxpayers above the age of 65 can claim the 'secondary rebate' which is worth up to R8,199 per tax year and taxpayers above the age of 75 can also claim the 'tertiary rebate' of R2,736 per tax year for a total benefit of R10,935 (National Treasury, 2021).

[7] ILO, 2020. *Report to the Government: Good Governance in Social Security – Issues in the proposed comprehensive social security framework in South Africa.*

For the Old Age Grant, the following policy options were considered, with majority of stakeholders expressing support for the second option during the initial consultations:

- Option 1: universalisation of the OPG at age 60 accompanied by the removal of secondary and tertiary rebates.
- Option 2: universalisation of the OPG at age 65 accompanied by the removal of the secondary and tertiary rebates but retaining a more simplified means tested OPG for those between 60 and 65.
- Option 3: universalisation of OPG at age 75 accompanied by the removal of tertiary rebates but retaining a more simplified means test for those between 60 – 75.

The costs for universal coverage at the age of 65 (option 2 above) will be offset when the secondary and tertiary rebates are removed. Amounts over and above the rebates will be recuperated from the tax system. Funding the gap, i.e., those who currently do not receive tax benefits, and the additional support provided to taxpayers will be progressively realised over the next few years through:

- Gradually raising the means test to that of the tax threshold;
- Simplifying the means test to provide for a flat rate benefit and a single income threshold; or
- Adjusting the tax expenditure subsidy caps; or
- Potentially increasing funding from general tax revenue to fund implementation.

This reform will be accompanied by measures to improve the grants system such as a reduction of costs associated with benefit payments. A standardised system of disability assessments across social security arrangements will improve the fairness and reduce the administrative cost of the disability grant. Further work on universalisation of the child support and disability grants, income support for the working age population, and the development of maternity and pregnancy support is being considered separately.

2.3.3 Enhancing social security entities

South Africa's social security system is characterised by an array of government departments, legislative frameworks, regulators, complaints and adjudication frameworks, delivery organisations and private arrangements that form part of the incumbent "system" offering social protection at large.

Insufficient coordination between social insurance funds such as the Unemployment Insurance Fund (UIF), workers' compensation schemes (CF) and the Road Accident Fund (RAF) is an area of concern. Social security entities currently have separate and unlinked administrative systems which result in high costs, and double dipping and increased scope for fraudulent claims. Adverse findings by the Auditor General of South Africa (AGSA) in the payment of the Covid-19 relief measures clearly exposed these gaps in our social security system and amplified the need for reform in this area (AGSA, 2020[8]).

South Africa does not have a common database or comprehensive information system on social protection beneficiaries. This makes targeting, impact assessment, overlaps and fraud management and overall system efficacy and efficiency hard to realise. It is therefore important to put measures in place to improve cooperation between entities, in order to achieve coordination, alignment of systems and benefits and

[8] AGSA, 2020, *First report on the financial management of Government's Covid-19 initiatives*. https://www.agsa.co.za/Portals/0/Reports/Special%20Reports/Covid19%20Special%20report/Special%20report%20interactive%20_final.pdf

disability assessment mechanisms along with policy consistency across different departments providing social security. While the long-term goal is a centralised system linked to a common database and a single client interface system, medium term measures entail collaboration in operational areas between SASSA, CF, UIF, RAF, and CCOD, in the following areas:

- Sharing of panels: attorneys, medical experts, actuaries.
- Disability management and rehabilitation (CF, RAF, SASSA).
- Assessment centres/ processes (SASSA, CF, RAF, CCOD).
- Forensic/ fraud prevention (SASSA, UIF, RAF, CF, CCOD); and
- Information and Communication Technology (ICT) collaboration and cooperation (for example, based on experiences and lessons from the implementation of Covid-19 Temporary Employee/Employer Relief Scheme (TERS) and Special R350 Social Relief of Distress (SRD) grant).

Institutional coordination across new and existing social security arrangements is proposed to support coherent policymaking, administrative efficiency, and effective regulation and oversight. This reform process will require integration of existing systems as well as complementary legislative amendments where applicable. Improved coordination in administration and infrastructure across the different funds will reduce system costs and the potential for fraud, especially multiple claims by the same person from different funds. This will require integration of existing systems as well as complementary legislative amendments (with respect to multiple claims from different funds). International experience suggests that there are considerable advantages in shared administration and payment systems across these funds, while allowing for separate regulation and supervision of specific benefits.

To bring coherence to comprehensive social security policy making and oversight, **a new department** is proposed. Typically, such a department responsible for social security would inherit the present social assistance and social security responsibilities of the Department of Social Development, the Department of Employment and Labour, the Department of Health, and the Department of Transport. This entails consolidation of social security policy functions in one department, while retaining related functions in other departments. Unified policymaking or "functional consolidation"[9] will ensure that policy is developed in a coordinated manner and align with ancillary policies related to employment creation/ activation, industrial policy and welfare services.

A comprehensive social security system must therefore cater for the fact that it will be composed of several sub-systems, which will need to be harmonised through coherent policy-making platforms, various transversal (cross-cutting) functions, specialised organisations for delivering social security benefits, specialised regulators, dedicated supervisory structures, dedicated and transversal administrative platforms and an array of financing approaches.

[9] **Policy coordination is a multifaceted undertaking, and it has - what could be termed as - horizontal as well as vertical dimensions.** The **horizontal dimension** refers to the coordination across social security funds. This effort has to do with alignment of approaches and concepts, and it focuses on the coordination of issues such as benefit levels, eligibility rules, assessment criteria and methods and operational aspects must be coordinated. The **vertical dimension** relates to the alignment of social security policies with overall policy objectives in the particular field – e.g., unemployment insurance in the framework of labour market policy.

An alternative may be to create a cross-ministerial policy coordination council responsible for ensuring policy alignment. Such an approach is likely to be less efficient in ensuring the coordination and alignment[10].

2.3.4 Strengthen links between social security arrangements and the labour market

Lack of coherence and co-ordination between social security arrangements and the labour market leaves some people with no access or coverage. For example, people entitled to social assistance currently face challenges with access to public employment services from the UIF as they might never have worked. Social security recipients should be encouraged and enabled to re-enter the labour market at the earliest opportunity through a range of supportive programmes including public employment support institutions, active labour market policies and skills development programmes.

The proposed social security reforms will enhance the links between social security income protection arrangements and the labour market. For example, under the proposed reforms, social security agencies and labour centres will share facilities and infrastructure, through the proposed one-stop shop walk-in centres with associated online public interfaces, thus expanding the footprint of the individual agencies and public employment services.

These closer links must also have meaning for the individual worker. Members of the labour force should have access to appropriate income protection when they need it, irrespective of the nature of their employment or identity of their employers. The unemployed also need assistance to find work and the disabled need to develop alternative occupational skills to have access to facilitated job placement. The Public Employment Services programme in the Department of Employment and Labour (DEL) is critical for this.

2.3.5 Regulatory reform of the pensions and life insurance industry

Members of private retirement funds rarely receive a sufficient income in retirement, in part because of (i) they do not preserve their savings throughout their career and (ii) high administrative costs and fees that erode individual's savings (this happens both during the savings accumulation period as well as the conversion to annuities). Preservation of retirement savings until the end of a worker's career will become compulsory to improve retirement outcomes, except under clearly specified circumstances, for example, emergency use. However, addressing the excessive fees will require a combination of regulatory interventions and the establishment of a competitive public option in the approved funds framework (i.e., the third tier of the retirement system).

This paper therefore proposes the introduction of an approved funds framework that creates a market for funds that are eligible for tax-incentivised supplementary (tier 3) retirement provision. This framework will establish standards relating to disclosure, investment strategy, risk management, administration, governance and annuitisation. Government will encourage contributions to approved retirement funds through the tax system. Such funds will need to meet consistent standards of care, prudence, governance, fiduciary responsibility, transparency and the control of costs.

Workers earning above the tax threshold will be encouraged to contribute to such a supplementary pension and insurance plan in addition to their NSSF contributions to ensure adequate provision in the event of death or disability and an adequate income in retirement.

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[10] ILO, 2020. "Report to the Government: Good Governance in Social Security – Issues in the proposed comprehensive social security framework in South Africa".

A default rule is proposed, under which employers will be obliged to auto-enrol employees for incomes above the tier 2 contribution ceiling (currently R276 000 per annum) into either the employer's occupational scheme or the **NSSF default fund** *(the publicly offered competitive option*). Employees will be allowed to opt-out of the employer scheme in favour of the default fund should they deem it more suitable. They would also be able to switch back to a private option if they wish. Movements between retirement funds will not attract any penalties.

For employers and income earners who do not have access to an occupational scheme, the NSSF-run default fund will participate in tier 3 alongside occupational schemes. This fund would be subject to the same regulatory requirements as all the private approved funds.

Following the engagements with Nedlac social partners, the **annuitisation** for provident funds took effect from 1 March 2021, and provident fund members will continue to enjoy a tax deduction on their contributions.

The Covid-19 pandemic exposed many workers and households to vulnerability, as some were retrenched due to employers closing operations. For some workers, they would have some savings while others little or none. The Covid-19 pandemic has consequently influenced many countries to consider allowing individuals emergency access to their retirement savings as an interim relief measure. Government acknowledges numerous requests to allow **limited pre-retirement withdrawals** under certain conditions, such as disasters. To this end, Government continues to engage with trade unions, regulators and other stakeholders to discuss how to allow these withdrawals, together with mandatory preservation requirements (National Treasury, 2021[11]). Experiences during the Covid-19 crisis have shown the importance of building a responsive social security system that cushions society from life cycle risks and other contingencies.

2.3.6 Improved unemployment benefits

Chronic and intermittent unemployment is the main cause of lower-income and precariously employed workers drawing down their retirement savings before they retire. Improving unemployment benefits will help reduce the need for workers to access their retirement accumulations and promote improved lifetime access to decent earnings.

The Unemployment Insurance Act, 2001 (Act 63 of 2001) has been amended through the Unemployment Insurance Amendment Act, 2016 (Act 10 of 2016) to increase benefits. Unemployment insurance benefits have been extended to additional categories of employees such as learners participating in learnership programmes and civil servants.

Employees who lose income due to reduced working time are now entitled to benefits under the Act if the contributing employee's total income falls below the benefit level that he/ she would have received if he/she had become wholly unemployed, and provided the contributing employee has enough credits, for example, domestic workers with more than one employer.

Maternity benefits are to be paid at a rate of 66% of the earnings of the beneficiary at the date of application, subject to the maximum income threshold of R212 544 per annum (R17 712 per month) that increased with

[11] National Treasury, 2021. Budget Review. Annexure C. http://www.treasury.gov.za/documents/national%20budget/2021/review/Annexure%20F.pdf

effect from 1 April 2017. A beneficiary who miscarries during the third trimester of her pregnancy or who bears a stillborn child is now entitled to a full maternity benefit of 17 to 32 weeks.

For purposes of calculating the benefits payable to a contributor (referred to as “credits”), a contributor accrues 1 credit for every completed 5 (previously 6) days of employment, subject to a maximum accrual of 365 (previously 238) credits in the four-year period immediately preceding the day after the date of ending of the period of employment.

Unemployment benefits must be paid to the unemployed contributor regardless of whether the contributor has received benefits within that four-year cycle provided the contributor has credits remaining.

A surviving spouse or life partner has a right to dependant’s benefits if application is made within 18 months (previously 6 months) of the death of the contributor. A nominated beneficiary of a deceased contributor may claim dependant’s benefits if there is no surviving spouse, life partner, or dependent children of the deceased contributor.

Some of the key challenges that confront the UIF include:

- **The exclusion** of some workers, informal workers and self-employed people from the Unemployment Insurance (UI) Contributions Act, which provides a legislative constraint preventing them from participating in the UIF. The Act requires an employer/employee relationship to exist in order for a worker to contribute to the Fund. This makes it impossible for **atypical workers** such as informal workers, workers in the gig economy, artists, and self-employed people to contribute and benefit from the Fund.
- **Non-compliance** by employers**.** Some employers chose to not comply with unemployment insurance legislation even though they are catered for. However, if an employer has not declared their employees, then those employees are unable to access the social security benefits provided by the Fund.
- The **absence of up-to-date member database** is also a challenge as entitlements are determined only when a claim is applied for. Presently there are massive delays even accessing ordinary benefits because of this failed administration system.

The COIDA framework is also important for early return to work for employees rehabilitated after an accident or a disability. As such, there are important linkages that need to be elevated in this context.

2.3.7 Alignment of social security with National Health Insurance (NHI)

While the legislative processes on the introduction of the NHI are at advanced stages, the RAF and the workers’ compensation schemes need to adapt their arrangements in light of the future with the NHI, particularly in terms of the provision of medical assistance and rehabilitation to the victims of accidents of road accidents and of work-related disability and illness.

In August 2011, Government published proposals for a system of National Health Insurance with the White Paper approved in 2017 and the NHI Bill tabled in Parliament in 2019. These reforms have implications for both public- and private-sector health services will be phased in over a 14-year timeframe.

Four important overlaps with social security and retirement funding arrangements must be considered:

(1) The role of earnings-related contributions as a financing mechanism.

(2) The tax treatment of medical scheme expenses and associated risk-pooling arrangements.

(3) The alignment of medical benefits provided by compensation funds (CF and CCOD) and the RAF with the NHI system.

(4) Post-retirement access to medical scheme membership.

2.4 INSTITUTIONAL ARRANGEMENTS, REGULATION AND MEMBER PROTECTION

The reform of this nature requires introducing institutional initiatives that enhance efficiency and coherence in the implementation of social security policy and protect members and their beneficiaries.

- *Collection of contributions from employers and individuals.* It is envisaged that this will be undertaken by the South African Revenue Service (SARS), building on existing systems for pay-as-you earn and UIF collections from employers.
- *Registration of contributors and administration of accounts:* The Master Social Security Registry (MSSR) is proposed to maintain individual records of all social security contributors and beneficiaries based on the Department of Home Affairs official population register and supplemented by information from SARS, SASSA, employers, the UIF and other funds. This will fast track establishing an interoperable database. The implementation of the Covid-19 relief measures has provided useful lessons on the need for entities to have an up-to-date central registry that can be referred to.
- *Common Public Interface for Social Security:* is proposed to serve as the structure to integrate all function of social security institutions through an effective communication with contributors and beneficiaries. This will require both systems and service delivery improvements across the existing social security entities.
- *Payment of benefits:* Modernisation of payment arrangements for all benefits offers considerable scope for cost-saving.
- *Investment of funds:* A blend of passive and active investment strategies are proposed for the NSSF, as a means to ensure sustainability and promote adequacy of benefits for contributors.
- *Appeals adjudication*: The Social Security Tribunal will provide dedicated and independent capacity to protect client interests, and to arbitrate and resolve disputes.
- *Regulation and oversight*: The new social security framework requires careful oversight of mandatory contributions administered by the NSSF and supplementary pensions and insurance contributions administered by approved funds. Regulatory oversight will be strengthened, and approved funds subjected to a higher standard of reporting and fiduciary responsibility to protect the interests of members.

The rest of this paper presents social security in the context of the Constitution, outlines the problems that exist with the present social security institutions, describes the main reform proposals to address these deficiencies, outlining the core components of the new NSSF and explaining how the existing social security landscape will change, including links to the NHI. The paper goes further to explains the long-term financial sustainability of the NSSF, discusses the impact on the existing savings and insurance industries, and outlines governance and institutional arrangements required to support the social security reforms.

3 EXISTING SOCIAL SECURITY ARRANGEMENTS

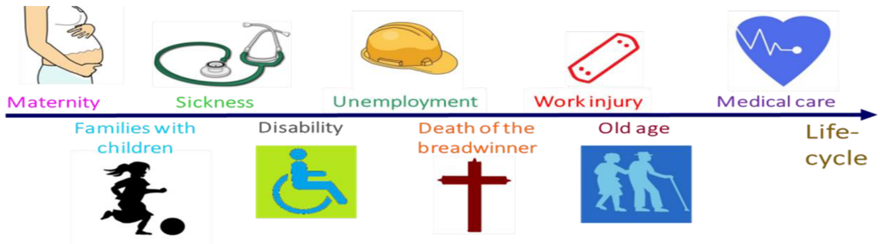
3.1 CONSTITUTIONAL RIGHT, INTERNATIONAL STANDARDS

This section defines social security both in the South African context and according to an internationally recognised framework for workers' rights. It then describes the South African system as it is today, highlighting the deficiencies that the proposed reforms seek to address.

Defining social security

The International Labour Organization (ILO) defines social security as "the protection that society provides for its members, through a series of public measures, against the economic and social distress that otherwise will be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age, and death; the provision of medical care; and the provision of subsidies for families and children" (ILO Social Security Minimum Standards Convention 102 of 1952). The diagram below summarizes the life cycle risks.

Figure 1: Life cycle risks



Source: ILO

A well-structured social security system seeks to protect every member of society, irrespective of income level or socioeconomic status, from catastrophic risk through non-contributory (social assistance) and contributory (social insurance) arrangements. Contributory arrangements are funded by participant payments, while non-contributory entitlements are funded from general tax revenue.

Non-contributory social security arrangements (social assistance) provide immediate relief from income poverty. Social assistance transfers resources from the better off to the most vulnerable members of society and promotes social inclusion. Such arrangements are especially important under conditions of social transformation, where the process of economic development often involves the disruption of communities, with a disproportionate impact on low-income households.

Contributory social security arrangements (social insurance) aim to protect individuals and their families through insurance arrangements against loss of income in the event of unemployment, sickness, disability, workplace injury, or death. They also provide for lifetime income smoothing, whereby employees set aside a portion of their earnings during their working lives to provide an income in retirement.

Both forms of social security are identified in Section 27(1)(c) of the Constitution, which states that everyone must "*have the right to have access to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance*". The Constitution goes further to state that, "*the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights*".

South Africa's constitutional approach to social security is consistent with various international instruments which are legally binding on member States. In addition to the ILO's Social Security Minimum Standards Convention 102 of 1952), these include:

- The **United Nations' Articles 22 and 25 of the Universal Declaration of Human Rights**. **Article 22** states that: *"Everyone, as a member of society, has the <u>right to social security</u> and is entitled to <u>realization, through national effort</u> and international co-operation and in accordance with the organization and <u>resources of each State.</u>* **Article 25:** *"(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."*
- **The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)** – **Article 9** which states that: "*The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance."* South Africa ratified the Covenant on 12 January 2015.
- **Convention on the Rights of the Child** – **Article 26** states that, *"Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.*"
- **The ILO Social Protection Floors Recommendation**, No. 202 (2012).
- **The ILO's Recommendation No. 204 concerning the Transition from the Informal to the Formal Economy.** Among others, the Recommendation provides guidance to Members to facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and *ensuring opportunities for income security,* livelihoods and entrepreneurship.

3.1.1 Pillars of South Africa's Social Security System

Broadly defined, South Africa's social security system consist of three pillars as illustrated in figure 1 below:

- **Pillar 1** comprises social assistance programmes funded by the fiscus. This includes social grants paid to eligible beneficiaries mainly the elderly, people with disabilities, and caregivers of children. This programme provides regular income support to more than 3.5 million elderly people, 12.5 million children and over 1 million people with disabilities.

- **Pillar 2** refers to mandatory social insurance arrangements funded by employee and employer contributions to protect income earners and their families in the event of unemployment, disability, occupational disease, retirement or death. South Africa does not have a mandatory public pension and insurance arrangement that covers all workers. However, it has established social insurance schemes that protect workers in the event of short-term unemployment (the Unemployment Insurance Fund) or if they are victims of a disability or illness related to the workplace, (the funds established under Compensation Fund for Occupational Injuries and Diseases Act - COIDA and the Occupational Diseases in Mines and Works Act - ODMWA). The Road Accident Fund (RAF) is a statutory third-party insurance arrangement for victims of motor vehicle accidents.

- **Pillar 3** comprises supplementary private retirement and insurance plans. Many employers and unions established compulsory funds for employees or members. There are several scheme types available to income earners to access contributory earnings-related pensions. Broadly speaking these can be divided into group schemes of various types, which are accessed through an employer or industry arrangements, and individual products which underwrite applicants for the insurance/risk-related benefits. According to the FSCA (2020), following are categorised as the key types of retirement funds:
  - **Underwritten funds (UWF)**: Funds operating exclusively by means of insurance policies issued by registered insurers in South Africa. The only assets of this type of fund are policies of insurance. Contributions are paid directly to the insurer and the insurer then undertakes to pay benefits as and when they become payable by the fund. The fund's liability to the member is limited to the amount payable in terms of the fund policy.
  - **Privately administered fund (PAF):** This is a fund which operates its own bank account and pays benefits in terms of its rules from the assets of the fund.
  - **Government Employees Pension Fund (GEPF)**: This is the scheme for public sector employees established in terms of dedicated legislation (Government Employees Pension Law 21 of 1996, as amended, which is referred to as the GEP Law) and is administered by the Government Pensions Administration Agency (GPAA).
  - **Public enterprise funds**: These are dedicated retirement arrangements for certain large parastatals. Given their size, they are reported on separately and include the Transnet Fund, Telkom Pension Fund and Post Office Pension Fund.
  - **Bargaining Council Funds (BCF)**: These are funds established in terms of a collective agreement between one or more trade unions and one or more employers' associations, to which the employees of the employers who are members of the association are required to belong in terms of that collective agreement. In terms of the Labour Relations Act, if the unions between them represent, and the employers between them employ, more than 50 of the employees employed in a defined sector, the Minister of Labour may make the collective agreement binding even on those employees employed in the sector who are not members of the union(s) and those employers conducting business in the sector who are not members of the employers' organisation(s).
  - **Foreign Funds:** These are non-domestic pension funds which provide information to the FSCA. In 2020, only one fund was reported in official statistics.
  - **Umbrella Funds:** Also known as multi-employer funds, are funds to which employees of a number of unrelated employers belong. The members of the board of the fund are usually appointed by the fund's sponsor or creator (usually a fund administrator, insurer, bargaining council or union) rather than by the members and their employers. The rates at which contributions are made in respect of members employed by specific employers and the benefits to which such members are entitled may be captured in what are known as 'special rules' which form annexures to the main body of rules that provide for the governance, operation and management of the fund. This type of fund includes union funds, BCFs, PAFs and UWFs described above.

