

Section 13A

Implementation date: 19 February 2023

What is Section 13A of the Pension Funds Act and what does it prescribe?

Section 13A (S13A) is a section of the Pension Funds Act, 1956 (the “Act”) which deals with the monthly payment of employees’ retirement fund contributions by employers to the pension or provident fund they are members of. Probably the most important part of S13A is the deadline for payment of retirement contributions employers have collected from employees’ salaries.

The Act states:

“Any contribution to a fund... shall be transmitted directly into the fund’s account... not later than seven days after the end of the month for which such a contribution is payable.”

This means that the contributions must have reached the fund’s bank account by the 7th of the month.



What is the Conduct Standard 1 of 2022?



From time-to-time the Financial Sector Conduct Authority (the “FSCA”) publishes papers that enhance or clarify sections of the Act. They recently published Conduct Standard 1 of 2022, *Requirements Related to the Payment of Pension Fund Contributions*. It sets out in more detail the requirements and responsibilities of both employers and funds when it comes to S13A.

These requirements **come into effect on 19 February 2023**. These shouldn’t have a major impact on the retirement fund industry as most of these requirements have been law for a while. This communication is to refresh you on S13A and make you aware of key information set out in the Conduct Standard. You’ll receive a series of communications leading up to implementation date to help and remind you of what is expected of all parties.

The highlights of the Conduct Standard are:

- (i) Clarity on the minimum information that employers must provide to the retirement fund when making contributions in terms of S13A
- (ii) Placing obligation on the fund to report employers should they not comply with S13A
- (iii) Prescribing the interest rate payable on late or unpaid contributions at prime plus 2%

What happens in the case of late payments?

If contributions are late, the fund must charge the employer late payment interest as prescribed by the Act. When paid, the interest is allocated to the members’ retirement savings – this is to compensate them for the financial loss they may have experienced due to the contributions being late. Members want the peace of mind that their retirement contributions are invested as quickly as possible after they are deducted from salaries.



What interest will be payable in the event of late payments?



According to the Conduct Standard, compound interest on late or unpaid payments:

- Must be calculated from the first day following the expiration of the period in respect of which such amounts were payable until the date of receipt by the fund; and
- Is prescribed to be the **prime rate plus 2 percent**

To give an example, if the January retirement contributions show in the retirement fund’s bank account on 11th February, interest is calculated for the period 1st February to 10th February i.e., 10 days.

Employers need to consider the time it takes for payments to leave their bank account and reflect in the fund’s account. If an employer only authorises their payment on the 7th and it reflects two days later in the fund’s account, in terms of the Act, this will be treated as a late payment. To be on the safe side, always authorise payments as soon as possible, to avoid late payment interest.

From 19 February 2023, it will be compulsory for employers to provide the fund with certain information

The minimum information to be furnished to a fund by an employer in an initial contribution statement must include:

- the name of the fund
- the fund registration number
- the period in respect of which the contribution is payable
- the name and address of the employer
- where an employer has multiple pay points, the pay point which made the deduction
- the contact person responsible at the employer or pay-point dealing with inquiries relating to contribution statements and payment of contributions
- the identity of the person envisaged in section 13A(8) of the Act, as requested from the employer by the fund in terms of section 13A(9) (a) of the Act
- in respect of each member, the following



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| (i) | full name |
| (ii) | date of membership |
| (iii) | date of birth |
| (iv) | South African identity number or passport number |
| (v) | employer pay or industry number |
| (vi) | income tax number |
| (vii) | contact number, including (where available) cellular phone number |

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| (viii) | e-mail address (where available) |
| (ix) | postal address |
| (x) | residential address |
| (xi) | annual pensionable emoluments |
| (xii) | percentage and amount of contributions |
| (xiii) | split between member and employer contribution; and |
| (xiv) | details of any additional voluntary contributions paid |

Please use the time between now and 19 February 2023 to start collecting the above information from your employees and capturing it into your payroll file submissions. Ensure that the information is as accurate as possible and is unique to the member. For example, don’t use the same company or HR person’s email address for every member.

What is the duty of the retirement fund should an employer not be compliant?

The retirement fund trustees are obliged to report employers who don’t comply with S13A to the FSCA and to the SAPS. Compliance covers both the payment of contributions by the due date (7th of the following month) and submission of the required minimum information.

What happens next?

We’ll keep you posted via our communication series leading up to the implementation date. Please look out for these and take note of the details we are sharing. In the meantime, if you have any questions, please contact the ISASA Administration team on 0860455455 or isasa@oldmutual.com.