Figure 2: South Africa's social security system

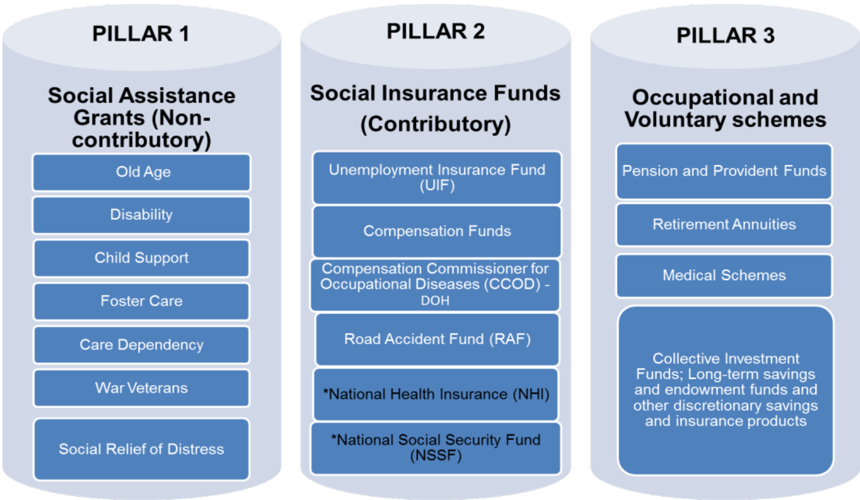
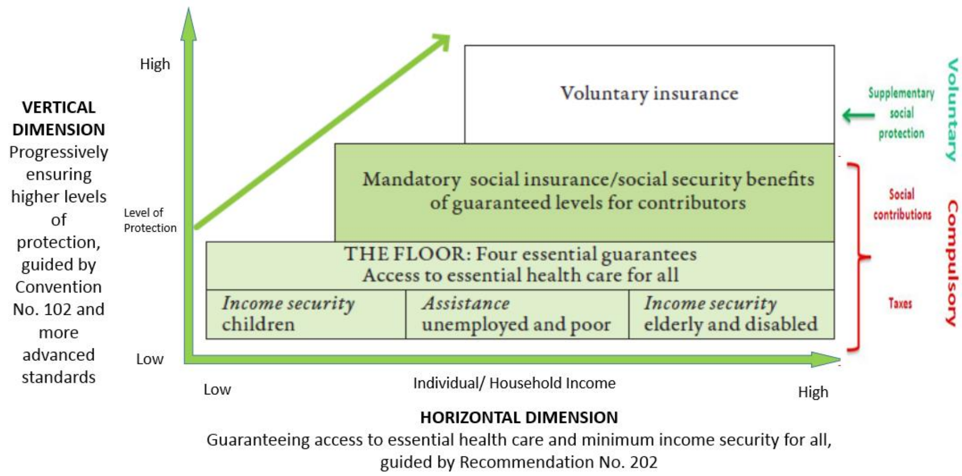


Figure 2 shows the key pillars of South Africa's social security system, which is consistent with the ILO's social security staircase[12] shown in Figure 2 below. According to the "staircase", the floor level comprises several guarantees for all. The second level makes provision for people with tax-paying or contributory capacity, with benefits defined by law. Finally, the top floor level allows those with the need or wish for higher levels of protection to contribute to voluntary private insurance arrangements.

Figure 3: Horizontal and vertical extension of social security



Source: ILO, 2010

[12] ILO, 2010. *Extending social security to all. A guide through challenges and options* (*https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_146616.pdf*)

The proposed multi-pillar social security system will contribute to horizontal and vertical extension of social security cover to all. Under the comprehensive system, non-contributory social assistance will remain a key intervention for most vulnerable members of society, including children, the elderly and the disabled. Voluntary and occupational schemes will allow workers to supplement their retirement and insurance contributions to the NSSF. The regulatory reform of pillar 3 arrangements that will occur as part of the social security reform process will strengthen regulation of schemes to provide sustainable income and value for money to members.

The outcome will be a significant expansion of access to social security arrangements by various categories of workers including informally employed, and those in the informal sector. These reforms will result in marked improvements in the efficiency of social security provision in South Africa.

Although social security systems differ across every country, well-designed arrangements:

- Deepen social inclusion and cohesion.
- Contribute to decent work, as part of the overall wage structure.
- Complement job-creation strategies.
- Encourage self-reliance.
- Complement other developmental programmes.
- Operate in an efficient manner to avoid wasting resources.
- Are financially and institutionally sustainable over the long term.

3.2 The National Development Plan and Social Security

The National Development Plan (NDP) locates social security reforms within the broader comprehensive social protection framework (The National Planning Commission, 2012). The NPC supported, among others, working towards the universalization of grants and introduction of mandatory contributions for retirement, disability and survivor benefits cover funded by compulsory contributions by all workers earning above a minimum income threshold, with a contribution subsidy also available for both low income formal and informal sector workers. It is important to develop suitable mechanisms that enable informal sector workers with volatile and broken contribution patterns to participate with appropriate co-contribution subsidies provided. This ensures that South Africa’s social security allows everyone to participate in improving their basic social security entitlements through contributions.

The NDP’s social protection framework emphasizes the inter-linkages between social insurance, employment promotion, youth programmes, welfare services and other dimensions of “an acceptable social protection floor,” including health, education, transport, shelter and food security.

A comprehensive social security system should cover people at different phases of their lives, including working age people. The NPC emphasised that this would close a conspicuous gap that has led to many working people having to significantly lower their standard of living (NPC, 2012: 355).

In its 2020 Review of the National Development Plan 2030 the NPC recommends that the following social security policy areas should be prioritised to accelerate efforts to achieve the Vision 2030 (NPC, 2020: 53[13]). These areas are at the centre of this Green Paper on comprehensive social security and retirement reform.

[13]The National Planning Commission, 2020. *A Review of the National Development Plan 2030: Advancing Implementation towards a more Capable Nation.* https://www.nationalplanningcommission.org.za/assets/Documents/NDP%20REVIEW.pdf

Box 1: Extract from the NPC's social security recommendations to build human capabilities

- *Investigate the sufficiency of the Child Support Grant amount and address the policy question on the Foster Care Grant.*
- *Implement the comprehensive social security and retirement reform system to ensure that it is affordable, sustainable and appropriate for South Africans by 2021 including the Establish the National Social Security Fund.*
- *NEDLAC and all social partners should explore the mechanisms for social insurance, which extends coverage to workers in the informal sector.*
- *The National Treasury should introduce pension reform, in particular, reduce the high cost and fees structures of pension funds.*

Source: NPC (2020:53)

3.3 SOCIAL ASSISTANCE FRAMEWORK

3.3.1 Non-contributory social security

Non-contributory social assistance is Government's principal means of tackling income poverty and the first pillar of the social security system. In 2021, more than 18 million South Africans were eligible for social grants, up from 5.8 million in 2003. More than half of all households receive income support from social assistance. The South African Social Security Agency (SASSA) administers social grants. These transfers provide support to those living in poverty and in need.

Social assistance grants currently accounts for nearly 3½ per cent of GDP. While this is expected to be broadly stable in aggregate, the relative share of different grants will change over time.

As shown in Table 1, the *child support grant* is distributed to 12.2 million children via their caregivers, making it the most widely accessed grant. Some 3.1 million pensioners receive the *old age grant* while the *disability grant* reaches 1.2 million beneficiaries.

The *old age grant* is the largest by expenditure, costing R83. 5 billion in 2019/20. The *child support grant* transferred R70.9 billion to caregivers in poor households over that fiscal year and the *disability grant* R25.1 billion. Annual adjustments to the maximum values of social grants are made to compensate for inflation.

Table 1: Social protection expenditure 2017 - 2021

R million	2017/18 Revised estimate	2018/19	2019/20 Medium-term estimates	2020/21	Percentage of total MTEF	Average annual MTEF growth
Social protection expenditure	**178 330**	**193 365**	**207 825**	**223 890**	**100.0%**	**7.9%**
of which:						
Social grants	*150 880*	*162 961*	*175 656*	*189 774*	*84.5%*	*7.9%*
of which:						
Child support	*56 017*	*60 631*	*65 467*	*70 836*	*31.5%*	*8.1%*
Old age	*64 276*	*70 531*	*76 751*	*83 689*	*37.0%*	*9.2%*
Disability	*20 952*	*22 105*	*23 078*	*24 172*	*11.1%*	*4.9%*
Foster care	*5 299*	*5 132*	*5 281*	*5 447*	*2.5%*	*0.9%*
Care dependency	*2 939*	*3 138*	*3 430*	*3 762*	*1.7%*	*8.6%*
South African Social Security Agency	7 206	7 761	8 196	8 646	3.9%	6.3%
Provincial social development	18 863	20 558	22 044	23 322	10.5%	7.3%
Total	**178 330**	**193 365**	**207 825**	**223 890**	**100.0%**	**7.9%**
Social grants as percentage of GDP	*3.2%*	*3.2%*	*3.3%*	*3.3%*		
Social grant beneficiary numbers by grant type						
(Thousands)						
Child support	12 239	12 402	12 631	12 815	70.7%	1.5%
Old age[1]	3 392	3 513	3 627	3 741	20.3%	3.3%
Disability	1 057	1 050	1 041	1 034	5.8%	-0.7%
Foster care	400	398	394	391	2.2%	-0.8%
Care dependency	149	154	160	165	0.9%	3.5%
Total	**17 237**	**17 517**	**17 853**	**18 146**	**100.0%**	**1.7%**

1. Includes war veterans
Source: National Treasury

Studies exploring the impact of social grants have shown considerable benefits at household level, often involving redistribution between individuals in the household. The *old age grant*, for example, has been shown to raise the mobility of the working-age generation, and in households, receiving the grant there is a greater propensity for children to attend school. The *child support grant* has been shown to increase labour-seeking behaviour in recipients' households.

However, income support in the event of disability and death is inadequate. The *disability grant* is complicated by difficulties in assessing and defining disability, as well as by the complexity of the means test. Survivor benefits are not available through the grants system, although the *child support* and *foster care* grants partially meet this need.

There have been significant improvements in SASSA's administration of grants especially by making payments through the national payment system (NPS).

3.3.2 Means tests and conditional grants

The means tests that determine eligibility to social assistance ensure that grants are targeted at the most vulnerable members of society. However, they discourage saving and asset accumulation and contribute to a "poverty trap", even among low-income workers with stable incomes. They can also exclude people who need the grants.

The alignment of social grants with the personal income tax rebate structure will allow the means tests to be phased-out and remove this bias against household saving and asset accumulation. This will benefit low-income households and reduce administrative complexity.

The proposal for the universalisation of the older person's grant is primarily premised on the basis that we already have a universal system, it is just fragmented with different systems, different criteria, and different benefit values (DSD, 2018), hence leading to exclusion. The Statistics South Africa (StatsSA) indicates that there are 4.4 million older persons in South Africa. Whilst the Social Pension System (SOCPEN) Report states that out of the total older persons' population, 3.1 million receive the Older Person's Grant (OPG). There are 400 000 older persons who receive tax rebates (Tax Report, 2016). About 1 million older persons are excluded in the existing State benefits.

This fragmentation results in an exclusion error at the levels of application and coverage. The high-income older persons receive more income support from rebates compared to their counterparts receive from social grants. For instance, older persons aged 75 receive a fixed additional R240 per annum from the social assistance while those of the same age receive an inflation adjusted amount of R2 466 from rebates per annum. The State is unable to justify the inequalities in the allocation of a higher rebate to high income earners.

The proposed policy on the removal of means test for the Older Person's Grant (OPG) and revision of tax rebates (universalisation of the OPG) will address this inequity, with the following policy options considered:

- *Option 1: universalisation of the OPG at age 60 accompanied by the removal of secondary and tertiary rebates.*
- *Option 2: universalisation of the OPG at age 65 accompanied by the removal of the secondary and tertiary rebates but retaining a more simplified means tested OPG for those between 60 and 65.*
- *Option 3: universalisation of OPG at age 75 accompanied by the removal of tertiary rebates but retaining a more simplified means test for those between 60 – 75.*

Among these options, it is proposed that the means tested *older persons grant* (OPG) remain between the ages of 60 and 64 and be phased out from the age of 65. This will allow for alignment with the tax system while ensuring that those who are vulnerable are able to access the grant, as is currently the case.

South Africa's social assistance law recognises social grants as entitlements, though there are associated responsibilities of caregivers in respect of the *child support* and *care dependency* grants. Strengthening of welfare and social development services will in time contribute to improved links between social assistance and specific household needs and circumstances.

Children in poverty and their caregivers account for more than 50 per cent of people in poverty. They will continue to be the focus of measures to enhance social assistance.

3.3.3 Unemployed working age population (the 18 – 59 age group)

Whilst social assistance in South Africa caters well for specific age-groups of the population such as children up to the age of 18 and the elderly from the age of 60, as well as for persons with disabilities, there is an absence of support for adults, including young entrants to the labour market and single adults, who are without any form of income support. Worker compensation schemes target those injured or suffer from diseases arising from their work, as well as dependents of those who have died from work-related accidents or diseases.

As the NDP states that: *"There is no special grant for the unemployed working age population"; "There are many other people who face different forms of vulnerability and are at risk of falling into poverty as a result of insufficient wages, unemployment, sickness, and other conditions that may threaten their livelihoods and dignity…. Social protection measures should be extended to cover these risks"*; and *"The right to access social* *protection should provide a fall back of supplementary benefits when income from work and assets such as land does not provide sufficient income to achieve a minimum standard of living".*

Unemployed adults aged between 18 and 59 account for about one quarter of those living in poverty, or some 4 million people. Using the most recent household data source in South Africa, the General Household Survey (GHS) 2018, there is an estimated 32.9 million (or 57.4% of the total population) people between the ages of 18 and 59. The unemployment rate has remained stubborn around 26-40% (narrow to expanded definition).

Social assistance does not currently address the needs of those aged 18 - 59 who are unemployed and without means of support. This leaves many adults to eke out a living in the informal sector or depend on low-paid workers for irregular support. Those unemployed who live in households without a grant beneficiary are even worse off. This exacerbates the socio-economic challenges in the country as many struggle for survival.

The Covid-19 crisis brought massive challenges to those in this age category. To mitigate the impact of the crisis, a special temporary Covid-19 Social Relief of Distress (SRD) Grant of R350 a month was introduced for individuals who were unemployed and did not receive any other form of social grant or the UIF. Despite the initial delays and implementation challenges, this marked the first time that unemployed adults of working age were included in the social grant system.

Noting that the distress faced by this group spans even before the Covid-19 crisis due to the high levels of poverty, unemployment, inequality and food insecurity, there has been growing calls for consideration of some permanent measures that provide income guarantee security for all.

A number of interventions for this group could include a mix of measures such as:

- Some form of phased in social assistance income support based on available resources.
- Active labour market interventions such as allowances linked to skills development and the expanded public works programme.
- Further education and training; and
- Youth employment programmes.

Employment creation, training and improved access to new job opportunities must accompany any income support and could comprise the most important vehicles for support to this target group.

3.4 EXISTING SOCIAL INSURANCE FUNDS

Social insurance arrangements in South Africa only include public contributory schemes established to provide protection for specific contingencies. This includes the Unemployment Insurance Fund (UIF); the Road Accident Fund (RAF); the Compensation Fund which provides benefits for occupational injuries and diseases; and the Compensation Commissioner for Occupational Diseases (CCOD) which provides benefits for mineworkers with occupational diseases (see Box 2 for definitions).

Box 2: Highlights of social insurance arrangements

Unemployment Insurance Fund (UIF): This fund is established in terms of the Unemployment Insurance Act (Republic of South Africa, 2001) and is operated through the Department of Employment and Labour. The Fund provides short-term unemployment insurance to qualifying workers.

Compensation Fund: This fund is established in terms of the Compensation for Occupational Diseases and Injuries Act (Republic of South Africa, 1993) and is operated through the Department of Employment and Labour.

Compensation Commissioner for Occupational Diseases (CCOD): This fund/arrangement is provided for in legislation through the Occupational Diseases in Mine Workers Act (Republic of South Africa, 1973). The arrangement falls under the control of the National Department of Health.

Road Accident Fund (RAF): This fund operates through The Road Accident Fund Act, 1996. The RAF focuses on third-party insurance protection for the victims of road accidents and is operationalised through the Department of Transport. It provides compensation for losses incurred due to injuries or death caused by or arising out of the wrongful driving of another motor vehicle.

3.4.1 The Unemployment Insurance Fund (The UIF)

The UIF provides short-term unemployment insurance to qualifying workers, who are required to make mandatory contributions of 1% by workers and 1% by the employers. At present, it covers all those in formal employment including employees of national and provincial government.

The UIF pays benefits to contributors or their dependants in cases of unemployment, illness, and maternity, adoption of a child or death. It is funded by contributions equivalent to two per cent of a worker's wages, half of which is met by the employer and half by the employee. Contributions to the UIF are subject to a cap, which is calculated to be consistent with the salary paid to a skilled manual labourer. This cap is presently set at R212 544 per annum (R17 712 per month).

Workers earn one credit day for every four days they work based on a four-year cycle; the maximum credit a worker can accrue is 12 months.

Retrenched workers can claim a benefit from the UIF based on their income at the time of retrenchment. These benefits decrease gradually in relative terms with income; the fund pays a benefit worth 60 per cent of the lowest-income worker's income and 38 per cent to those earning R212 544 per annum and above.

The unemployment benefit is one of several measures intended to facilitate an unemployed worker's transition to a new job. Section 5d of the UI Act 2001 (Act 63 of 2001) amended in the UI Amendment Act, 2016 (Act 10 of 2016) makes provision for "financing of the retention of contributors and re-entry into the labour market and any other scheme aimed at vulnerable workers". The UIF sets aside funding annually to ensure the implementation of Section 5D under the Labour Activation Programme. In 2009, it co-sponsored the training lay-off scheme by providing R1.2 billion to the programme, which sought to alleviate the impact of the recent recession on employers in distress.

During the Covid-19 crisis, the Fund also provided much needed relief to distressed companies and workers due to the lockdown through the **Covid-19 Temporary Employer/Employee Relief Scheme (TERS)**. The hardships experienced by many workers has resulted in the call for **atypical workers** to be included in the UIF coverage.

3.4.2 Compensation funds

The Compensation Funds established in terms of the Compensation for Occupational Injuries and Diseases Act (COIDA) provide medical care and income replacement benefits to workers injured on the job or who contract occupationally related diseases. They also provide survivor benefits to families of victims of job-related fatalities and funding for rehabilitation of disabled workers.

Cost recovery is through levies on employers at rates that depend on a firm's risk profile and accident record. This arrangement encourages employers to improve workplace safety.

Three principles underpin the design of compensation funds and must be safeguarded under the new social security landscape:

- *Work-relatedness*: The accident or disease was caused by the worker's job.
- *No fault*: Employees who receive benefits from the Compensation Fund lose their right to sue their employer, and the employer cannot assign fault to the employee.
- *The prevention of occupational accidents and diseases*. The risk-based levy encourages employers to improve health and safety standards. Inspection teams monitor employment conditions.

Employers operating under COIDA have a choice of registration either with the Compensation Fund or two independently managed arrangements – the **Rand Mutual Association** and the **Federated Employers' Mutual Assurance** – which compensate injured workers from the mining and building industries respectively. These funds are monitored by the Department of Employment and Labour and operate under licenses granted by the Minister of Employment and Labour. The largest of the funds is the Compensation Fund, which is administered by the Department of Employment and Labour and serves private sector employees. The Department also administers compensation claims of government employees, which are financed by appropriation and not through the Compensation Fund.

The Compensation Commissioner for Occupational Diseases (CCOD), in the Department of Health, provides compensation to miners and former miners who have contracted lung-related diseases. The Compensation Fund for Occupational Diseases, established in terms of the Occupational Diseases in Mines and Works Act, governs the lifelong monitoring and surveillance of former miners and evaluation of both former and active miners for possible compensable occupational lung diseases. The surveillance of an active miner is the responsibility of the employer as stipulated under the Mine Health and Safety Act, which came into effect in 1997.

There are significant potential overlaps in purpose and benefit frameworks between the two funds, but both operate in isolation from each other and are supervised by different government departments. The benefits offered under COIDA and ODMWA are poorly aligned. The benefits available under COIDA are higher and take the form of an income stream in an event of a permanent disability and a lump sum in an event of temporary disability, whereas ODMWA only pays lump-sum benefits that can be quickly exhausted. The Government Employees Pension Fund (GEPF) compensates government employees who are injured on duty after assessment by the Compensation Fund.

During 2020, Cabinet approved publication of the Compensation for Occupational Injuries and Disease Amendment Bill of 2020 and it has been approved by the Parliament for implementation g. The Bill, which amends the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993) recognises domestic workers, who were excluded from the Act, as employees for the purpose of benefits, as well as improving existing benefits. The amendments improve the benefits payable to employees and their dependents and aim to assist injured employees to be rehabilitated and reintegrated into the workplace and society.

The CCOD is an important instrument for protecting mine workers who may develop chronic medical conditions during and after their active employment careers. However, the policy and institutional framework remains largely the same as that implemented prior to 1994. The same can largely be said for the Compensation Fund (Social Budget Bulletin 2, forthcoming, 2021[14]). One of the critical gaps in the social protection system for occupational injuries and diseases has been that the responsibility for compensation being divided between different bodies (CCOD and CF) with different administrative criteria for assessing claims and making awards, resulting in an inequitable system (Taylor Committee, 2002).

3.4.3 Road Accident Fund (RAF)

The RAF is a mandatory fault based third-party insurance arrangement financed by a dedicated fuel levy. It provides compensation for loss of earnings, loss of support, general damages (for serious injuries), medical and funeral costs, to victims of motor vehicle accidents and their dependants, for loss or damages caused by the negligent or wrongful driving by the driver of a motor vehicle. Accident victims forfeit the right to sue the person responsible for causing the accident.

On 1 June 1999, a Presidential commission of enquiry (the Commission) was appointed to *"…inquire into and to make recommendations regarding a reasonable, equitable, affordable and sustainable system, for the payment by the Road Accident Fund of compensation or benefits, or a combination of compensation and benefits, in the event of the injury or death of persons in road accidents in the Republic".* The report by the Commission suggested, *inter alia*, replacing the current RAF with a whole new scheme based on no-fault, which provides defined and limited benefits, paid in a structured manner. The Department of Transport consequently consulted on the Commission's proposals in the form of Green Papers and White Papers, and the process culminated in Cabinet approving a No-Fault Policy (Road Accident Benefit Scheme - RABS) in September 2011.

A draft RABS Bill was published for public comment in 2013, following which the Bill was updated and republished in 2014, with draft regulations. The Bill (Road Accident Benefit Scheme Bill, No. B17 of 2017) was subsequently tabled in Parliament but lapsed during the transition from the 5th to the 6th Administration following 2019 national elections. The RABS Bill was tabled in Parliament and the Parliamentary Portfolio Committee on Transport, published the RABS Bill for public comment during 2017 and conducted public hearings during 2018. On 29 October 2019 Parliament adopted a motion for the Road Accident Benefit Scheme Bill, No. B17 of 2017 to be revived.

The reform as proposed in the published Bill envisages a move away from the current exclusionary system administered by the RAF, which requires the road crash victim to prove fault on the part of someone else and to prove loss or damage before qualifying for compensation.

The current system is characterised by an unsustainable funding model based on fuel levy income, resulting in a growing deficit currently more than R117 billion. The administration of RAF claims is complex and expensive, often involving costly and protracted litigation; and sometimes leading to the reduction of compensation received by claimants because of contingency- and other fees charged by intermediaries.

The RABS Bill as published proposes a more inclusive compensation system administered on social security principles to greatly improve social security cover to motor vehicle accident victims and their dependents. This entails the removal of fault as a requirement to qualify for a benefit; provision for defined benefits including

[14] *Social Budget Bulletin 2, forthcoming, 2021, Department of Social Development*

a deemed income provision for unemployed road crash victims; and payment of benefits in a structured manner, to ensure that certain future needs of motor vehicle accident victims can be met.

The RABS Bill, as published, proposes a health care services benefit that includes rehabilitation and vocational training. To ensure ease of access to the health care services benefit it is proposed in the Bill that the RABS Administrator will be empowered to establish a national network of contracted health care service providers to provide health care services to beneficiaries and to act as a point for the origination of claims. It is further proposed in the published Bill that provision will be made to compensate non-contracted health care service providers in accordance with a single medical tariff.

The published Bill further proposes that through the operation of a deemed income provision, unemployed road crash victims, and their dependants, will be assured of income support and family support benefits, even if they did not earn an income at the time of the accident.

The published Bill proposes a fixed lump-sum funeral benefit provided to the immediate family of a person killed in a road crash to assist with costs associated with a funeral.

Although the gradual alignment of benefits provided by RABS with that of the National Health Insurance and other institutions is envisaged over time, an important feature of RABS is that it covers both employed and unemployed persons. This means that its benefit structure is likely to remain distinct from that of other contributory social security funds.

The RABS Bill needs a few small improvements and then should be taken back to Parliament urgently, given that the instability in the RAF threatens the viability of a critical element of the social security system.

3.5 EXISTING INSTITUTIONAL FRAMEWORK

South Africa has an array of government departments, legislative frameworks, regulators, complaints frameworks, delivery organisations and private arrangements that form part of the incumbent "system" offering social security/ protection. Consequently, existing social security arrangements are highly fragmented.

The table 2 and figure 4 below shows the social security benefits, policy development government department and implementing entities.

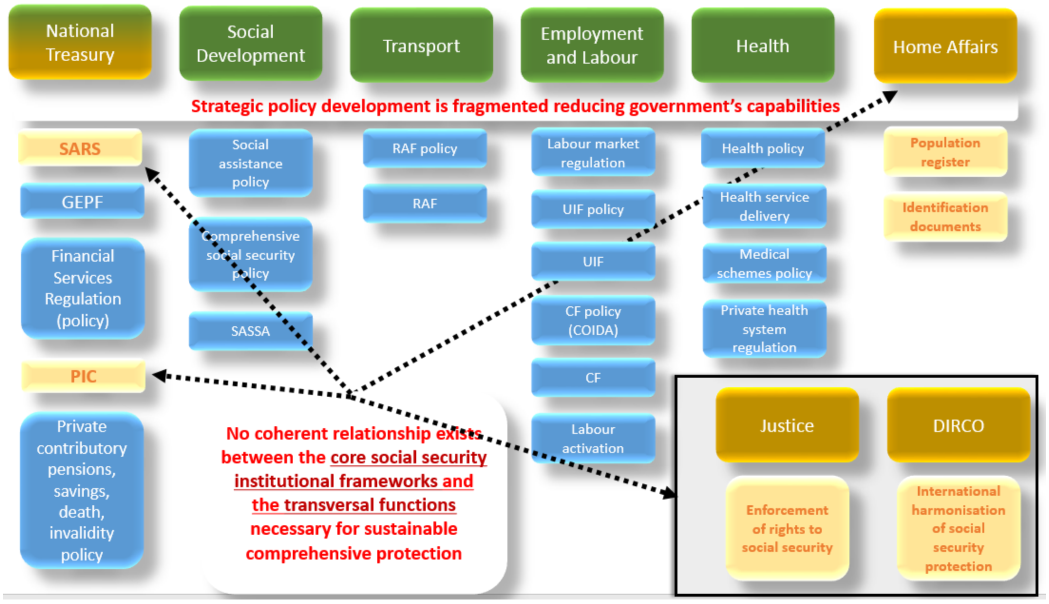
Table 2: Existing institutional institutions

Social Security Benefits	Policy Development	Implementing Institutions
Social Assistance (Grants)	Department of Social Development	South African Social Security Agency (SASSA)
Unemployment; Illness; Maternity; Adoption; Dependent's and Paternity benefits	Department of Employment and Labour	Unemployment Insurance Fund (UIF)
Occupational injuries and diseases	Department of Employment and Labour Department of Health Department of Mineral Resources	Compensation Fund (CF) (COIDA); Compensation Commission for Occupational Diseases (CCOD) (miners and former miners who have contracted lung-related diseases.

Retirement (old age)	Department of Social Development	SASSA
	The National Treasury	Private industry - Financial Sector Conduct Authority (FSCA), GEPF (GPAA)
Health Care	Department of Health	Public health system; Private system; Council for Medical Schemes
Motor vehicle accident insurance	Department of Transport	Road Accident Fund

Figure 4 below shows that strategic policy development is fragmented, and no coherent relationships exist between the core social security institutional frameworks and the transversal functions necessary for sustainable comprehensive social security protection.

Figure 4: Core and transversal institutional components in South Africa's system



The existing institutional framework and resultant fragmentation has four main consequences:

(1) *Uncoordinated policymaking*: In the absence of an overarching institution responsible for social security, the entities develop policies that are aligned to their own mandate without considering the activities of other social security agencies.

(2) *Lack of benefit alignment*: The benefits offered by the funds are poorly aligned. They each have their own benefit levels, eligibility rules, and assessment criteria. This is especially unfair in the compensation environment, where beneficiaries under COIDA receive higher benefits than those provided by ODMWA.

Table 3: Social security benefits and respective institutions

Institutional form of coverage	Contingency						
	Health care	Old age protection	Disability	Death of breadwinner	Child protection	Unemployment	Maternity
Social assistance		√	√				
Private pensions arrangements, long-term insurance, medical schemes and out-of-pocket health expenditure	√	√	√	√	√		
Unemployment Insurance Fund (UIF)				√	√	√	√
Road Accident Fund (RAF)	√		√	√	√		
Compensation Fund (CF): Compensation for Occupational Injuries and Diseases	√		√	√	√		
Compensation Commissioner for Occupational Diseases (CCOD) - Compensation for mining-related diseases	√		√	√			

Disability coverage through social insurance arrangements is limited primarily to two schemes, the Compensation Funds, which applies exclusively to employees, and the RAF for third-party coverage in the case of road accidents.

(3) *Fragmented administration*: There has also been no attempt to rationalise the common processes and administrative functions that exist across the social insurance entities and SASSA such as contribution collection, case management and benefit payment. This has led to unnecessarily high administrative costs associated with the provision of social security, and a system that is vulnerable to fraud.

(4) *Financial discrepancies*: There are large divergences in the financial positions of the main social security funds. Table 4 shows the projected end-of-year assets and liabilities, and net asset positions of social security funds for 2013/14 to 2017/18. Over the period, the UIF assets constitute around 65% of total assets and around 4% of liabilities, while the RAF constitutes 5% of assets and while accounting for 90% of total liabilities. This is a serious challenge that needs to be addressed urgently, as it threatens the effectiveness and efficiency of the overall social security system.

Table 4: Social Security funds, 2013/14 – 2017/18

R billion	2013/14 Outcome	2014/15 Estimate	2015/16	2016/17 Forecasts	2017/18
Total assets	145.6	161.9	181.8	203.5	227.7
UIF	94.3	110.1	127.7	147.0	268.3
Road Accident Fund	7.7	6.0	6.4	7.0	7.5
Compensation Fund	43.6	45.8	47.6	49.5	52.0
Total liabilities	109.9	129.7	142.7	157.0	173.2
UIF	3.9	4.3	4.6	5.0	5.4
Road Accident Fund	98.5	107.3	119.3	132.5	147.3
Compensation Fund	7.5	18.1	18.8	19.5	20.5
Net asset value	35.7	32.3	39.1	46.5	54.5
UIF	90.4	105.9	123.1	142.0	162.8
Road Accident Fund	-90.8	-101.3	-112.8	-125.5	-139.8
Compensation Fund	36.1	27.7	28.8	30.0	31.5

Source: National Treasury

A comprehensive social security system must therefore cater for the fact that it will be composed of several sub-systems, which will need to be harmonised through coherent policy-making platforms, various transversal (cross-cutting) functions, specialised organisations for delivering social security benefits, specialised regulators, dedicated supervisory structures, dedicated and transversal administrative platforms and an array of financing approaches.

Therefore, implementing an effective institutional framework is essential for South Africa to establish a comprehensive and holistic framework for pensions, loss of income and loss of support.

3.6 National Health Insurance and other social insurance funds

Once fully implemented, NHI's coverage will include medical benefits currently reimbursed by the social insurance funds. It is therefore necessary for the compensation funds and the RAF to prepare for their integration into the National Health Insurance over the period ahead.

Aligning the health insurance arrangements of the compensation funds and the RAF will be an important step in this journey. Although there are broad similarities between the injury assessment, treatment and rehabilitation needs of occupational and road accident victims, the IDTT's research has found that these systems are inconsistent and administratively inefficient.

There is also a need to address transition issues in the post-retirement health insurance landscape. Currently, many employers carry medical scheme contribution liabilities for former employees and many employees are uncertain about whether they will be able to afford medical scheme membership after retirement. For medical schemes facing rising numbers of elderly beneficiaries, it is necessary to implement a risk equalisation arrangement if funds are to remain solvent and fairly priced.

In future, the compensation funds and RABS will focus more strongly on the hospital treatment and vocational rehabilitation costs associated with recovery from an accident. There is considerable scope for them to adopt common mechanisms for classifying cases and reimbursing hospitals and service providers.

Improvements in these arrangements will serve as stepping-stones towards a unified system of health financing. At a later stage it will be determined to what extent NHI meets these funds' medical expenses rather than the funds themselves.

3.7 OCCUPATIONAL AND PRIVATE RETIREMENT FUNDS

In the absence of a statutory pension and insurance fund, companies and trade unions have established retirement-savings and insurance arrangements for their employees or members often as a condition of employment. Income-earners can also enrol in individual retirement schemes provided by private insurance companies, such as Retirement Annuity funds.

In total, some 7 million South Africans belong to retirement arrangements[15], a high proportion of the workforce by international standards, although far short of universal coverage. According to the Registrar of Pensions Funds Report 2016, this figure is estimated to be 11 million. However, it is important to note that there is double counting because workers may have a retirement annuity fund besides a pension/ provident fund. Coverage varies according to a worker's income, the sector of employment and the degree of unionisation in that sector.

Many bargaining councils established under the Labour Relations Act provide savings and insurance arrangements for workers covered by their collective agreements. More than one million workers are covered by such arrangements. These tend to be provident funds rather than pension funds. Bargaining councils and trade unions directly administer some funds while others outsource to professional fund administrators.

Government employees are entitled to retirement, death and disability benefits governed by the rules of the Government Employees Pension Fund (GEPF), which is the largest pension fund in the country.

Whereas the GEPF and several other public sector pension funds pay a final-salary defined-benefit pension, most private sector arrangements are now defined-contribution schemes in which accumulated savings and the growth thereof determine the value of benefits at retirement.

In 2010, some 3 000 active retirement funds were registered with the then Financial Services Board (FSB) (now the Financial Sector Conduct Authority - FSCA), of which 80 per cent had 100 or fewer members. Many of these funds fail to submit their accounts to the FSB, making it difficult for the regulator to keep track of funds and oversee fund management. The number active registered funds remain high. According to FSCA (2020), as at 31 March 2020, there were 5 124 (31 March 2019: 5 140) registered retirement funds in South Africa of which 1 452 (31 March 2019: 1 528) funds are active (a fund with members for whom it receives contributions and/or pays benefits). It is envisaged that the number of funds should be drastically reduced.

[15] StatsSA, Labour Market Dynamics, 2016; Sanlam Benchmark Survey, 2018.

Consolidation of the private retirement fund sector into a smaller number of large employer-based retirement funds could bring several cost advantages – including economies of scale, improved governance and disclosure, cost-efficiency, improved governance, and effective supervision. The supervisory authority will have the benefit of focusing attention on a smaller number of entities, making it possible to undertake scrutiny of the activities of these funds at a level that is appropriate. This reform will enable a more proactive approach to supervision of funds.

The table below shows the broad retirement fund landscape in South Africa, including private funds and public sector funds.

Table 5: Broad retirement fund landscape: 2017

Fund type	**Number of funds**	**Number of members**	**Aggregate assets (R`m)**
Privately administered funds	2 973	10 972 863	1 936 972
Underwritten funds	2 167	4 112 770	520 262
Government Employee Pension Fund	1	1 710 835	1 705 480
The Associated Institutions Pension Fund	1		
The Temporary Employees Pension Fund	1		
Transnet Funds	3	121 684	84 465
Telkom Pension Funds	1	83	199
Post office Retirement Fund	1	26 776	14 599
Foreign Funds	1	640	418
Total	**5 158**	**16 945 651**	**4 262 395**

Source: Registrar of Pension Funds Annual Report, 2017

Notes:

1. The three Transnet funds are the Transnet Pension Fund, the Transnet Retirement Fund and the Transnet Second Defined Benefit Fund.

2. This table reflects the number of individuals who are pension fund members. However, there is some double counting because some individuals belong to more than one retirement fund.

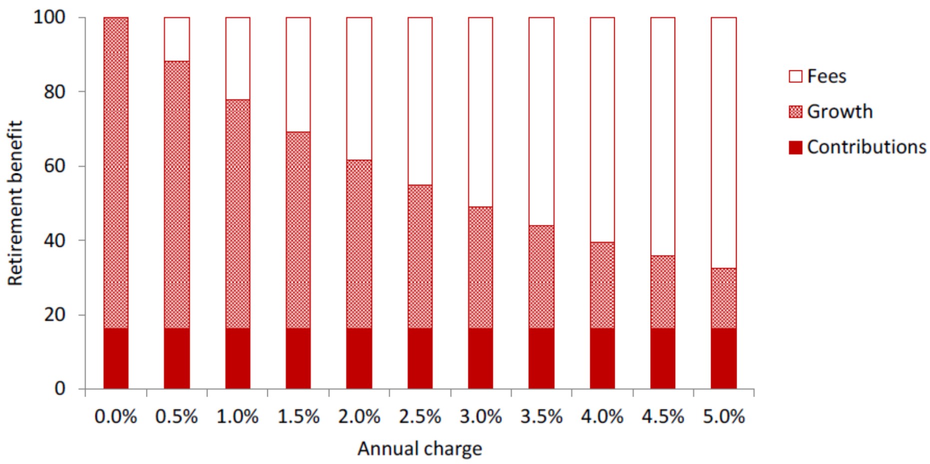
The table above includes contributing members, deferred members, pensioners, dependents and persons entitled to unclaimed benefits. SARS tax statistics show that there were 3 592 958[16] (74.9% taxpayers assessed) members of retirement funds.).

Despite retirement industry having large assets, some gaps remain evident particularly in terms of the quantity and quality of coverage: Lower income workers are often excluded from such funds, meaning they are inadequately protected against death, disability, or substantial reduction in their income at retirement. They rely on social assistance as is the case with South Africa's informal workforce.

[16] *SARS., 2019 Tax Statistics, December 2019*

In some instances, high administration and asset management costs erode the value of workers' contributions. Workers often have less money in their fund at retirement than they expected. For instance, as shown in Figure 4, a regular saver who reduces the charges on his retirement account from 2.5 per cent of assets each year to 0.5 per cent of assets annually would receive a benefit 60 per cent greater at retirement after 40 years, all else being equal[17].

Figure 5: Effect of recurring charges on retirement fund



Source: National Treasury (2013)

These have been longstanding concerns. A series of consultation papers published by the National Treasury in 2012 and 2013 sets out proposed retirement fund reforms to address these shortcomings[18].

Nonetheless, there are considerable strengths in both the private and public sector savings and life insurance industries, and in the country's liquid capital market and competitive financial services industry.

These include well-established benefit administration and fund management systems. The insurance sector is categorised by low margins and competitive pricing (where insurance is obtained on a group basis rather than on individual terms).

3.8 AN ADEQUATE AND LASTING RETIREMENT INCOME

The value of a pension is commonly expressed as "replacement rate" relative to a worker's career earnings. The ILO recommends that a 40 per cent replacement rate is a reasonable minimum, and that a retirement

[17] *Charges in South African retirement funds, National Treasury*

[18] *National Treasury, 2013. Charges in South African Retirement Funds.*

National Treasury, 2012. Preservation, portability and governance for retirement funds

National Treasury, 2012. Enabling a better income in retirement

National Treasury, 2012. Incentivising nonretirement savings

National Treasury, 2012. Improving tax incentives for retirement savings system can therefore be considered adequate if a worker with a full career (at least 30 years in formal employment) receives an income in retirement of at least that level.[19]

In the existing social security landscape, a substantial proportion of workers do not receive a decent income in retirement. Research by the Department of Social Development indicates that average replacement rates are in the region of 24 per cent – far short of the 40 per cent benchmark. This means that most workers suffer a substantial decline in living standards during their retirement years.

The primary cause of low replacement rates is early withdrawals from retirement funds during a worker's career. Many workers liquidate their funds each time they change jobs (no preservation). When people face a life crisis, or have spent a long time out of work, they may have no other option. Nonetheless, workers should be encouraged to preserve their retirement savings for as long as possible.

Low levels of preservation are not the only reason workers' retirement incomes are too low. The high costs associated with certain retirement products, imprudent investments and poor governance and administration reduce the value of a worker's lifetime savings. This problem is exacerbated by limited financial literacy in the workforce.

Another concern is that few members of provident funds annuitize their retirement accumulations. Annuities provide a guaranteed monthly income. However, the South African annuity market provides poor value for money to retirees with low life expectancy, who tend to be lower-income earners. The up-front fees associated with the purchase of an annuity can also substantially reduce the value of the monthly income.

Problems with private arrangements have led many countries to introduce statutory pension funds. However, international experience indicates that public social security arrangements cannot provide full income protection for every worker: it is also important to encourage supplementary occupational and voluntary pensions and insurance contributions as the third pillar of a social security system for those who can afford to make such contributions. While all these elements are crucial to the improvement of pension coverage and pension adequacy, they serve different objectives, they share and address risks in different ways and their exposure to different risks vary. Public and private pensions are complementary.

3.9 SOCIAL SECURITY AND WORKERS

Social security is part of the "social wage" through which government services and statutory arrangements complement workers' take-home earnings. Government's responsibility for protecting workers' rights includes a commitment to making social security arrangements available to all members of the labour force.

The links between social security and labour institutions are not fully developed in South Africa. Social security and labour market policies should be complementary and contribute to an integrated strategy for improving livelihoods and establishing an inclusive society. Therefore, social security and labour policies must be developed and implemented in tandem, requiring an overarching strategy linking the two.

The ILO considers social security arrangements to be an important means of protecting workers' income security. This is part of the ILO's broader approach to work-related security, which also incorporates:

- *Labour-market security*: Many opportunities for adequate income-earning activities.

[19] *ILO Social Security Minimum Standards (Convention 102 of 1952)*

- *Employment security*: Protection against unfair dismissal.
- *Work security*: Safe working conditions.
- *Skill-reproduction security:* Access to education and training that enhance workers' access to the labour market.
- *Job security*: A worker's ability to pursue a line of work that is aligned with their interests, training and skills.
- *Representation security*: Individual and collective representation to protect workers' rights.

These different aspects of work-related security are integral to the provision of decent work opportunities. However, none can be considered in isolation. There are complementarities and trade-offs between the different components, which require careful management to achieve the desired results for workers while avoiding distortions to the labour market that undermine employment creation and restrict the growth of the South African economy.

3.10 Public employment services and labour centres

Public employment services are a cornerstone of Government's strategy for promoting employment and improving the functioning of the labour market. They provide work seekers access to labour opportunities, especially through job-matching schemes, and offer them training opportunities. They also assist disabled workers, young work seekers, and workers who are facing retrenchment. Implemented by various government departments, the programmes provide short term employment to unemployed young people.

Public employment services are an important conduit to employment programmes established by Government and the private sector. These include the Expanded Public Works Programme (EPWP), community projects, school-to-work programmes and vocational training. Public employment services get work-seekers or rehabilitated workers into the labour market and reduce their reliance on unemployment benefits or social assistance.

The public employment services are housed in labour centres, which also perform important social security functions such as facilitating UIF and Compensation Fund claims for workers who have been retrenched or injured at work. They also house the inspection teams that oversee working conditions and the tribunals that protect workers from unfair dismissal.

Persistent and high levels of unemployment mean that labour centres in some parts of the country struggle to cope with demand from work seekers.

3.11 Labour Activation Programmes (LAP)

The country has been experiencing mass retrenchments in various sectors. The challenge of unemployment is not simply lack of jobs. Repetitive workplace tasks are being automated and low skilled workers are losing jobs. As a result, UIF contributions decrease, and the claimants increase with a great risk of the fund not fulfilling its objective and being financially unsustainable. The UIF pays benefits to an average of 60 000 people per month based on qualifying conditions. Of this number, a percentage end up being in long term unemployment due to being unskilled, semi-skilled and lacking the qualifications to show what they are skilled in. The UIF saw it necessary to implement a proactive Labour Activation Programme (LAP) to alleviate the effects of unemployment to ensure that unemployed UIF beneficiaries are integrated/re-integrated back into the labour market.

The purpose of LAP is to enhance employability, enable entrepreneurship and preserve jobs. LAP therefore also assumes a proactive approach to encourage employers in reskilling or upskilling workforce agenda. The expected outcome of the LAP is to increase employment rates and income security, which is key to inclusive economy and accessibility of labour markets to vulnerable groups. Creation of jobs and the sustenance thereof are the key indicators for the performance and evaluation of the LAP.

LAP beneficiary targets include unemployed and underemployed South Africans; Previous UI Contributors; Employees in organizations that need relief schemes and turnaround solutions; as well as designated groups: persons with disabilities, women and youth.

The enabling legislation for LAP includes:

(i) the Unemployment Insurance Act 63 of 2001 (section 16(2)(b) "An unemployed contributor is not entitled to the benefits referred to in subsection - the contributor refuses without just reason to **undergo training and vocational counselling for employment under any scheme approved by the Director- General in terms of this Act or any other law"**.

(ii) Unemployment Insurance Amendment Act 10 of 2016 (section 5(d)) - "financing of the retention of contributors in employment and the re-entry of contributors into the labour market and any other scheme aimed at vulnerable workers.''

Current Programmes under implemented within the framework of the LAP are:

- **Temporary Employer/Employee Relief Scheme (TERS**

Temporary Employer/Employee Relief Scheme (TERS) is a temporary scheme assist due to suspension of work of a worker or a group of workers that are facing a risk if retrenchment due to their company being in distress because of economic conditions. Under the scheme, workers agree to forego their normal wage to attend the training programme and accept a training allowance during the training period. Employers gain a recovery period by reducing payroll costs for a stipulated period whilst improving the skills of their workers at limited costs to the company. There may be other interventions aimed at assisting the participating company to recover. These may include training and turnaround interventions.

The "TERS" depends on an agreement between an employer and workers that there will be continued employment, and that the employer will pay all contributions of social security benefits during the relief period. The TERS will be funded for a maximum of twelve months. UIF pays 75% of an employee's basic salary up to a maximum amount of R 12 849 (R17 119,44 x 75%) per month.

Applications to participate in the scheme are made to the Commission for Conciliation, Mediation and Arbitration (CCMA) where distress is determined and a TERS Recommendation Ruling is issued by the Commissioner (of the CCMA). The Department of Employment and Labour appoints a Single Adjudication Committee (SAC) to consider applications lodged at the CCMA. The Committee is chaired by a CCMA Commissioner and must include officials from the UIF, CCMA, Department of Trade, Industry and Competition and Productivity South Africa. Members may be appointed from other government departments and entities whenever a need is identified. The final approval for companies to participate is made by the delegated authority of the Department of Employment and Labour based on its Financial Delegations.

- **Training of the Unemployed (TOU)**

The Training of the Unemployed (TOU) involves the provision of training programmes to unemployed UIF beneficiaries and unemployed youth. The training or learning programmes are designed to afford the unemployed an opportunity to be integrated into the labour market or to start their own enterprises. The beneficiaries must be registered on the Public Employment Services (PES) database and must be available for training in various artisan skills needed by different industries in our country.

The programme is implemented in partnership with other organisations who can provide training linked to employment. The employment requirement is now compulsory for all proposals for funding. It is therefore mandatory for all proposals to be accompanied by letters from employers confirming that participants will be absorbed into jobs.

4 AN INTEGRATED SYSTEM OF SOCIAL SECURITY

The reform challenge is to find an optimal mix of statutory, pooled and standardised social security mechanisms, alongside supplementary voluntary and occupational arrangements.

4.1 PRINCIPLES UNDERPINNING SOCIAL SECURITY REFORMS

The following principles underpin the proposals presented in this paper:

- Transparency and fairness – Government's subsidy programmes, through rebates and tax expenditure subsidies should be transparent and fair to all members in the social security system. It is important to ensure that high-income earners do not receive higher benefits from the state than lower income earners. There is need to create much clearer relationship between our social grants programme on the one hand, and our system of tax subsidies and rebates on the other, such that high-income earners do not receive higher benefits from the state than lower income earners (DSD Social Budget Bulletin 1 of 2017[20]).
- Risk pooling and social solidarity (social cohesion) - All income earners should be able to participate in one social security system, despite their income levels, contributing according to their means and benefit from the system according to their needs. This means that everyone in a common pool shares

[20] *DSD, Social Budget Bulletin 1 of 2017*

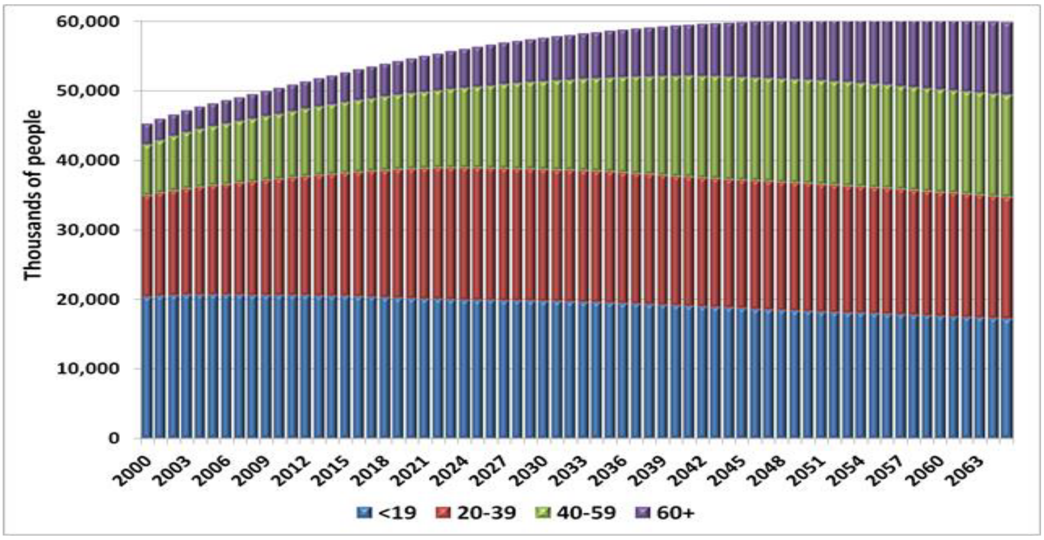
social risks. This ensures that members and their beneficiaries will be able to maintain an acceptable standard of living post retirement, or in the event of disability or death for all workers.

- Universality/ universal coverage – Everyone needs to have access to all social security provisions in the country.
- Equity - Fair and equitable uniform rates of contribution and benefits for all participants.
- Mandatory participation - Compulsory participation of all income earners.
- Administrative efficiency - Streamlined use of payroll-based contributions, modern information systems and efficient payment arrangements.
- Minimum guarantees - All contributors should have adequate benefits.
- Sustainability - The social security system should be able to address both investment and longevity risks while ensuring long-term sustainability for contributors and the country.
- Good Governance - efficient, effective and participative governance of the social security programmes.
- Adequate institutional capacity - social security coordinated and implemented by bodies and people capable and qualified to meet its goals.

4.2 DEMOGRAPHIC PROJECTIONS

The number of people who receive these different benefits will change over time. As life expectancy improves, the relative share of social security expenditure that finances retirement will rise relative to other benefits. The design of the proposed social security system is based on the analysis and management of long-term demographic trends and their implications for social needs.

Figure 3 Projection of the population of South Africa over the age of 45



Source: Actuarial Society of South Africa

South Africa's population is expected to stabilise at about 60 million, the number of people aged over 60 will increase to nearly 8 million in 2065.

Consistent with the requirements of the Constitution, South Africa's integrated social security system should cover all citizens and permanent residents, including migrant workers. All workers with earnings above a minimum threshold should contribute to the pensions and insurance arrangement under consideration. It is therefore proposed that Government should meet part of the contribution costs of lower-income employees. Otherwise, such workers might move into the informal sector to avoid contributing to the fund, which would leave them unprotected and put the system's sustainability at risk. This is one of the ways in which the social security funding arrangements will serve an important redistributive function within the broader and unusually unequal income structure of the South African economy.

4.3 A MANDATORY PENSION AND INSURANCE SYSTEM

The absence of a statutory arrangement providing pensions and insurance is the most obvious gap in South Africa's social security system. Such an arrangement must be mandatory, should provide adequate but affordable benefits, and should pool risk across the workforce. It should be designed to interact with non-contributory social assistance as well as contributory arrangements, both statutory and voluntary.

The design of a new social security system must consider the varying needs and risks of different groups during the life cycle, including death, loss of income/ support due to old age, disability and long-term unemployment. Consideration should be given to the changing world of work and experiences of informally employed and informal sector workers (and those in atypical work environment such as gig economy and platform workers). Those who live long beyond their salary-earning years need an adequate income in retirement, but those who die young require assurance that their dependants will be provided for. Those who suffer accidental injuries and lose their capacity to work need a replacement income (and in some cases compensation), while those who lose their jobs through the vagaries of economic and industrial trends need to be assisted in finding alternative work and meeting interim income needs.

4.4 THE NATIONAL SOCIAL SECURITY FUND

Government proposes a mandatory social insurance scheme, the National Social Security Fund (NSSF). The NSSF will fill a significant gap in South Africa's social security arrangements, and it will complement social assistance programmes, social insurance funds and private arrangements.

The NSSF will provide pensions to formal, informal and self-employed workers who reach retirement, disability benefits to those who are physically unable to work and survivor benefits to their dependants should they not live until retirement. Contributions to the pension and risk benefit components of the NSSF will be pooled, sharing risk across all contributors.

A mandatory pension payroll contribution worth between 8 and 12 per cent of earnings is proposed to be met by employees and employers, at the establishment of the NSSF. There will be both a floor and a ceiling to contributions: it is proposed that workers earning less than R20 000 per year should not be obliged to contribute to the NSSF, though they will continue to contribute to the UIF. Those earning more than the ceiling R276 000 per annum or R23 000 per month, at present will not be obligated to contribute on income above that level.

4.4.1 Retirement

At retirement, a worker who contributed to the NSSF will receive a pension calculated according to a formula based on lifetime wages, length of service, and an accrual rate to determine what proportion of average earnings (up to the contribution ceiling) the worker would receive for every year worked.

This is a defined-benefit (DB) pension plan ***(see Box 1 below)***. The defined-benefit design means that workers with equivalent contribution records will receive the same pension as investment risk is carried by the system. A worker's pension should represent a fair return on contributions during his or her career, considering that risk benefits are also a claim on these contributions. The pension income should grow at the rate equivalent to the wage inflation to ensure that the income received is equivalent to the average national incomes.

Box 3: Benefit design and funding concepts

BENEFIT DESIGN

Within contributory schemes, the relationship between **contributions and benefits** can be classified in different ways for example:

a. In a **defined benefit (DB) scheme**, a pension is calculated based on years of contributions and the insurable earnings. The formula for the pension promises a yearly pension which is a certain percentage of the yearly income (called the accrual rate) per contribution year. The accrual rate multiplied by the number of years of contribution gives the replacement rate. The pension is then generally calculated by multiplying the replacement rate by the reference income of the beneficiary. The reference income can be the last income of the contributor, or the average income over a certain number of years.

b. In a **defined contribution (DC) scheme**, contributions are simply saved. The accumulating amounts of contributions earn interest during the active years of contribution and, at the point of retirement, the amount of lifetime savings is paid out either in form of a lump sum or converted into an annuity (a yearly amount that is paid until death).

c. In a **notional defined contribution (NDC)** scheme, the principal calculation of a defined contribution pension in schemes that do not have real reserves is used. The virtual annual rates of return (i.e., fictitious interest rates) used for the accumulation of interest in the fictitious account balances are normally stipulated by law.

FUNDING

Contributory pensions can be funded in different ways:

a. **Full funding** means that the level of reserves at any point in time can cover all future pension liabilities acquired, at least in theory. Defined contribution schemes are automatically fully funded, as their liabilities to individual contributors are always equal to the amount they have saved. In theory, defined benefit schemes can be fully funded too, but in practice, they rarely are.

b. **Partial funding** means that at any point in time, the pension scheme must have a minimum level of reserves. This amount – defined by law – is less than the actuarial equivalent of all future liabilities. The fact that new generations of workers will continue joining the mandatory social security scheme makes partial funding possible, because their contributions help guarantee most of the scheme's future liquidities. Reserves largely serve the purpose of smoothing contribution rates and helping to smooth the effects of economic downturns.

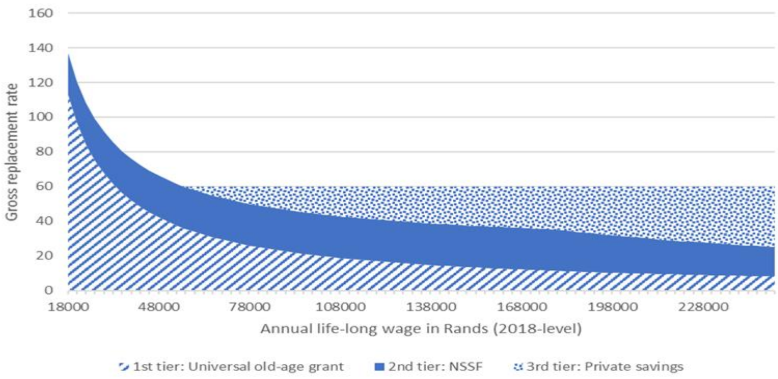
c. **Pay-as-you-go (PAYG)** is an extreme case of partial funding with a very low level of reserves, as PAYG schemes rely almost entirely on the future contributions of the active generations to pay the pension of each contemporary pensioner generation. Defined benefit schemes tend to be PAYG, as they rely on the future contributions of the active generations to pay the pensions of the retired population.

Source: ILO

The design of the NSSF enable workers who have worked a full career to achieve an income in retirement of at least 40 per cent of their earnings over the course of their career. However, workers will not achieve this replacement income through the NSSF alone: for lower-income workers, the old-age grant will continue to contribute to income in retirement, while higher-income earners will need to make supplementary contributions during their careers if they are to achieve an adequate retirement pension.

Figure 6 shows how the composition of workers' retirement income will change according to their career-average earnings (assuming that the old age grant is available to all). The system is designed to provide a worker with 30 years of contributions to the NSSF, and average career earnings of up to R90 000 per annum with a minimum replacement rate of 40 per cent) in retirement without contributing to a supplementary scheme. If such workers wish to receive a higher replacement rate, they will need to contribute to an approved supplementary fund (over and above mandatory contributions to the NSSF).

Figure 6: Composition of retirement income at different income levels against a 40 per cent minimum target after full employment



4.4.2 Disability and survivor benefits

In addition to financing a retirement pension, the social insurance system must provide for income security if workers do not reach retirement age or are unable to work. Workers who are unable to work until retirement age will qualify for benefits to meet basic income needs. If a worker becomes permanently disabled, he or she will receive an income based on their salary as at the time the accident occurred or last year of employment where applicable.

Income support will also be paid to a worker's dependants if he or she dies before retirement. The NSSF would pay a survivor benefit based on not only the worker's salary but also the number of dependants that the worker leaves behind.

The benefit will be paid out for each child until they reach age 25 or complete their education[21], so, the younger a deceased worker's children, the longer the benefit would last. Surviving spouses would receive a benefit related to the salary of the deceased spouse.

[21] First degree or diploma qualification.

The amount that a worker receives through risk benefits will not be determined by the length of time that they made contributions. A worker who has been contributing to the NSSF for one year would be entitled to the same risk benefits as one contributing for 15 years, provided they earned the same salary and had the same number of dependants.

The worker who has only worked for one year would thus receive risk benefits from the NSSF far in excess of his or her contributions. This is achieved by pooling contributions across the entire workforce: the NSSF covers the difference between this worker's entitlement and contributions with the contributions of other members. In this way, it is not only contributions that are pooled, but also risk: the needs of those affected by risk events are in part covered by those who do not suffer injury or die prior to retirement. Because disability and mortality risks decline as income rises, the NSSF redistributes to lower-income earners in these arrangements.

Recipients of the disability benefit will be eligible for a pension if they reach retirement age. The benefit calculation will treat the years they received the benefit as years of service and base the career-average salary on their wages prior to suffering the disability (adjusted for wage inflation). Recipients of the disability benefit who do not reach retirement will be eligible for survivor benefits based on their last salary before becoming disabled.

Risk benefits will usually be paid as a monthly income stream rather than as a lump sum. Lump sums will only be appropriate if the awards are relatively small.

4.4.3 Unemployment insurance

Unemployment insurance will continue to be credit-based with credits accrued at a faster rate. The UIF has also extended the benefit for unemployed workers who remain out of work after the exhaustion of their 238 credit days. This will be worth 20 per cent of their income and will last for a maximum of four months. It will be subject to conditions associated with government's labour activation and employment service reforms.

This additional benefit for workers who have exhausted their credits acknowledges the needs of the long-term unemployed. It also reflects Government's commitment to reducing the need for workers to access their accumulated retirement savings.

The **continuation benefit** outlined above will not meet the longer-term income needs of the chronically unemployed or older workers who have lost their jobs and are unlikely to be re-employed. Options for funding a more extended continuation benefit are being explored. This would be limited to a fixed rand amount.

The following changes to the Unemployment Insurance law were proposed under the Unemployment Insurance Amendment Bill, 2011. These were adopted in the Amended Act of 2017.

- The fund may be used to finance re-entry of unemployment insurance beneficiaries and contributors to the labour market.
- A contributor's entitlement to benefits will accrue at a rate of one day's benefit for every completed four days of employment subject to a maximum accrual of 365 days benefit in the four-year period. Previously, workers accrued benefits at a rate of one for every six days worked, up to a maximum of 238 days.
- A contributor is entitled to illness benefits if the period of illness is longer than seven days, versus 14 days previously.

- The first 238 days of benefits will be paid at a replacement rate of between 38 per cent and 60 per cent of a worker's income, depending on the contributor's earnings level. Thereafter, benefits will be paid at a rate of 20 per cent for a maximum of an additional four months.

4.4.4 Unemployment Insurance for atypical workers

Based on experiences during the Covid-19 pandemic, there has been calls by Nedlac social partners to explore the possibility to progressively extend unemployment insurance cover to atypical workers, self-employed or informal workers who do not meet the definition of contributor in terms of the UIF Act. One of the key mechanisms for providing social security relief during the Covid-19 lockdown was through the Covid-19 TERS which has been made available through the UIF to all workers who are or are eligible to be contributors to the Fund.

However, a number of other workers who may be self-employed, in the informal sector or so-called platform or gig economy have not been covered and have had access to no form of relief except possibly the R350 SRD grant.

Extending UIF benefits to self-employed workers is urgent in view of the heavy losses of income and work suffered by these workers following the Covid-19 pandemic. Whereas other categories of workers classified as employees have had access to relief funds, including UIF benefits and the Temporary Employee Relief Scheme (TERS), self-employed workers have been excluded. Incorporating these workers into social insurance schemes such as the UIF to alleviate the hardship endured by them and their families should be treated as a matter of critical importance.

Within the scheme of the UIA and the Unemployment Insurance Contributions Act (UICA) (Act 4 of 2002) "contributor" and "employee" are overlapping categories in that a person cannot be a contributor without being an employee for purposes of the Act. Declaring persons to be contributors necessarily means that they must also be deemed to be employees for purposes of the UIA and UICA[22].

4.5 FUNERAL BENEFIT

The NSSF will offer a flat-rate funeral benefit to all its members. This will replace the funeral benefits to which members might have been eligible from the social insurance funds. A similar benefit will be provided to those only accessing social assistance.

4.6 CONTRIBUTION SUBSIDY

A mandatory payroll contribution for retirement and risk benefits could be a significant burden for low-income workers, and an additional cost to employers.

The NSSF needs to be structured and financed so that it does not serve as a disincentive either to job creation or to participation in the formal labour force. A contribution subsidy is therefore proposed to mitigate the negative impacts, with government paying all or a portion of the NSSF contribution for low-income employees. The intention is to ensure that the full contribution reaches the fund, while the incidence is shared by the

22 See, "Nedlac Sub-committee on UIF: The extension of UIF benefits to atypical workers. An explanatory memorandum, 2020".

government. This subsidy will be paid from the fiscus. Its design will encourage formalisation of employment and contribute more broadly to protecting decent terms and conditions of work. The structure of the contribution subsidy should be in-line with tax expenditure subsidies in tiers 2 and 3.

However, it is not reasonable to expect the lowest-paid workers to make full contributions to the new fund, and it would be counterproductive to raise the costs of employment beyond the reach of more labour-intensive industries and enterprises.

Internationally, tax and non-tax financial incentives are effective in encouraging savings for retirement. Tax incentives such as tax deductions for retirement contributions promote retirement savings among middle-to-high income earners. On the other hand, low-income earners are more sensitive to non-tax incentives (matching contributions and fixed nominal subsidies) than tax incentives[23].

4.7 THE NSSF CONTRIBUTION CEILING

The contribution ceiling is a key feature of a social security fund. A social security system should provide greater protection to low-income workers, while providing scope for higher income earners to augment their retirement savings through alternative vehicles that offer greater diversity of benefits without imposing risk on the fiscus. The contribution ceiling therefore allows middle- and higher-income earners to contribute to occupational or voluntary retirement and insurance funds while also participating in the statutory social security arrangement.

4.8 INTERACTION OF THE NSSF WITH SOCIAL SECURITY AND LABOUR ARRANGEMENTS

The NSSF will seek to complement existing retirement and insurance arrangements rather than replace them. For lower-income workers, social grants will continue to play an important role in providing benefits for retirees, the disabled and children. The existing social insurance funds will continue to address specific events as per their legislative mandate and the introduction of the MSSR will play a vital role to enable all institutions to have access to the common data interface and shared service delivery platforms. Workers earning above the personal income tax threshold will be encouraged to make supplementary contributions to approved funds.

4.8.1 Social assistance

The social assistance system will continue to provide a safety net for the poorest households. However, social grants will no longer work in isolation but will be administered alongside the NSSF. Social assistance will serve as the foundation of an integrated social security system rather than as a last resort for those on the margins of the productive economy, and it will be linked to labour-market instruments and initiatives.

The key change to the social assistance system will be the progressive elimination of the means tests for *child support* and the *old age* and *disability grants and increasing coverage to include working age individuals*. The thresholds for the means tests will be raised gradually over time until they are aligned with personal income tax rebates of equivalent value based on fiscal affordability.

The result will be that workers will no longer forgo social grant entitlements if they earn improved wages or retirement pensions. The *old age grant* will provide part of all everyone with a base retirement income which no older person will fall below. Similarly, the child grants and income support to working age population, will

[23] OECD, 2018. Financial Incentives and Retirement Savings. OECD Publishing, Paris. https://doi.org/10.1787/9789264306929-en

ensure that everyone has access to some source of income and that their income will not fall below those levels. These levels should be aligned to the poverty lines over time, to progressively eliminate poverty and provide adequate protection against poverty for everyone.

This interaction between social assistance and the NSSF will require alignment between the disability assessments for both systems.

4.8.2 Social insurance funds

It is proposed that the UIF, the compensation funds and RAF/RABS will continue to provide insurance for workers and their families against loss of income arising from specific circumstances. Coverage of UIF and COIDA will be expanded to the entire workforce by incorporating government employees.

The compensation funds and RAF/RABS will remain responsible for motor vehicle accident victims' trauma care and rehabilitation. However, the arrangements for financing income and medical benefits will adapt, over time to the phasing in of the NSSF and NHI respectively. Contribution levels and benefit alignment issues will need to be considered over time.

Further adaptations to the social security system may come under consideration to respond more effectively to the needs of identified vulnerable groups. Alongside measures to increase job creation and improve access to training and employment opportunities for adult work seekers, options for extending unemployment insurance are being explored. Links between social security and employment services are central to labour market activation as part of a more dynamic growing economy.

Recognising the need to support workers in lower-paid sectors and occupations, a social security contribution subsidy will be funded as part of the overall social protection budget.

4.9 STANDARDISED DISABILITY MEASURE

A standard disability measure and a streamlined assessment process across the social security landscape is proposed. Box 4 below provides the status quo in terms of disability assessments across existing social security entities.

Box 4: A standardised disability measure

A standardised disability measure

At present, disability is assessed differently across different social security entities. In the new social security landscape, assessments of disability will be harmonised in order to achieve transparency and consistency.

Disability assessments for the *disability grant* determine whether an applicant has a disability without specifying the degree of the impairment. The assessment procedure is applied differently across the country and it is often the case that the medical resources are not available for a thorough examination.

Under the *Compensation Fund* rules, workers with disabilities are assessed according to the American Medical Association disability framework, which quantifies the degree of a worker's impairment. The level of benefit is determined by this degree of impairment: the higher the degree of impairment, the less able a worker is to return to work and the higher the benefit that he or she receives.

The proposed *Road Accident Benefit Scheme* will provide income replacement benefits on a similar basis to the Compensation Fund, with the benefit dependent on the injured worker's capacity to earn. However, it has not yet been decided what assessment tool will be used.

Given that the disability benefits paid by the *NSSF* will almost certainly operate on a similar basis, it is necessary that a ***single disability assessment metric*** be established for all social security entities, including SASSA. This assessment tool be applied evenly across the country, which might require a dedicated capacity for the performance of disability assessments.

4.10 Improving coordination, consistency and coherence

Specific funding streams are retained in the consolidated social security landscape because they address specific risks relating to the workplace and the roads. As such, they require specific capacity, expertise and infrastructure.

However, the IDTT has identified considerable scope for enhancing coordination across these entities through unified policymaking, common benefit structures and consolidation of administrative systems and platforms. This process will require legislative harmonisation.

- *Unified policymaking*: The establishment of a single department responsible for social security will ensure that different entities adhere to an overarching set of social security policies and to Government's broader objectives.
- *Benefit alignment*: Under the proposed framework, individual entities will provide different *levels* of income-related benefits. However, it is desirable to establish aligned *structure* of benefits. This will normalise aspects such as the definition of dependant and minimum benefit levels.
- *Fragmented administration*: The establishment of common systems for contribution collection, case management and payments will significantly enhance the administrative efficiency of social security,

achieve considerable savings and improve service delivery. Establishing *a* ***common public interface for social security*** claimants will be a key aspect of this administrative consolidation. This will require the different social insurance entities, including the NSSF and SASSA, to share branches and call/labour-centre facilities. The table below indicates the current footprint of RAF, SASSA, and the UIF's labour centres. The RAF is planning to increase its presence.

Table 6: Footprint of RAF, SASSA and the Labour Centres

Province	**RAF**	**Labour Centres**	**SASSA**	**TOTAL**
Eastern Cape	15	15	43	66
Free State	8	12	22	40
Gauteng	16	23	39	78
Mpumalanga	10	16	76	106
Kwazulu-Natal	17	16	79	106
Limpopo	17	11	16	40
North West	8	11	26	42
Northern Cape	4	6	22	33
Western Cape	12	12	35	56
TOTAL	109	122	358	577

4.11 Linking Social Security with Labour Market

The consolidated department responsible for social security will ensure that social security policies complement labour initiatives and adhere to the country's NDP objectives. Mandatory participation in the NSSF will complement labour market reforms which are aimed at improving the protection of workers in temporary or atypical employment.

A key interaction between the labour market and social security arrangements will be the sharing of facilities between social security entities and labour centres. Shared offices will provide a key point of contact between social security recipients and labour-market initiatives. They will also greatly expand the footprint of public employment services, which currently lack the capacity to deal with the large numbers of job seekers in the labour market.

In the new environment, the links that presently exist between social security and labour institutions, such as the UIF, Compensation Funds and Inspection Teams funded by the Department of Employment and Labour will be reinforced. These will continue to play an important role in overseeing labour conditions and strengthening the relationship between Government and individual employers.

4.12 Universalisation of the Older Person's Grant

The proposal for the universalisation of the older person's grant is premised on the fact that state benefits are mostly universal already, however fragmented, with different systems, different criteria and different benefit values. For example, there are 4.4 million older persons in South Africa, of which, 3.1 million receive the Older Persons Grant (OPG) and 400 000 older persons who receive tax rebates. The group whose income is too high for a grant or too low to benefit from the tax system, receive no benefit from the state (STATSSA, SOCPEN and Tax Report, 2016).

This is mainly due to the fragmentation of state benefits, where the poor and the wealthier have relatively good coverage, and those falling between the tax and the social assistance (estimated at around 1 million) receive little to no benefits. This is further complicated in certain instances where high income older persons receive more income support from rebates compared to their poorer counterparts. For instance, grant recipients aged 75 receive a fixed additional R240 per annum from the state while those who are wealthier and can access tax rebates, of the same age cohort receive an inflation adjusted amount of R2 466 in tax rebates per annum from the state (2017/18). The OPG is R1,890 per month for qualifying individuals between the age of 60 and 75 and is R1,910 for those above the age of 75, which is R22,680 and R22,920 per year respectively. Taxpayers above the age of 65 can claim the 'secondary rebate' which is worth up to R8,199 per tax year and taxpayers above the age of 75 can also claim the 'tertiary rebate' of R2,736 per tax year for a total benefit of R10,935.

For the Old Age Grant, following policy options were considered with majority support for the second option during the initial consultations:

- Option 1: universalisation of the OPG at age 60 accompanied by the removal of secondary and tertiary rebates.
- Option 2: universalisation of the OPG at age 65 accompanied by the removal of the secondary and tertiary rebates but retaining a more simplified means tested OPG for those between 60 and 65.
- Option 3: universalisation of OPG at age 75 accompanied by the removal of tertiary rebates but retaining a more simplified means test for those between 60 – 75.

The costs for universal coverage at the age of 65 (option 2 above) will be offset when the secondary and tertiary rebates are removed. Amounts over and above the rebates will be recuperated from the tax system. Funding the gap, i.e., those who currently do not receive tax benefits, and the additional support provided to taxpayers will be progressively realised over the next few years through:

- Gradually raising the means test to that of the tax threshold; and
- Simplifying the means test to provide for a flat rate benefit and a single income threshold, and
- Excluding annuity income from the means test, and
- Adjusting the tax expenditure subsidy caps, or
- Potentially increasing funding from general tax revenue, to fund implementation.

4.13 INCOME SUPPORT FOR THE WORKING AGE POPULATION

South Africa's social protection system inherently has much of its roots in the old colonial thinking of the British and maintains much of the thinking from the 1300s in the way the English treated the poor in terms of duty, charity and the expectation that those who are able to work should work. This is very noticeable in South Africa (SA) where social protection is provided for the elderly, those with disabilities and children, however little to no protection is provided for those of working age (between 18 and 59). The mainstay of social assistance for working age people in SA are expanded public works programmes (EPWP). These programmes in most instances remunerate beneficiaries with stipends, which are significant below market wage clearance levels (and even minimum wage levels) and often exempt employers from the Basic Conditions of Employment Act.

Globally, the early 1900's saw a substantial shift from work programs for the poor. A more rights-based approach began to take root. The idea of progressive taxation and redistribution through services began to emerge as well.

During the mid-1900s two important international covenants were development that has a significant impact on the social security landscape and moved the world away from the antiquated ideas of works-based programs to income support programs in the advancement of the Human Rights Agenda:

- International Covenant on Economic, Cultural and Social Rights (ICECSR), which South Africa ratified in 2015; and
- ILO Convention 102 of 1952 on Social Security, which South Africa is still to ratify.

Convention 102 of 1952 is an international social security instrument that establishes "worldwide-agreed minimum standards for nine branches of social security". This is further supported by the Social Protection Floor Recommendation 202 of 2012 which is intended to be a steppingstone for developing countries on their path to ratifying Convention 102.

Article 9 of the ICECSR provides for the right to social security to everyone, including the working age population. Articles 19 to 24 of Convention 102 provides for states to ensure access to unemployment benefits, and this is further supported by section 2 of Recommendation 202 for developing states to provide income support over and above just unemployment insurance to this group.

In South Africa these standards are given effect to some extent in our constitution. Section 27 of our constitution is worded very similarly to the ICECSR – giving effect to the right to social security for everyone. Furthermore Section 39(1)(b) of the South African constitution allows domestic courts and tribunals to consider international law and section 233 compels courts to favour interpretation of domestic law in line with international law.

4.14 THE BASIC INCOME GRANT (BIG)

The BIG was investigated and the findings in 2002 (Taylor Report) were that it could address severe poverty that characterises South African society. An income transfer has important implications for its socio-economic and political benefits. A universal grant, provided as an entitlement and without a means test, will more readily reach the poorest population. Micro-simulation modelling undertaken by the Taylor Committee found that the grant would be feasible within the policy framework of government at the time. At the time it was calculated on a per person basis of R100 per month. A household with 6 people (the average for the South

African population) would have received R600 a month, which would be paid to the person primarily responsible for childcare.

In the context of the SA social assistance landscape, a BIG will be easier to implement for the working age group only while maintaining the existing social grants for children, the elderly and people with disabilities.

In line with the reform proposal for our existing social grant framework, the BIG should be unconditional, individually targeted and at level that will at least lift the individual out of poverty. Consideration should also be given to a universal grant for simplicity and ease of administration. While our current grants are not universal, this will be in line with government's broader social security reform proposals to make all the grants universal. Over time, the existing grants may converge into a BIG with top ups for various contingencies, however in the short to medium term the main objective will be to provide categorical income support for the population aged 18 to 59.

4.14.1 Universal, means tested or targeted BIG

One of the key decisions that need to be made is whether South Africa should implement a universal or a means tested grant. This decision will be mainly influenced by the pace at which the country wants to implement the BIG and the availability of resources. A universal grant will clearly be the fastest route as it could likely have almost everyone reached in a matter of months. This is demonstrated by SASSA's ability to reach over 5 million in less than 3 months evidenced by the implementation of the R350 COVID Relief Fund. A streamlined application process that will allow for mainly electronic applications will facilitate rapid deployment.

Administratively, it is a lot easier for SARS to recoup the grant paid to a wealthy individual with a technical adjustment to the tax brackets than for SASSA to interview millions of applicants to determine whether the applicant qualifies based on income. A universal grant is therefore potentially more efficient, cost effective and better targeted resulting in fewer exclusions.

While a means tested BIG may prove onerous as already highlighted, since it is only provided to those with incomes below a certain threshold, a universal benefit is one that would be provided to everyone within a particular category. The key argument against a universal benefit is that a grant should not be paid to a wealthy person. Many countries, however, use their tax systems to recoup the benefits paid to the wealthy.

The key benefit of universal benefits is that it promotes social solidarity and buy-in to the system; and it is administratively much simpler to administer with fewer exclusion challenges. It reduces stigma of the poor and discontent amongst the wealthy who feel that they are the ones funding the system. It also reduces fragmentation of systems as we see in South Africa where we have tax thresholds and grant thresholds set at very different levels. SA's tax authority is also significantly more advanced than the Social Security Agency, hence relying on the Tax Agency ability to test income is likely to be a lot more effective than through Social Security Agency.

It will also be much easier to implement a reform that will require a significant adjustment to taxes as it will be easier for government to sell an increase in taxes on the working age population with an increased transfer to that same population. Microsimulation for universal income support at the level of the food poverty line suggest that the financial cost will be approximately R200 billion and will require a 10-percentage point increase on income taxes. At face value, these amounts appear to be astronomically high and even impossible to propose, however the microsimulation on the redistributive impact on society suggest that the reform is not as large and has net benefits for vast majority of the population.

For the majority of the population, depending on the level of the transfer, it is likely that the benefit received will be larger than their increase in taxes. The wealthiest deciles of the population will only see a slight reduction in income on average, and the impact of this may be reduced if phased in over a period of time.

4.14.2 The grant value

Recently, the government has been severely criticized on the value of the COVID-19 R350 SRD grant. While many appreciated the COVID relief, being 40% below the poverty line, it makes a very small dent as many people are still experiencing hunger and starvation. These are almost similar arguments made regarding the CSG, which is way below the poverty line and while it has aided to reduce poverty shocks, it makes very little impact, if any on SA's widespread inequalities. The options for the value thus depend on what objectives the state would like to achieve first, including inter alia; reducing hunger, reducing poverty and improving the standard of living of our people. The options for the value thus depend on what objectives we would like to achieve first. The options would include:

- Reduce hunger (with the goal being to eradicate). With this option, the grant value would have to be around the FPL, and
- Reduce poverty (with the goal being to eradicate). This option would require the grant value to be pitched around the LBPL.
- Improve people's standard of living (with the goal being to significantly reduce inequality and social ills in society). In this case, the value should be significantly higher, but at least starting at the UBPL (Studies done on a decent standard of living suggests income of around R7 500 per person, per month. This is an aspirational value that government should strive to achieve through a mix of transfers, labour and economic policies.)

4.15 SUPPLEMENTARY RETIREMENT FUNDS

Workers will need to make supplementary contributions over and above their NSSF contribution to ensure an adequate income replacement in retirement and appropriate levels of insurance. Government will continue to incentivise top-up contributions to an occupational fund or approved private arrangement through the tax system although contributions above an upper limit will not be tax deductible.

4.15.1 Auto-enrolment

A system of automatic enrolment is proposed to encourage workers to make supplementary pensions and insurance contributions. Under such a system, an employer is obliged to enrol employees in the company's occupational scheme or another suitable arrangement in addition to their mandatory contributions to the NSSF. Employees may be permitted to choose their level of supplementary contribution. Employees should be allowed to opt-out of the employer scheme in favour of the NSSF default fund should they deem it more suitable or to opt into another suitable arrangement of their choice.

4.15.2 NSSF Default fund

The NSSF default fund would be run on a smoothed defined contribution basis and without Government underwriting. It could also be a default destination for supplementary contributions made through automatic enrolment. Where an employer cannot enrol employees in an occupational fund, they would instead be enrolled in the default fund or into a suitable private arrangement. Employers will be obliged to enrol employees into occupational schemes or another suitable arrangement that meets **the approved funds framework** (standards relating to cost-efficiency, disclosure, investment strategy, risk management, administration and governance). Where employers and employees have arrangements through bargaining agreements, including agreed levels of contributions, these bargaining gains should continue to apply to current and future employees. The difference between agreed levels of contribution and the NSSF contribution shall be contributed into the occupational, sector scheme or another suitable arrangement.

The NSSF default fund will also provide cover to the self-employed, informal sector workers and workers whose employers are unable to provide an occupational fund (tier 3). The fund would be administered by the NSSF and would be separate to the mandatory fund as this would be run on a DC basis and would also include voluntary benefits (in tier 3). As such, costs would be shared with the tier 2 mandatory fund as there would be common administration and contribution collection – thus economies of scale which will benefit members.

The diagram below illustrates the location of the default fund in the proposed framework.

Figure 7: Location of the NSSF Default fund

Workers must have confidence in the pension arrangement to which they contribute. Their fund must be transparent, well administered, well governed and well regulated. Workers must trust that the fund is investing their contributions prudently, and with their best interests at heart. Fund members must know that they are receiving good value for money, and that asset management or administrative fees are not eroding their returns. At present, too few fund members enjoy such peace of mind. They are usually enrolled in a fund as a condition of employment and have little influence on how the fund is run. In some cases, workers do not even know that they belong to a fund.

4.16 COVERAGE OF INFORMAL SECTOR WORKERS – RETIREMENT AND RISK BENEFITS

To ensure that everyone has cover, informal sector workers and self-employed workers will also participate in the NSSF default fund with its legal framework aligned to the NSSF for coherence. This will provide them with the necessary cover and solidarity while participating in a secure environment. It is evident through many studies that have been carried out that the large proportion of South African's informally employed have little or no realistic access to effective retirement-savings vehicles. These workers have little reason to be confident in existing options for savings hence the option to include them into the NSFF default or auto-enrolment fund.

International (UN; ILO) and regional (AU; SADC) standards confirm the right of all persons and all workers, including informal economy workers to social security protection including retirement and risk benefits. Such contributory arrangements must be sensitive to the particular context and contributory capacity of informal economy workers.

ILO Recommendation 204 (2015) (The transition from the informal to the formal economy) went further, by affirming that the transition from the informal to the formal economy is essential to achieve inclusive development and to realise decent work for all. Paragraph 18 suggests that ILO members should progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage that considers the needs of workers and considers relevant factors, including but not limited to the cost of living and the general level of wages in their country. UN standards also cover those who work in the informal sector economy. The UN International Covenant on Economic, Social and Cultural Rights (ICESCR 1966) article 9, is important for informal economy workers in support of the 1948 UN Declaration of Human Rights article 22.

While the right to social security is not specifically protected in the Charter, nevertheless, as noted by the African Commission on Human and People's Rights (ACmHPR) in its Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and People's Rights. This right can be derived from a joint reading of a number of rights under the Charter including (but not limited to) the rights to life, dignity, liberty, work, health, food, protection of the family and the right to the protection of the aged and the disabled, in addition strongly affirmed in international law.

In addition to the above international prescripts, the South African Constitution contains important provisions regarding the role and importance of international law. The Constitution generally supports an international law-friendly approach. It stipulates that to the extent that South Africa has ratified international instruments, it is bound by their standards and provisions (section 231(1)).

Voluntary contribution, early access, and member accounts

Voluntary contributions are encouraged, being supported with incentives in terms of contribution subsidies, early access to accumulated savings and membership benefits. In terms of early access to savings, it is recommended that contributions paid by members are allocated to a member account, split evenly between an accessible member account and a frozen member account. The balance of the accessible account is available to the member for up to two withdrawals a year, at or after retirement. Incentives that will be received from government will be directed to a subsidy account, which together with the balance in the frozen member account is not accessible to members but converts to an income on retirement. The member may direct the scheme to allocate more than half of the member's contribution to the frozen member account should they wish to. Notice, once given, may only be altered after one year.

Informal sector workers will be allowed to access their benefits when they reach the retirement age of 60 which is the same as the age of eligibility for the older persons grant. Annuity rates will be guaranteed for one year with notice of change of at least six months and the annuity increases at the rate of price inflation. It includes a five-year guarantee and contingent spouse's benefit, unless waived at the option of the member, who must confirm that they are not married at the time of waiver.

Survivors and disability benefits will be offered to the self-employed and informal sector workers based on the recommended options. Survivor benefits on death prior to retirement are payable to surviving spouse(s) and children, for a maximum of two years and age 18 to the maximum of 24 years with proof that the children are still at school. All contributions paid by the member throughout the term of membership of the scheme (excepting those already withdrawn), plus investment returns, are returned to dependents in the form of a funeral benefit.

Disability benefits will be payable on total and permanent disability until the scheme retirement age at a rate of one-eighteenth of the total contributions (plus incentives) received over the three years prior to disability plus 10% of this amount payable as a retirement contribution, also attracting government incentives as if it were a normal contribution.

4.17 Approved Funds Framework (AFF)

This paper proposes the introduction of an approved funds framework that will determine which funds are eligible for tax-incentivised supplementary savings. This framework will establish standards relating to disclosure, investment strategy, risk management, administration and governance.

Regulating governance will minimise potential conflicts of interest. The proposed framework will include principles of independence of the board and an appropriate balance of power between the boards of management and service providers. Multi-employer (umbrella) funds will be subject to specific governance provisions, such as requiring employer and employee member representation on the board of management.

These criteria include:

- *Governance framework*: The governance framework for approved funds should require a well-capacitated, independent and representative governing body; strong governance mechanisms; and structural measures designed to avoid possible conflicts of interest between approved funds and service providers.
- *Protection of benefits*: Member benefits in approved funds should be protected through various mechanisms depending on the DB or DC nature of the fund. For DB funds, various layers of benefit protection are provided by governance standards, minimum benefit rules, funding rules and the employer's liability in the event of a shortfall. For DC funds, benefit protection is achieved primarily through strict governance standards and investment regulations designed to protect members from excessive investment risk. Approved funds must provide for efficient transfer between funds on change of employment or changes to the employer's retirement funding arrangements.
- *Payment of benefits:* Approved funds must pay benefits in a manner appropriate to the income-smoothing and risk-sharing objectives of the mandatory tier. The provision of benefit payments must be cost-effective and equitable; and
- *Cost efficiency:* Approved funds should meet certain standards of cost efficiency. The size of the fund (in terms of membership and/or assets) may be used as a proxy for potential cost economies, but smaller funds that can demonstrate a record of cost efficiency should also qualify.

Progress has been made on some of these criteria. For example, legislation was passed to improve governance of funds in 2013[24]. This includes the need for trustees to obtain a minimum skills and training in fund governance within a stipulated period of being appointed.

[24] National Treasury, **Pension Funds Act amendment** (through Financial Services Laws General Amendment Act No 45 of 2013)

Box 5: Some implemented initiatives – governance, default regulations and tax harmonisation

Starting in 2012, Government embarked on a reform of the retirement industry governed by the Pensions Funds Act. Discussion papers have been published on ***improving cost-effectiveness including lowering charges, improving governance, improving preservation and the annuities market and harmonizing the tax treatment of retirement fund contributions***.

Consultative processes followed with retirement funds, employers, labour unions, and product and service providers. Consultations also took place within NEDLAC, including dedicated meetings with the labour constituency, whose members are key beneficiaries of these reforms. Several proposals were amended as a result of these consultations, and consultation is continuing on some aspects, including preservation and annuitisation arrangements.

Amendments to the Pension Funds Act have been made to strengthen the **governance of retirement funds** by allowing the Registrar to impose fit and proper requirements on fund trustees, to require trustee training, and by clarifying the fiduciary duty owed by trustees of a fund to its members and to the fund itself, as well as other technical changes. The non-payment of contributions to pension funds by employers has been criminalized, and delinquent employers will be personally liable for their non-payment of contributions. Whistle-blowers are better protected. The Registrar of Pension Funds has been empowered to impose new standards for the governance of retirement funds.

Default regulations came into effect in March 2019. Default options are automatic choices made on behalf of members who do not exercise their choices in a given situation. The regulations will require funds to have default investment portfolios for the investment of retirement savings, **default annuity strategies** for members upon their retirement, and **default preservation rules** for members on termination of membership before retirement.

The Taxation Laws Amendment Act (2013) outlined a system that **harmonizes the taxation of retirement contributions and benefits in retirement**. The harmonization proposals meant that provident fund members would, similar to pension and retirement annuity fund members, get a tax deduction of 27.5% of the greater of taxable income or remuneration, up to R350 000 per year, from 1 March 2016. The harmonized tax treatment of contributions into retirement funds came into effect on 1 March 2016, while Nedlac reached agreement on the implementation of annuitisation by provident fund members from 1 March 2021.

The private retirement industry will continue to be a very important component of retirement provision for workers, regardless of the structure of the mandatory pillar 2 system. The long run intent of the **approved funds framework** envisaged in these reforms is to build a private retirement industry composed of fewer, more standardised funds, held to higher market conduct and prudential standards as a condition for their continued operation. These reforms therefore complement changes to the social assistance system, and the introduction of mandatory social insurance contributions for retirement and risk benefits that are the main focus of this paper.

4.18 Annuitisation

Annuitisation refers to the conversion of accumulated funds into a pension, usually paid monthly. This can be a single transaction on retirement or can be affected in several steps, depending on income needs and circumstances. The South African annuity market is shaped by regulations which recognise both life and living annuities. Life annuities pay a regular fixed or inflation-adjusted income as long as the recipient or their dependants are alive. Living annuities are discretionary drawdowns and pensioners have the flexibility to choose their income each year (subject to regulatory limits).

Government proposes that it should be mandatory for retirement fund contributors to annuitize at least two-thirds of their supplementary retirement savings at retirement (if the two-thirds is above a stipulated threshold). This currently applies to all retirement funds including provident funds with effect from 1 March 2021. Several fairness issues in the annuity industry need to be addressed that would make such products more appropriate for low-income earners.

4.19 NSSF AS AN ANNUITY PROVIDER

Once established, the NSSF should also be an annuity product provider. This would stimulate competition and pool mortality across the working population, provide protection against inflation and include an income for a spouse should the retiree die first. The monthly income would also be the same for men and women, which would be administratively straightforward and adhere to constitutional requirements of non-discrimination. This would allow a fairer annuity value to be offered and might assist in encouraging better outcomes in the wider annuity market. At present, insurers pay larger monthly annuities to men than to women because women have a longer life expectancy.

4.20 VESTED RIGHTS

Where these proposals change conditions and benefit design of retirement and social insurance funds, the rights of current members and contributors who have accumulated funds or benefit entitlements under current rules will be assured. Current gains via bargaining arrangements should not be reversed as a result of the introduction of the new system. Members of retirement funds may be granted the opportunity to transfer accumulated retirement savings to the NSSF but will not be obliged to undertake any actions related to accrued rights that might leave them in a poorer position.

4.21 SUMMARY: A FOUR-TIER FRAMEWORK FOR RETIREMENT INCOME

Under the proposals described in this section, workers' pension and insurance arrangements can be depicted as a four-tier system, as in the figure and table below. Lower-income workers will rely on the grants system and the NSSF to provide income protection. At higher income levels, workers divide contributions between the statutory arrangement and regulated (approved) funds, and the financial responsibilities and risks shift from Government to the individual.

Figure 8: The retirement savings framework

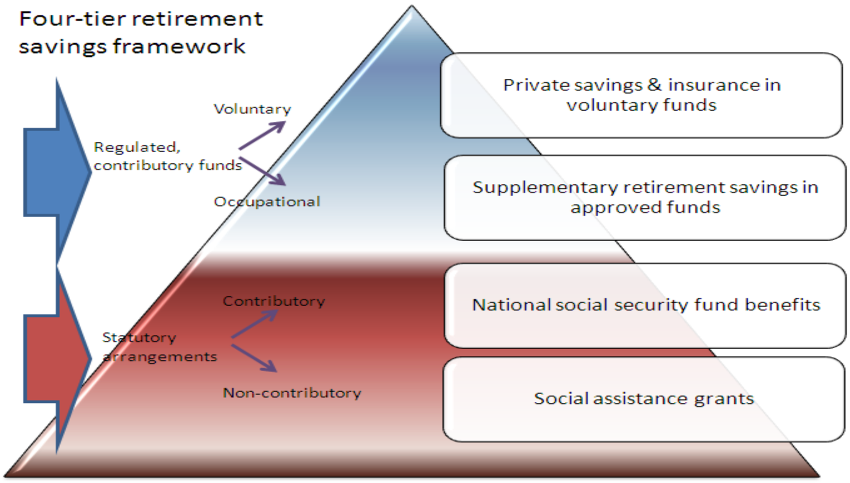


Table 7: Summary framework - retirement

	1. Social Assistance Grants	**2. Social Insurance (The NSSF)**	**3. Supplementary Arrangements**	**4. Discretionary Savings**
Participation	(Universal)	Mandatory	Auto-enrolment	Voluntary
Funding	Non-contributory	Contributory up to a ceiling	Contributory	Contributory
Benefits	Older persons Grant	Retirement Death Disability	Approved retirement fund benefits	Private savings and insurance benefits
Administration	SASSA	NSSF	Approved funds (including NSSF Default fund)	Private/ occupational funds

The design of the framework should therefore:

- *Enhance coverage of retirement savings and insurance arrangements.* At present, social insurance coverage of low-income earners and certain sectors is inadequate. The NSSF will enrol workers across all sectors of the economy.
- *Allow workers to smooth incomes over their lifetime and enjoy risk protection through cost-effective arrangements.* All workers earning above a minimum threshold will be mandated to participate in the NSSF. As earnings rise, workers will be encouraged to make supplementary contributions to regulated and approved funds.
- *Preserve and improve the best attributes of the existing private pension system.* An approved fund framework will ensure that well run, fully transparent funds will receive tax-incentivized supplementary retirement and insurance contributions.

- *Encourage retirement savings and efficient allocation of capital*. The NSSF and the approved fund framework will promote preservation of retirement savings and enhance regulation of fund management within a competitive environment.
- *Manage and share risk appropriately.* The NSSF will assure a basic level of income protection, with risk carried across society as a whole, underwritten by government. Supplementary contributions allow participants to manage risks privately while seeking market-based investment returns in a suitably regulated environment.

5 FINANCING SOCIAL SECURITY AND IMPACT

5.1 Financing social security: long-term sustainability

The proposed social security system is a set of long-term commitments involving a complex interaction of social, demographic and financial factors. This section explains the design of the proposed system and discusses its financial sustainability.

5.1.1 The design of the NSSF and automatic balancing mechanisms (ABMs)

The design of the NSSF's benefit and contribution arrangements requires a balance between providing adequate income protection to contributors and guaranteeing the fund's long-term sustainability.

For most workers, mandatory contributions to the NSSF will represent a significant outlay over the course of their careers. Individual contributors should receive an equitable return on their contributions.

They should also know their contributions are safe. In the envisaged defined-benefit arrangement, government will stand behind the system through the guaranteed accrual rate and the formulae for disability and survivor benefits. The state as guarantor will have responsibility for balancing contributions and benefits, which over the long term will have to be adjusted in response to demographic and other trends.

The fund will be run on a partially funded basis, which means that the contributions of today's workers will partially finance today's benefit recipients and partially contribute to an accumulation of assets to meet future requirements. The underlying principle is that the fund must always be able to meet its cash requirements.

NSSF should be subject to at least a 25 per cent minimum reserve requirement: accumulated funds (NSSF assets) should over the long term never fall below 25 per cent of the present value of accrued future benefits (NSSF liabilities). This design allows the NSSF to pay risk benefits to contributors as soon as it is established.

Need for ABMs

The NSSF has been designed to avoid the financial and economic risks inherent to unsound social security arrangements. If the system is jeopardised by unforeseen economic and demographic trends, the parameters of the fund (the contribution rate, benefit levels or eligibility criteria) will be adjusted to ensure that the fund remains solvent and sustainable over the long term.

These changes should be made automatically, in terms of statutory requirements rather than discretionary procedures. In the absence of such rules, governments have often faced severe political difficulties in making the necessary changes to social security systems, resulting in a burden on future generations because of unaffordable benefits in the present.

The proposed reforms have potential macroeconomic effects, through their impact on savings rates, future consumption trends, government revenue and labour force participation. An increase in tax-incentivised savings together with mandatory preservation of retirement-fund accumulations and improved lifetime income security will be broadly beneficial for growth, though these are difficult trends to predict.

Modelling carried out indicates that the NSSF is sustainable over the long term under a reasonable set of assumptions. Initially, there will be high demand for risk benefits, due to the high levels of morbidity and early mortality associated with South Africa's disease burden. Pension expenditure, meanwhile, will be low, since the NSSF will not start paying out retirement benefits immediately and because South Africa's labour force is relatively young.

Over time, this balance will change. The working-age population will start to live longer, leading to rising numbers of pensioners supported by a slower growing work force. Pension expenditure will increase while risk-benefit payments fall.

5.2 SOCIAL ASSISTANCE

Non-contributory arrangements are financed from general tax revenue. At present, the cost of social assistance is projected only three years forward under the medium-term expenditure framework. Because social grants will work together with the NSSF to protect workers, it is important that the grants system be subject to the same long-term modelling requirements as the mandatory fund.

However, the social grants system is likely to be subject to further reform over the long term. It will remain Government's principal poverty reduction programme. As the economy develops and South Africa's demographic, health and social profiles change, different categories of income vulnerability may emerge. The social assistance system will adapt in response, either through amendments to grant entitlements, or through adjustments to discretionary relief measures.

5.3 RETIREMENT AGE

The standard age of retirement from the contributory system (the NSSF and supplementary savings arrangements) is recommended at 65. However, the eligibility age for the *old age grant* will remain at 60.

The current personal income tax schedules provide for a secondary rebate at the age of 65. As life expectancy rises, the retirement age associated with defined pension benefits will need to be raised.

Hence, it is proposed that the means tested older persons grant remains between age 60 to the age at which the universal benefit is provided; and that the universal benefit be aligned to the retirement age set by the pillar 2 benefits (which may change from time to time). The higher age is appropriate for the contributory system because it improves the affordability of the system – participants pay contributions for longer and receive benefits for shorter periods – and reflects the expectation of the longer average lifespan of those earning enough to participate in the contributory system against those who will rely only on social assistance. However, this retirement age is high given the relatively low life expectancy, underscoring the need for the NSSF to give due emphasis to survivor and disability benefits.

Gradually raising the retirement age over time to adjust to population ageing will be necessary, to ensure a reasonable balance between workers' contributions and the corresponding benefits that need to be paid over lengthening life spans.

5.4 TAX TREATMENT

The tax system will play a central role in the new social security system. It is proposed that the tax system incentivise retirement savings by making contributions to the NSSF and the supplementary arrangements tax-deductible. Such tax will only be paid when benefits are paid out, and not during the accumulation phase.

Consideration is being given to converting the existing tax deduction system for retirement contributions to a tax credit equivalent. This will address concerns that the current system unfairly benefits middle- and high-income workers: the value of tax deductions based on employee contributions to retirement funds is determined by the marginal rates faced by the individual. Higher-income earners therefore receive greater benefits than lower-income earners.

A tax credit system sets the tax benefit independently from the marginal tax rate, resulting in a fairer outcome and less distortion in the choice between savings instruments.

Adjustments are also under consideration to align social assistance with the personal income tax structure. As part of this reform, the discrepancy between the eligibility-ages for the old age grant, the secondary personal income tax rebate and the proposed NSSF pension will need to be addressed. One option would be for the secondary rebate or old age grant to be available from the age of 60, but as an alternative to, and not in combination with, tax deductible retirement fund contributions. Other alternatives will need to be carefully considered, with the aim of ensuring that the tax system provides equitable subsidies across all income groups.

5.5 Indexation

Indexation plays a key role in determining the level of benefits paid out both by the contributory and non-contributory system, and consequently helps determine long-term affordability.

Social security benefits in some countries are indexed to price or wage inflation. If benefits are linked to price inflation, recipients should be able to afford the same products from one year to the next. Wage inflation is usually higher than price inflation, reflecting the overall growth of the economy and the working population's improved standard of living.

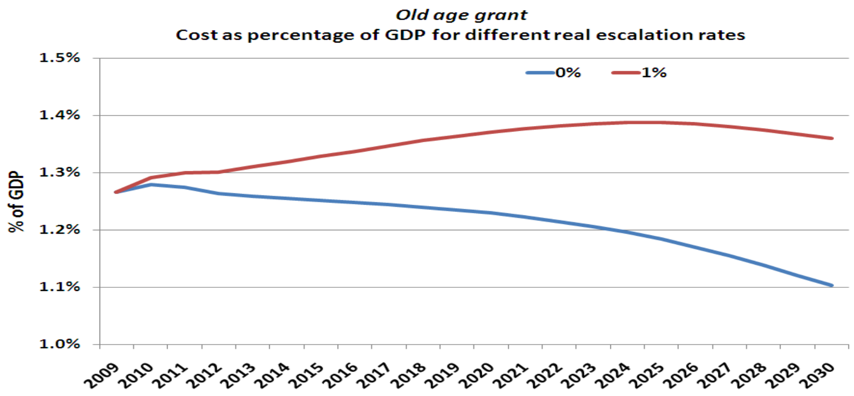
A combination of indexes is also possible, or a variable adjustment formula, considering long-term system sustainability. Considerations relevant to social grants and the proposed NSSF are briefly discussed below.

5.5.1 Social grants

At present, there is no set rule for the rate at which social grants are changed. Government determines the rises in social grants on an annual basis. In recent years, grants have broadly kept pace with prices rather than wages. While indexation of benefits to wages is possible, it requires a stable and reliable index and would imply an uncertain additional expense for the fiscus.

Figure 13 illustrates the impact over the long term of grant increases above inflation. An annual increase of one percentage point above price inflation, for example, leads to expenditure on the *old age grant* of about 0.3 percentage points more, relative to GDP, than if the grant were to increase in line with prices only.

Figure 9: Indexation of the Old Age Grant



5.5.2 NSSF benefits

Indexation of the NSSF underpins the calculation of benefit payments and valuing the contributions made over the course of a career. Survivor and disability benefits, which are based on the worker's most recent salary, will be adjusted each year according to the index chosen.

Retirement benefits are more complicated. Indexation affects both career-average earnings and adjustments to the pension in payment. It is intuitive that the present value of a worker's earnings during their career should be calculated using the wage index. The indexation mechanism suggested that should be pegged to wage inflation.

However, it is possible that changes to the structure of the workforce or poor economic performance might lead to declines in average wages, at times. A wage index would therefore undervalue a worker's contributions over the course of their career and might also lead to an annual reduction in pensions in payment. A form of indexation that guarantees a fair return on contributions and protects the value of pensions in payment will be required.

5.6 Impact of the NSSF on existing contributory funds and individuals

Introduction of the NSSF will have a significant impact on existing retirement and insurance arrangements, especially those catering for lower-income workers who will struggle to make contributions over and above their NSSF obligations as well as individuals. This impact requires careful analysis and consultation with those likely to be affected.

5.6.1 Individuals

The introduction of mandatory social insurance contributions for retirement, death and disability cover is an important milestone in South Africa's social security system. The new system will ensure that both new entrants (those who are currently not participating in any arrangement) and existing retirement fund members reap the benefits of participating in a protected environment. All members in the system will be protected against life contingencies that might befall anyone in their life cycle.

All members and contributors will benefit from statutory pension, death and disability insurance. Workers will be able to participate in an arrangement that replaces their income after their active working years. The social insurance system will be able to achieve social security objectives through social solidarity and risk pooling, by ensuring that benefits are guaranteed and there is no individual risk rating.

5.6.2 Occupational and voluntary funds

A proportion of all workers' retirement contributions on earnings up to the NSSF ceiling will go to the mandatory fund rather than to their present retirement arrangements. As a result, occupational and voluntary funds will compete for supplementary savings over and above workers' contributions to the NSSF.

Existing pension and provident funds, including defined-contribution plans offered by most companies and defined-benefit public-sector funds will need to adapt their contribution and benefit structures to take account of the new mandatory social security arrangement. A reasonable transition period for these changes will be established as part of the reform and consultative process.

The new environment will be particularly challenging for funds which cater for workers earning below the NSSF ceiling, or those with contribution rates that are not significantly above the mandatory level. Bargaining council funds, with an average contribution rate of 12.9 per cent, will be more affected than private-sector funds, whose average contribution rate is 15.8 per cent and who typically cater to higher-income earners.

It should be noted, however, that a significant proportion of bargaining council members will be eligible for the contribution subsidy, which will make contributions to the NSSF more affordable and will allow them to make supplementary contributions to their council funds. Where funds are unable to operate in the new environment, workers will have access to alternative private funds or a default arrangement for supplementary retirement savings.

It is important that the introduction of the NSSF should not lead to an overall reduction in household savings. This might occur if workers do not make supplementary contributions in the belief that the NSSF will provide a sufficient income in retirement and adequate risk benefits. Workers will therefore be urged to maintain or even increase their existing contribution levels and will be encouraged to do so via a system of automatic enrolment.

5.6.3 Public sector funds

The Government Employees Pension Fund (GEPF) is the largest pension fund in Africa, with 1.3 million members and assets in excess of R790 billion. It is established in law and currently is neither subject to the Pension Funds Act nor regulated by the FSCA.

There are also several public sector funds for state-owned enterprises as well as 32 active retirement funds for local government employees, which control assets worth some R62 billion. These funds, which can be either defined-benefit or defined-contribution arrangements cover more than 300 000 employees and are regulated by the FSCA. Some are managed by unions.

Public sector funds will also be subjected to the approved funds framework and function in tier 3 as supplementary funds. Their present contribution base will partly go to the new NSSF arrangement, with the remaining part converted into a supplementary fund complying with the approved funds framework. A first step towards these changes will be the extension of the Pension Funds Act to cover all currently exempt public sector funds.

6 GOVERNANCE FRAMEWORK

The introduction of the mandatory tier 2 social insurance pension scheme has institutional implications for effective operationalization. The NSSF will require the following:

- Legal and regulatory instruments establishing the entity, the legal framework specifying the rights and responsibilities of contributors, beneficiaries, employers, service providers, managers, among others.
- Governance and accountability framework including rules, roles and controls, transparent disclosure, reporting mechanisms, compliance requirements, governing body and policies for managing institutions.
- *Administrative infrastructure and institutional arrangements*, which include unique identification of members, record keeping and data management, fund management infrastructure, governance arrangement, contributions and payment systems.
- *Supervision* framework including external oversight of service providers, external audit and accountability processes, need for a competent, empowerment and independent pension supervisory authority, authorizing and supervising all necessary agents, instruments and processes.

6.1 The NSSF and its responsibility

The proposed NSSF will be a social security fund that promotes the principles of social solidarity, risk pooling and sharing. Participation for both employers and employees would be compulsory. The fund would be responsible for the collection, safekeeping, responsible investment and distribution of retirement fund for all contributors. The NSSF will capture and manage information of members and their beneficiaries to be able to allocate the correct benefits when the time arrives. The NSSF will also have processes to attend to any complaint raised by members or their beneficiaries. Such system should also indicate the process to be followed and the expected timeframes to receive a response.

6.2 Governance Framework for the NSSF

The governance structure of any institution defines the roles, responsibilities and the delegation of authority within that organization. The proposed governance framework for the NSSF comprises of the organizational structure and the management systems.

The performance of the retirement funds strongly hinges on the governance of those funds. The stronger the governance mechanisms put in place, the better the risks will be managed and controlled, and ultimately more value derived by the members of the fund.

6.2.1 Board composition – nomination and appointment

Composition

It is proposed that the NSSF should have a representative board structured to include members from the following constituencies:

- Government - as the main sponsor.
- Labour - representing workers (contributors).
- Employers – providers of employment.
- Civil society - independent members representing interest of society/ professionals (finance / law/ retirement / actuary / ordinary citizens), etc.

All board members must be both fit and proper and have the time and resources to undertake the duties of a board member. While a particular stakeholder constituency may nominate the individual board member, the obligation of the board member is to focus on the best interest of the Fund and its participants regardless of the views held by the nominating jurisdiction.

Nomination and appointment of board members.

The prerogative to nominate and to appoint board members should be separated to protect the integrity of the board and avoid politicization of its work. Key stakeholders can be given the prerogative to nominate board members with a few qualifications underlined:

- Stakeholder appointees do not have to be stakeholder representatives – they can be e.g., experts trusted by the nominating stakeholder.
- Stakeholder appointed board member has the obligation – under punishment liability - to focus on the best interest of the fund and its participants regardless of the views held by the nominating jurisdiction.
- Stakeholder appointed board members must meet the fit and proper requirements.

Nominated representative board members to have the appropriate skills to oversee the NSSF. Minimum competency requirements nominated board members and be independently audited. Board members should also meet the fit and proper requirements of honesty and integrity, competency and experience, operational ability, and solvency[25]. This should be accompanied by disclosures that would assist with identifying conflict of interest within the board.

As a collective, the board should have one or more members with understanding of actuarial principles, investment management and pension fund administration. In cases where the constituent representation does not meet this requirement, additional board members must be appointed[26].

6.2.2 The arm's length principle

The arms-length principle is fundamental to good governance in social security. It describes the separation of powers and the distribution of responsibilities between policy makers, the board and its senior management. Key elements of the governance model illustrates the following key points:

1. Policymakers can raise policy-discussions and propose policy changes, but they cannot interfere in the day-to-day operation of individual social security funds other than through change of law.
2. The board of trustees of a given fund has ultimate responsibility for the management of the fund and must always undertake its responsibilities as defined by law and they are accountable to this effect as the accounting organ of the Fund.
3. The management team of a given fund executes the policies as set out by the board of trustees and it operates the fund according to law and board instructions and ensures adequate documentation.

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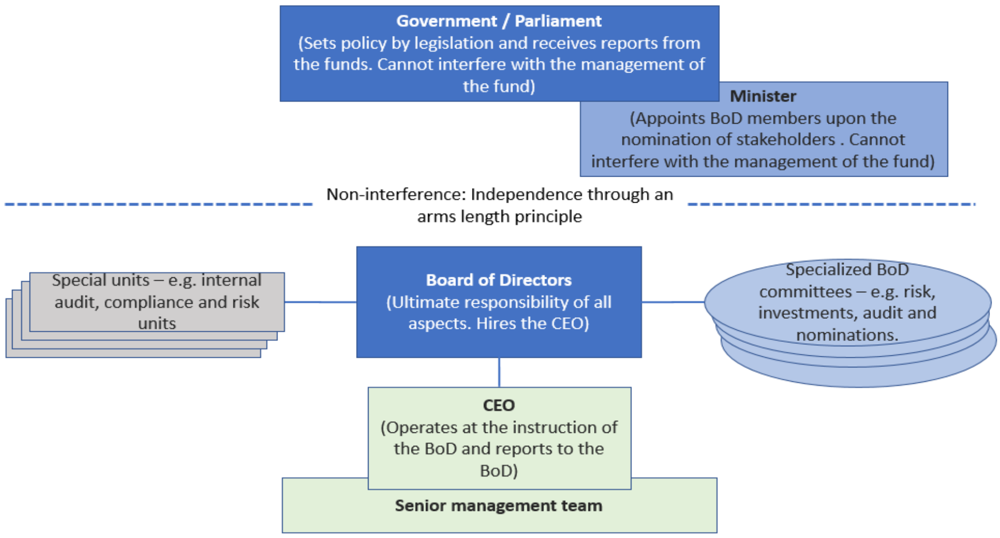
[25] *FAIS Act, 37, 2002.*

[26] *For instance, in Kenya, the National Social Security Fund Act No. 45, 2013 makes provision for the appointment of ten members for the NSSF board by the Cabinet Secretary. The board members are representatives from employer and worker organizations, people appointed by virtue of their knowledge and experience in matter relating to administration of scheme funds, actuarial science, insurance, accounting and auditing or law, and one ex-officio member.*

Figure 10: Key elements of the governance model



The nominations should be assessed by the boards' remuneration and nominations committee. This committee will assess the nominations against relevant laid down criteria and possibly other considerations such as gender equality.

If approved, the board will forward its proposal to the **Minister** to make the proposed appointments. The Minister can seek the advice of the relevant supervisory authority – such as the FSCA. If the nomination is turned down, the reasons for this should be explained in detail. A record thereof should be compiled be returned to the board for review, consideration and consultation.

For the social security fund to operate effectively it would be important for the nominated representative board members to have the appropriate skills to oversee the NSSF. To ensure this, minimum competency requirements must be established for nominated board members, and such nomination should be independently audited. Board members should meet the fit and proper requirements of honesty and integrity, competency and experience, operational ability, and solvency. [27] This would also be accompanied by disclosures that would assist with identifying conflict of interest within the board.

As a collective, the board should have one or more members with understanding of actuarial principles, investment management and pension fund administration. In cases where the constituent representation does not meet this requirement, additional board members must be appointed. All costs associated with

[27] *FAIS Act, 37, 2002.*

running the NSSF will be financed only by contributions of members. This should therefore give the board of the NSSF full authority of oversight and management of the NSSF. This approach is like other countries[28].

Nominations

The prerogative to nominate and to appoint board members should be separated to protect the integrity of the board of directors and avoid politicization of its work. Key stakeholders can be given the prerogative to nominate board members with a few qualifications underlined:

- Stakeholder appointees do not have to be stakeholder representatives – they can be e.g., experts trusted by the nominating stakeholder.
- Stakeholder appointed board member has the obligation – under punishment liability - to focus on the best interest of the fund and its participants regardless of the views held by the nominating jurisdiction.

All board members must be both fit and proper and have the time and resources to undertake the duties of a board member. While the individual board member may be nominated by a particular stakeholder constituency, the board member is not as such a representative of that jurisdiction – i.e., once on the board, the obligation of the board member is to focus on the best interest of the Fund and its participants regardless of the views held by the nominating jurisdiction.

The nominations should be assessed by the boards' remuneration and nominations committee. This committee will assess the nominations against relevant criteria – individual as well as collective fit and proper requirements, overall skill set and possibly other considerations such as gender equality – and establish a nominations proposal to be presented to the board.

Box 6: Board composition and size dilemmas

Board composition and size considerations come with dilemmas. On the one hand stakeholder representation on the board of directors may be considered important. This consideration may not only be based on political considerations but also on acknowledgement of the importance of political competences and representation of key social interests in the management of the fund. On the other hand, the management of a social security fund is a complex and demanding undertaking, and it cannot be done safely and satisfactorily without strong representation of key professional insight and experience on the board. ***An option is to seek "the best of both worlds".*** *A solution to this effect is to stipulate that the nominations and appointment process should consider the board as much as the individual candidate. Hence, some board members – but not all – can be lay persons while others must have a relevant professional background. In such a framework, proposed candidates can be rejected based on consideration as to the effectiveness and competence of the board. Assessing these issues is a key responsibility for the remuneration and nominations committee.*

[28] *For instance, in Kenya, the National Social Security Fund Act No. 45, 2013 makes provision for the appointment of ten members for the NSSF board by the Cabinet Secretary. The board members are representatives from employer and worker organizations, people appointed by virtue of their knowledge and experience in matter relating to administration of scheme funds, actuarial science, insurance, accounting and auditing or law, and one ex-officio member.*

Tenure of the Board

The tenure of board members should balance continuity concerns against the need for renewal. Hence, the tenure should be long enough for board members to learn "the trade" and for the board to benefit from this effort. Hence, a tenure of, for example, 4 years could be considered. To ensure continuity board appointments should be staggered – e.g., combining a 4-year tenure with a practice where ¼ of all board seats are up for appointment each year. Continuity concerns speak in favour of allowing reappointment, while renewal concerns speak in favour of limiting the number of allowed reappointments.

Size of the Board

There is no golden rule as regards the size of the board. A small board may be easier to convene but it may also be vulnerable as it may have difficulty to adequately cover its entire span of responsibilities and the risk of malpractice may be greater. A larger board may have better possibilities to adequately cover responsibilities and competence requirements while it may be more difficult to convene. Looking to international examples a total number of board members (excluding the Chairperson) of 8-12 could be considered.

The Chairperson of the Board

The personal skill, substance insight and experience and personal integrity of the Chairperson is essential. The prerogative to nominate the Chairperson is in the hands of the board itself. The requirement should be that the nominated candidate must meet fit and proper requirements, have the skills set and experience required to fulfil the post, be free of any conflict of interest and should not be aligned or affiliated to any stakeholder or political or financial interest. The model has the potential to ensure that the nominated candidate enjoys the support of all board members and their constituencies.

The Chief Executive Officer

The board appoints and hires the Chief Executive Officer. The CEO should be selected and appointed based on relevant criteria related to professional and personal skills, experience and integrity. The remunerations and appointment committee will undertake the necessary groundwork and propose candidates to the board. In doing so the committee can seek the assistance of the relevant supervisor – presumably the FSCA – on issues related to professional background and fit and proper requirements. The CEO should be employed on a fixed term contract. For example, the duration of the contract can be up to five years, with the possibility to renewing it if provision for renewal is contained in the rules.

The board can remove the CEO. This can happen during the contract period if the CEO fails to follow the instructions set out by the board of directors or if the terms of the contract have been breached. The board can also remove the CEO if their performance is deemed unsatisfactory or if the board does not have confidence in the CEO any longer. A unanimous vote by the board – including the Chairperson of the board is required.

6.3 CONFLICTS OF INTEREST

All senior officials must be free of any conflict of interests. The objective is to ensure that no person involved in the affairs of the entity is permitted to benefit - directly or indirectly - from any decision made by the organization or any information acquired in the line of service. Rules to this effect should cover all board members, the Chairperson of the board, all senior management team members, all staff referring directly to the board and all other staff for whom the risk of conflicts of interest is considered significant. Clear regulation to this effect is essential to ensure integrity and credibility. The individual covered by these rules should be required to submit all relevant disclosure documentation and to inform adequately on all relevant matters raised, including any changes to such matters as it may occur during the service tenure.

As such, the individual should be subject to punishment liability. The consequences for the individual in case of breach should be significant. For example, failure to honour these requirements could lead to the individual being barred from undertaking any board position or senior management position in any public social security fund or any private financial sector entity of any kind for a period as stipulated by law.

Material conflicts of interest include - but are not limited to – the following[29]**:**

- Financial and professional interests of any nature - whether direct or indirect - which may influence the objectivity of decisions made. This includes interest held by spouses, registered partners and common law partners, children and parents.
- Party political affiliations. This would apply to any person who holds some official position in a political party, and it includes spouses, registered partners and common law partners.

The legislation should authorize – and require – the minister to set and issue detailed regulation to this effect. These rules should be in line with international standards and be informed by local experience relevant to the issue. External auditor should be required to audit and assess the adequacy of regulations.

6.4 FIT AND PROPER REQUIREMENTS

Fit and proper requirements are essential to ensuring adequate management, trust and credibility. The fit and proper rules should be rather detailed, the general framework should be set out in law and the detailed rules should be under constant review.

Box 7: Defining "fit and proper"

"Being fit" *means that the board members individually are able – by their expertise and experience - to undertake the responsibility of a board member and to contribute in a meaningful and constructive manner to the work and capacity of the board as a whole.*

"Being proper" *means that each individual should have the required integrity and standing to be suitable for board responsibility and authority.*

The legislation should give the prerogative and the obligation of providing more detailed rules to the relevant supervisory authority. The legislation should require the supervisor to maintain oversight over the detailed rules and to make sure they remain effective and address the issues as they may evolve. Presumably FSCA is the relevant supervisory authority and the fit and proper rules applied to public social security funds should by and large be identical to the rules applied to financial institutions. The rules should apply to board members, the Chairperson of the board, the CEO and all other members of the senior management, all their supporting staff and those working directly to the board.

[29] Conflicts of interest regulation has developed significantly in recent years.

Time and commitment are important aspects of the fit requirement. Boards of directors have important and significant responsibilities, and all board members must commit to undertake this effort and invest time and resources accordingly attending all board meetings. Time and commitment aspect should be considered as a standard element in the nominations process. To put it crudely, an individual who serves on a high number of other boards – possibly alongside maintaining a senior business or social partner position - may very well be proper, but if the person does not have the time necessary to assume the responsibility of a board member, he or she is hardly fit.

As a standard, the fit and proper assessment should be conducted by the remuneration and nominations committee. To do this well a detailed process template for the assessment and the information to be collected and considered should be developed. Furthermore, the assessment should be documented in a standard template, and the report and its results should be shared with the supervisor. If deemed necessary, the board of directors should be able to call upon the advice and assistance of the supervisor.

6.5 Suspension from the board

Board members are required to participate in all meetings – for example, that absence from more than two (2) meetings in a row and more than two (2) meetings in a year should lead to suspension. The general proper requirement is that the individual must have demonstrated integrity commensurate with the responsibility of the position in question. Hence, standard rules focus on the individuals' criminal record, convictions in general and offences of dishonesty, fraud, financial crime under business law, money laundering, market manipulation or insider dealing.

The effect of rules depends on their implementation. The current practice in the financial industry in South Africa is that it is up to the institutions to observe the rules. Fit and proper assessments are not verified by the FSCA, while FSCA – based on impetus – can raise concerns in relation to a particular institution. Given the nature and importance of this issue in relation to public social security funds and to strengthen integrity and credibility a more rigorous approach should be considered.

A key aspect of a more rigorous approach is to require the fit and proper assessment to be documented.

6.6 Role of the Supervisor

The supervisor is an important source for the fit and proper assessment. The supervisor should be required to maintain a register of all individuals in – or having undertaken – management or board positions in the financial sector or in a public social security institution. This register should hold information on the board career of the individual and any issue that might affect their fit and proper assessment. Taking this procedure, a step further, a financial sector and public social security fund sector passport could be developed.

The supervisor must ensure adequate oversight and strategic outlook. A strong board business order is essential to systematize board work and ensure that it is safe in managing its responsibility. The Chairperson of the board facilitates board meetings and to ensure that the board can undertake its responsibility take a lead on strategic issues, and adequately facilitate good board work and timely deliberations.

Day-to-day management is in the hands of the CEO and the management of the team, and the board will be strongly dependent on information and input flowing from the management team. To ensure prudency in this relationship and to minimize the need for external advisors the board should develop a strong and timely internal reporting framework illuminating all relevant aspects of the business on an ongoing basis. Timely and frequent standardized reports from management and separate units on investments, risk, performance and delivery are essential components. As part of this framework even standard reports from the board Chairperson and permanent board committees are required.

6.7 Responsibilities and work of the NSSF Board

The board of directors should assume the ultimate responsibility for the fund and its management. This means that while the board can call on external advice or decide to outsource activities, it cannot allocate the responsibility. The board and the individual board members assume their responsibilities and perform their duties under punishment liability.

The board of directors should be required to form committees focusing on particular issues. This is to ensure adequate focus on key business issues. The number of committees and their focus may differ from fund to fund. Standard committees should be audit committee, risk committee, investment committee, remuneration and nominations committee and management committee. It should be underlined, that a committee is a support function – it does not transfer responsibility from the board, and committees cannot make decisions.

The board of directors should be able to call on external advice. Such can be relevant as a standard element if a particular expertise is not adequately represented on the board or as an ad hoc service in relation to decisions. However, the general rule should be that the board has the relevant expertise internally and that it is able to take the lead in all considerations even where external advice is called upon.

The board is a collective - it is not a representation of factions. While it may be necessary – presumably on very rare occasions – to put decisions to a vote, the board can only make decisions as a collective. Hence, individual board members are equal in their responsibility for board decisions and management regardless of their individual position on matters.

The chair facilitates the deliberations of the board. This means that the chair plans and leads meetings, ensures that meeting activity is sufficient, ensures that relevant information is provided, that the foundations for decision making are adequate, that deliberations adequately cover the issues and the options and that the board overall meets its responsibilities in a systematic manner. The chair should have the deciding vote in the board when necessary. However, if board deliberations are facilitated adequately putting decisions to the vote should be the exception rather than the rule.

6.8 Administrative Framework for the NSSF

The administration framework for the NSSF will be stipulated in law and the board will decide on which system to adopt based on proposals made. The NSSF board will provide strategic direction and planning control over the NSSF's activities through the following tools:

- The strategic plan which provides long-term direction.
- The annual business plan which breaks the strategic objectives into smaller, attainable measurable goals.
- Implementation plans which ensure that the objectives of the strategic and annual plans are met.
- Policies and guidelines for the operation of the NSSF.

The management team executes the policies as set out by the Board and operates the fund according to instructions and law, ensuring adequate documentation. While the management team supports the Board of

Directors in undertaking its responsibility it cannot decide on policy matters or other matters outside its written mandate.

6.9 GOVERNANCE OF COMMERCIAL UMBRELLA FUNDS (CUFS)

The number of Umbrella funds in South Africa has been stable in the period from 2015 to 2019 at 779. The number of contributing employers to these funds has however increased by 15% in the period. This means that more employers are moving away from occupational funds, with different funds combined into one big fund. On the one side this helps with the consolidation of funds, but on the other hand, there remain issues of governance of umbrella funds with respect to employee representation (worker trustees), the profit motive of these commercial funds and the lack out competitive service provision in the umbrella funds i.e., they in-source all services within the group.

Table 8: Umbrella funds (2015 - 2019)

	2015	**2016**	**2017**	**2018**	**2019**
Private UF	574	574	574	574	574
Number of participating employers(private)	61 021	63 312	65 480	68 408	70 485
Underwritten	205	205	205	205	205
Number of participating employers (Underwritten)	36 318	37 782	39 075	40 400	41 627
Total number of Umbrellas	779	779	779	779	779
Total number of participating employers	97 339	101 094	104 555	108 808	112 112

Source: FSCA

Umbrella fund governance will therefore need to be enhanced, with options considered on how best to represent workers views on the board of such funds, without creating excessive administration for employers, funds and the regulator[30]. This process will entail engagements with unions and industry to find the most suitable model of representation as part of a comprehensive social security and retirement reform agenda. FSCA has started with strengthening governance in umbrella funds by issuing a directive that mandates every umbrella fund to appoint an independent trustee (FSCA's guideline to appoint 50% of independent trustees).

6.10 REGULATORY FRAMEWORK: THE TWIN PEAKS MODEL

International experience in reforming and/or establishing a national social insurance pension arrangement in which all income earners are mandated to participate, and where the Government acts as a guarantor should the scheme not meet its obligations, requires a shift in the way the scheme is regulated and supervised. A more proactive and intense supervision process is therefore required.

South Africa changed the regulation of the financial sector and has adopted the Twin Peaks model of financial regulation as practiced in Australia and Britain following the promulgation of the Financial Sector Regulation

[30] FSCA, 2020. *Annual report 2019/20.* https://www.fsca.co.za/Annual%20Reports/FSCA%20Annual%20Report%202019-2020.pdf

Act No. 9 of 2017[31]. According to this regulatory architecture, prudential regulation is separated from market conduct regulation within the financial sector. The South African Reserve Bank (SARB) will be responsible for all prudential regulatory matters in the whole financial sector, while the Financial Sector Conduct Authority (FSCA) would be responsible for the market conduct.

Box 8: Prudential and Market conduct Regulation

Prudential regulation deals with the standards that require firms to control risks and hold adequate capital. The scope of prudential regulation includes the rules and regulations that banks and other financial institutions are supervised under, including their participation in financial markets.

Market conduct regulation aims to ensure better outcomes for financial consumers, the financial sector and the wider economy, by ensuring that customers are treated fairly, and that their funds are protected against the risk of institutions failing.

Although the IDTT considered the establishment of a **specialist regulator** for social security and supplementary funds, in 2011 the National Treasury published a policy document *"A Safer Financial Sector to Serve South Africa Better"*, as a response to the financial crisis of 2008. One of the proposals identified the need to prioritize and strengthen both prudential and market conduct regulatory and supervisory powers through introducing the 'twin peak" model of financial regulation in South Africa.

The Twin Peak Model of financial regulation and supervision has already been introduced in South Africa in 2017 through the Financial Sector Regulation Act, 2017. Two regulatory entities were established. The Prudential Authority, focusing on the financial wellbeing of the whole financial system in South African and is housed at the South African Reserve Bank; and the Financial Sector Conduct Regulator which focuses on conduct of the institutions and individuals offering financial services.

Pension funds are regulated by the Pension Unit within the FSCA[32]. The Pension unit in the FSCA would need to increase its capacity and scope to accommodate the increased regulation functions brought upon it by the proposed mandatory NSSF. The NSSF would require a more proactive and intense supervision regime that includes stringent prudential and consumer protection mechanisms. The regulatory framework should take into account the special requirements of a fund that needs to achieve social protection goals such as risk-pooling, social solidarity and income cross-subsidization. Regulation of the mandatory fund must therefore integrate the regulation of market conduct, prudential requirements, and social protection. The proactive and intense supervisory approach may be accommodated through structured coordination with related regulators embedded in legislation.

[31] *Published in Government Gazette No. 41060 on 22 August 2017. The Act introduces the Twin Peaks model of financial sector regulation in South Africa.*

[32] *No details have emerged yet on how they will be regulated in future, after this transitional period.*

7 INSTITUTIONAL FRAMEWORK AND THE REFORM ROADMAP

7.1 SOCIAL SECURITY INSTITUTIONAL FRAMEWORK

South Africa has an array of government departments, legislative frameworks, regulators, complaints frameworks, delivery organisations and private arrangements that form part of the incumbent "system" offering social security/ protection. Consequently, existing social security arrangements are highly fragmented largely because the system has evolved in an uncoordinated manner across a number of different government departments and agencies. This has led to disjointed policymaking, incoherent administrative arrangements and poor service delivery. Existing social security institutions are large and complex, and their reform will require a new legal framework, as well as changes to their management and governance.

The institutional framework for social security as an enabler for the South Africa to implement a comprehensive social security system. The following must be considered:

- Constitutional provisions outlining rights and obligations in relation to both entitlements and procedural fairness.
- Legislative arrangements, including entitlements and administration, also taking into account international agreements.
- Regulatory and oversight arrangements.
- Organisations and administrative systems.
- Governance arrangements.
- Judicial and semi-judicial arrangements for review and settlement of disputes.

7.2 PROPOSED INSTITUTIONAL ARCHITECTURE

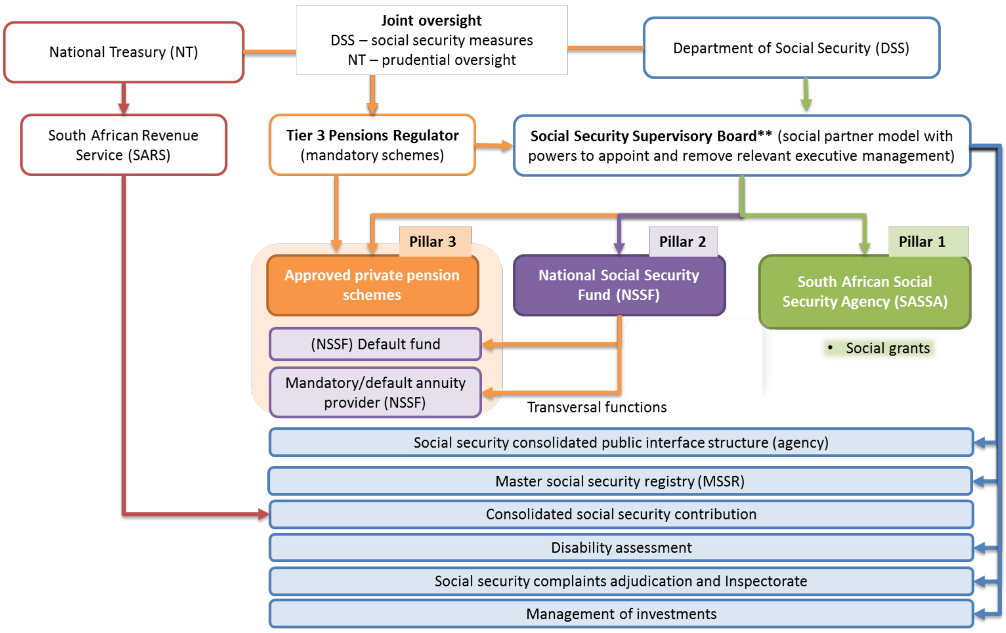
To address the gaps in terms of fragmented policy making frameworks, poor coordination and lack of coherence, the reform of the social security system will require some important changes. A comprehensive social security system must cater for the fact that it will be composed of several sub-systems, which will need to be harmonised through coherent policy-making platforms, various transversal (cross-cutting) functions, specialised organisations for delivering social security benefits, specialised regulators, dedicated supervisory structures, dedicated and transversal administrative platforms and an array of financing approaches.

Implementing an effective institutional framework is essential for South Africa to establish a comprehensive and holistic framework for pensions, loss of income and loss of support.

The aim of the proposed institutional framework is to facilitate unified and coherence in terms of government departments and across social security entities. This also involves the consolidation of systems while providing for the additional requirement of a centrally managed mandatory pension system.

The figure below illustrates the proposed institutional framework, including the transversal functions.

Figure 11: Proposed institutional framework



The social security system proposed in this paper requires the following principal arrangements discussed in this section:

7.2.1 Single department responsible for social security

This department will serve as the point of policy coordination for the social security system. This will assist to address policy-making deficiencies through consolidation under one single department. The department will be responsible for: (i) policy coordination and social security oversight, (ii) ensuring that specific policies align with overall policy objectives, and (iii) ensuring prudency, accountability and transparency. Such an oversight department will ensure that all aspects of the system work efficiently and coherently to achieve the goals of social security, and that the system complements labour-market initiatives as well as broader government projects and priorities.

At present aspects social security policy are implemented in five different government departments through multiple institutions reporting to different governance structures, which leads to incoherence in both policymaking and implementation. Ideally, all existing social security funds should be brought under the new social security department, noting the difficulty in achieving common systems, rules, premises, databases experienced over the past decade.

7.2.2 The National Social Security Fund

The NSSF will be established in law providing for mandatory contributions and pension, disability and survivor benefits as well as administration arrangements, investment of funds, independent actuarial oversight and governance by a board of directors.

7.2.3 Master Social Security Registry (MSSR)

A master social security registry will maintain individual records of all social security contributors and beneficiaries, based on the official Department of Home Affairs population register and supplemented by information from SARS, SASSA, employers, the UIF and other funds. The AGSA, the Prudential Authority (SARB), FSCA, the Pension Funds Adjudicator as well as other stakeholders such as banks will also benefit from the establishment of the MSSR. It is envisaged that the MSSR will be a common central registry with capability to hold all contribution-, accrual-, benefit- related information for everyone.

The IDTT considered the establishment of the MSSR which will contain the most up-to-date information of the beneficiaries of all social security institutions and would be responsible for ensuring that the registry is up to date with the information. The Nedlac social partners unanimously supported the establishment of a MSSR, and the Covid-19 crisis has amplified the need of a registry of this magnitude in South Africa. The MSSR will be based on a unique individual identifier, for instance, the National Identity Number issued by the Department of Home Affairs Civil register. The MSSR maintains individual records of all social security contributors and beneficiaries. The register will keep social security information provided by the unified collection agency, the unified payment arrangement, the consolidated public interface for social security and the individual social security funds, and it will – presumably – log and document all case handling and decision making.

The envisaged MSSR will serve as a **single registry** for all social security institutions in South Africa and will ensure that all the data relevant to a beneficiary can be found in one central place and this will this help to ensure that beneficiary data is accurate and up to date as the beneficiary's information with other social security agencies can be easily *retrieved* and any changes to the beneficiary information will be automatically updated (with automated alerts) to all social security agencies.

The MSSR would not replace the dedicated registries of each social security entity. It would merely serve as **a source of accurate data by centralising and consolidating the information**. The continuous process of validation would ensure that the information is accurate and reliable. Key private institutions that maintain registries of personal information and have frequent contact with the clients would also form part of the validation process and this would include private retirement funds, insures, medical schemes and the banks.

An important function of the registry would be the maintenance of accurate information regarding the members and beneficiaries and will help in mitigating challenges associated with unclaimed benefits.

Many social security institutions rely on similar sets of personal information to identify and validate beneficiary status. Currently each institution relies on its own information collection process to maintain their respective data. A master social security registry becomes a central and handy mechanisms to achieve coherence and speedy up processing and validations of information across social security institutions.

The primary purpose of the MSSR will provide a tool for validation amongst social security institutions (CF, UIF, RAF, SASSA, and CCOD. Master Social Security Registry will provide a documented record of social security beneficiaries.

The integrated master registry will be an effective and efficient system for the social security institutions. This registry will have a positive impact in the country, as it will enable all the social security agencies/departments to record down information of the beneficiaries into a single registry.

The registry will rely on personal data to identify and validate beneficiary status. The registry will be consistent, as most of the information will be effectively and efficiently stored through an integrated social security information system for both beneficiaries and the users/entities will be provided with a single version of a registry.

Beneficiaries' information will be timely, accessible, and readily available for designated officials within social security spectrum, duplication of paperwork, i.e., providing the same information in a paper form, providing false and inaccurate information will be diminished, fraudulent activities and corruption in the administration system will be reduced.

MSSR will be able to provide a documented record of the social security beneficiaries from all social security institutions, means of communication amongst social security agencies and will be able to have access to the service or benefits approved/delivered to the beneficiary. The MSSR will consolidate individual records from various systems across all social security agencies and produce a Master Record.

Master records would contain variables such as:

- ***Identification number*** – Name and Surname, South African ID Number or Passport number.
- ***Individual characteristics*** - Gender, Marital Status, Race, Religion, Education, Disability, Employment status, banking details, occupation, Employer's address and Tax number.
- ***Household characteristics*** - Physical address, Postal address and owned or renting.
- ***Family composition*** - Number of members, Number of children, Number of elders, Number of with disability, Number of members employed and number of members receiving grants.
- ***Social security benefits received*** - Social Security Agency grant, value and term, UIF, value and term, CF value and term, RAF value and term, CCOD value and term.

The MSSR will play a pivotal role in linking social security agencies, minimize corruption and fraudulent activities, remove challenges such double dipping, and duplication benefits for the same condition e.g., claimant receiving benefits from SASSA and CF or RAF for the same injury and the statistics of the beneficiaries who received or receiving social assistance/ security benefits will be accurate because of the system integration. However, with the current scattered and fragmented social security entities, statistics at times vary in terms of their reliability and validity. For example, a beneficiary who receives a disability grant from SASSA and compensation from CF does not appear on both statistics (databases).

7.2.4 *Consolidated public interface for social security (CPISS)*

A consolidated public agency interface will provide client interaction and service, front-end enrolment, and education and awareness programmes. It will draw on labour centres and offices currently run by SASSA and other entities. South Africans will be able to access the system at physical offices, or over the telephone or the internet. This interface will be linked to public employment services to ensure social security recipients remain in close contact with labour-market initiatives.

The CPISS will be the joint public interface. It will provide the various social security funds with a wide range of operational services and local representation. The CPISS can be an independent implementation entity that operates on behalf of the social security funds, for instance on the basis of service level agreements.

In this capacity, the CPISS will play a crucial role in the comprehensive social security system of South Africa. If organized and managed well it can improve social security administration, streamline case handling, ensure stable and credible data and documentation and improve accessibility – and vice versa. Officials working in the CPISS will be involved in a wide range of activities such as case handling, documentation, logging, compliance and risk management, among others.

It is acknowledged that the organisational structure – and the management of the CPISS will be equally complex. The CPISS will include front-office facilities, back-office operations, ICT and other infrastructure, compliance and control functions as well as functions focussed on overall delivery strategy and performance. Senior management must ensure that all functions align with a common strategy and that parallel operational sections follow the same strategies and apply the same methodologies and practices.

7.2.5 Social security tribunal (SST) - dispute and appeals mechanism

Social security decisions can have far-reaching consequences for the members and beneficiaries. Therefore, access to file complaints and raise disputes concerning such decisions is an important aspect of good social security governance. A dedicated external dispute resolution framework in the form of a ***"Social Security Tribunal" (SST)*** with enabling statutory powers and independence from the NSSF is proposed to arbitrate and resolve disputes between the NSSF and members. This will be the next step a complainant will take when they are not satisfied with the response from the NSSF.

The key objective for the tribunal is to strengthen client protection by addressing disputes and appeals. The SST will be responsible for (i) reviewing appeals and complaints by members and employers, and documenting and ensuring compliance with its rulings. The SST should have appropriate statutory powers and independence.

The Tribunal's panel of adjudicators will be composed of independent medical, pension and social security, law experts with relevant experience and educational requirements as contained in the legislation that establishes the Tribunal.

Since the STT will be a quasi-judiciary body with powers that resembles courts of law, and issue decisions that are usually binding to all parties involved, it has the following merits: Independence, relating to funding model, management and organizational structure, governance, supervisory powers, accountability and reporting.

- Speedy and fair processes to resolve disputes with wide ranging powers and functions.
- Time frames in the process to solve the disputes.
- A system that would be accessible to all people across the country.
- Flexible and understood procedures to lodge complaint.
- Known steps to be followed to resolve disputes; and
- Its provisions will be aligned with relevant international and South African constitutional and administrative of justice standards.

Complaints and appeals should remain steps of last resort. Complaints and appeals can be raised by the individual insured or by his/her beneficiaries or by an employer. Generally, complaints and appeals handling should follow a five-step approach.

1. A complaint can be directed to the social security fund in question for consideration and review. The social security fund will issue a first review decision.
2. If the individual disagrees with this first review decision – the case can be presented to the independent social security tribunal.

3. Cases that are brought to the attention of the tribunal must be vetted by the Secretariat of the social security tribunal before presentation, and cases that are clearly trivial can be decided administratively.
4. A summary of administrative decisions will be reviewed by the tribunal before execution.
5. Cases that have a non-trivial material element will be prepared by the tribunal secretariat and considered by the tribunal. The decision of the tribunal should be binding.

Further steps can be taken to strengthen and simplify access. The process should be structured such that cases can be raised and handled free of charge for the complainant and without the need for the complainant to give presence or seek external assistance.

7.2.6 NSSF investment management

Provision will be made in law for the investment of funds of the NSSF, subject to a transparent and responsible investment mandate and under regulatory oversight applicable to similar financial sector institutions. Steps will be taken to ensure adequate diversification of assets and to prevent social security funds from playing a dominant role in capital markets.

Social security and approved pension funds have a shared interest in administratively efficient registry and payments arrangements.

7.2.7 Single collection agency

SARS is proposed as a single collection agency, with employer and employee contributions gathered mainly through the monthly PAYE system. SARS could also collect supplementary contributions made through automatic enrolment or voluntary arrangements.

7.2.8 Clearing House

A common *'clearing house'* system operating off a single IT platform might be cost-effective and institutionally viable while providing for competition between participating occupational and independent funds. Further work is needed to explore this option.

7.3 CONSULTATION AND PROVISIONAL REFORM PATH

The reforms proposed in this paper constitute far-reaching modifications to South Africa's social security system and will have a significant impact on every sector of society. After this paper is published for public comment and feedback on these proposals is received, Government will engage stakeholders in an intensive consultation process to ensure that these proposals are right for the country as a whole.

Consultation between the social partners will be facilitated through a task team of the National Economic Development and Labour Council (Nedlac). Government will coordinate a series of consultative forums on the reform proposals and a feedback process through web-based technologies to ensure that the views of retirement fund members, organised labour, business and community groups are heard by the proponents of the reforms. The contributions of all stakeholders will inform a final policy framework and legislation.

7.3.1 Implementation

The proposed social security system cannot be introduced overnight. A long-term implementation plan is needed that maps out the legislative and institutional reforms and establishes a timeline for the transition to a new savings landscape associated with the NSSF and the approved funds framework.

Subject to the completion of the consultation process that begins with the publication of this paper, Government's proposed implementation strategy will be sequenced in three broad phases:

(1) Creating a unified policy platform

A department responsible for social security is proposed. This department will initiate the drafting of legislation associated with the new comprehensive social security landscape and develop implementation plans. The legislative process will create the basis for the institutional reorganization.

(2) Establishment of the NSSF and institutional consolidation

The NSSF will be established and will be aligned to the social insurance funds and social assistance platform. Systems across the different entities will be integrated according to a new IT architecture.

(3) Five-to-ten-year transition for implementation of the NSSF

Once a department responsible for social security policymaking and the NSSF are in place, a transition period of between five and ten years is proposed for alignment of existing retirement funds with the NSSF and the approved funds framework.

8 CONCLUSION

The present social security system in South Africa falls short of its Constitutional requirements. The proposed reforms will be implemented over the short- to long-term period. There is need to prioritise poverty interventions, focus on efficiency and equity challenges in the system and leverage on electronic application system.

This paper has identified the key weaknesses of the existing social security arrangements and proposed measures by which to address them:

- *The absence of a statutory pension and insurance arrangement.* The NSSF will pay benefits on retirement, disability, death prior to retirement or unemployment. It will be available to all workers and funded by mandatory contributions.
- *Limits to the reach of social assistance*. The gradual elimination of the means tests for social grants, together with a standardized disability assessment, will ensure all those who need social assistance receive it.
- *Fragmentation of social security arrangements*. The establishment of a single department responsible for social security will unify policy making. Shared administration and services will improve efficiency and service delivery across the agencies and significantly reduce costs.
- *Variable quality of coverage in private-sector arrangements*. The approved funds framework will ensure that only well-run and transparent voluntary retirement and insurance arrangements will be eligible for tax-incentivized contributions.
- *Lack of coherence with the labour market*: The department responsible for social security will ensure that its policies are closely aligned with labour-market policies as well as broader Government priorities. A sharing of facilities between social security agencies and labour centres will enhance workers' access to both and will expand the footprint of public employment services.

This paper proposes other measures that will support this reform agenda:

- A *contribution subsidy* that will encourage low-income workers to join the NSSF and mitigate any adverse effects to the labour market associated with mandatory contributions.
- The *extension of UIF benefits*, including a *continuation benefit* for workers who have exhausted their full UIF benefits, to be paid at a lower rate and linked to labour activation measures to protect workers from having to draw down their retirement savings.
- The establishment of a *Road Accident Benefit Scheme* to replace the current Road Accident Fund.
- *Alignment of social security with NHI*, especially for the medical benefits presently covered by the compensation funds and RAF.
- *Preservation and portability of retirement savings* to ensure workers do not liquidate their accumulations until they reach retirement except in the event of a life crisis.
- *Automatic enrolment* to encourage workers to contribute to supplementary retirement and insurance arrangements.

- A *government-backed annuity product* designed for workers earning below the NSSF ceiling.

These proposals are intended to ensure that every worker enjoys access to effective social security arrangements. However, they are significant in scope, and, if they are poorly designed or poorly implemented, they risk significant adverse consequences for the economy and for future generations of workers.

These proposals therefore require careful consultation with the public and community organisations, business and trade unions, the retirement fund industry and regulatory bodies.

This discussion paper is the first stage in the consultation process. The Government trusts that this document provides a sound platform for the critically important interaction that lies before the social partners (government, business, community and labour) and all those with a stake in South Africa's social security system. We welcome all thoughts and comments in response to this paper.

9 REFERENCES

1. Cichon, M., Scholz, W., van de Meerendonk, A., Hagemejer, K., Bertranou, F., and Plamondon, P., 2004. Financing Social Protection, quantitative methods in social protection series, a joint publication of the International labour Office and the International Social Security Association, Published by the ILO, Geneva, 2004.
2. Constitution of the Republic of South Africa No. 108 of 1996 as amended.
3. Department of Public Works: Expanded Public Works Programme.
4. Department of Social Development, 2008. "Creating our Shared Future, Strategic Considerations for a Comprehensive System of Social Security, Discussion Paper".
5. Department of Social Development.,2019. "Informal Economy Retirement and Risk Benefits, Phase IV, Final Report.
6. Department of Social Development,.2007. "Reform of Retirement Provisions, Feasibility Studies".
7. Department of Social Development,.2021. "*Social Budget Bulletin 2,*
8. Department of Transport,. 2011. "Draft Road Accident Benefit Scheme Bill, 2011".
9. Hinz, J and Matanoanu A., 2005. "Pension Supervision: Understanding International Practice and Country Context".
10. Financial Advisory and Intermediary Service Act No.37, 2002.

    Available online: https://www.gov.za/sites/default/files/gcis_document/201409/a37-020.pdf

11. OECD, 2018. "Financial Incentives and Retirement Savings". OECD Publishing, Paris. *https://doi.org/10.1787/9789264306929-en*
12. ILO, 2010. Extending social security to all. A guide through challenges and options (https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_146616.pdf)
13. ILO Report to the Government – Pensions in the Comprehensive social security framework: regulatory changes, an approved funds framework the design of a tier-3 pension default fund".
14. International Labour Organisation, 2020. "Report to the Government: Good Governance in Social Security – Issues in the proposed comprehensive social security framework in South Africa".
15. International Labour Organization: Social Security (Minimum Standards) Convention, 1952 (No. 102). Entry into force: 27 April 1955. Available online: https://www.ilo.org/secsoc/areas-of-work/legal-advice/WCMS_205340/lang--en/index.htm.
16. International Labour Organisation, 2015. "Strategy for the extension of social security".

    https://www.social-protection.org/gimi/ShowTheme.action?id=2505

17. National Treasury,.2021. "Budget Review". Annexure C.

    http://www.treasury.gov.za/documents/national%20budget/2021/review/Annexure%20F.pdf

18. National Treasury., 2013. "Charges in the Retirement Industry".
19. National Treasury,. 2012. "Enabling a better income in retirement".
20. National Treasury,. 2012. "Improving tax incentives for retirement savings".
21. National Treasury, 2012. "Incentivising non-retirement savings".
22. National Treasury.,2014. "Statement on the impact of the Proposed Retirement Reforms".: Press Release – 9 July 2014. Available online: www.treasury.gov.za.
23. National Treasury,. 2012. "Preservation, portability and governance for retirement funds".
24. OECD., 2013. "Pensions at a Glance 2013".: Retirement Income Systems in OECD and G20 countries.
25. Olivier, M., 2005. Acceptance of social security in Africa.

26. Taylor Committee., 2002. "Transforming the Present, Protecting the Future: Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa"., Department of Social Development.
27. The National Planning Commission., 2020. "A Review of the National Development Plan 2030".: Advancing Implementation Towards a More Capable Nation.
28. The National Planning Commission., 2020, A Review of the National Development Plan 2030:

https://www.nationalplanningcommission.org.za/assets/Documents/NDP%20REVIEW.pdf

29. The National Planning Commission, 2012. *"National Development Plan 2030, Our Future, Make It Work",* The Presidency: Republic of South Africa.
30. Republic of South Africa., Medium-Term Strategic Framework (MTSF) 2014 – 2019.
31. R202-Social Protection Floors Recommendation, 2012 (No.202).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202

32. Samson, Michael, Una Lee, Asanda Ndlebe, Kenneth Mac Quene, Ingrid van Niekerk, Viral Gandhi, Tomoko Harigaya and Celeste Abrahams., 2004. *"The Social and Economic Impact of South Africa's Social Security System"*. Final Report, Commissioned by the Economics and Finance Directorate, Department of Social Development.
33. South African Revenue Service., 2019 Tax Statistics, December 2019
34. United Nations., 1948. "The Universal Declaration of Human Rights". Available Online: http://www.un.org/en/documents/udhr/.

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