

## Member data and contributions

### Section 13A - Pension Funds Act (the Act)



### Why is Section 13A important to you, the employer?

When it comes to retirement funds, an employer has a number of legal responsibilities to perform. One such important duty is to pay contributions, due in terms of the registered rules, over to their retirement fund. This duty is considered so important that not only has it found its way into the Act, but it also carries a criminal sanction for non-compliance.

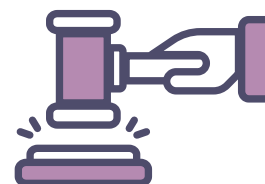


#### The “golden” rules

1. The contribution is payable within **7 days** of the end of the month for which it is due, and
2. The **minimum information** with regards to the payment must be furnished within **15 days** from the end of the month for which the contributions are due.

### Reinforcing the “golden” rules

Although, these statutory duties and its application has been a long-standing practice, the Financial Sector Conduct Authority (FSCA) has issued [\*\*Conduct Standard No.1 of 2022\*\*](#) - Requirements Related to the Payment of Pension Fund Contributions, to reiterate these duties and to add new requirements.



**These requirements come into effect from 19 February 2023.**

## What is the minimum compulsory information required in an initial contribution statement?

The initial contribution statement must include the following:

1. The name of the fund;
2. The fund registration number;
3. The period in respect of which the contribution is payable;
4. The name and address of the employer;
5. Where an employer has multiple pay-points, the pay-point which made the deduction;
6. The contact person responsible at the employer or pay-point dealing with enquiries relating to contribution statements and payment of contributions;
7. The identity of the person who is responsible for the payment of the contributions (i.e. the **Responsible Person** as envisaged in section 13A(8) of the Act).
8. In respect of **each member**, the following:

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|---|--|
| • full name   | • e-mail address (where available)                       |
| • date of membership  | • postal address   |
| • date of birth   | • residential address                                    |
| • South African identity number or passport number                  | • annual pensionable emoluments                          |
| • employer pay or industry number                                   | • percentage and amount of contributions                 |
| • income tax number   | • split between member and employer contribution         |
| • contact number, including (where available) cellular phone number | • details of any additional voluntary contributions paid |

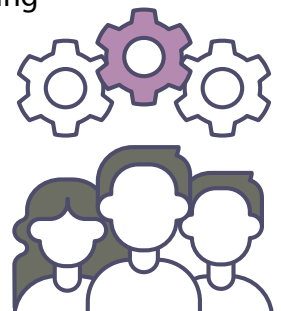


**The information above must be accompanied by a declaration by the employer that all employees eligible to be members of the fund are accurately reflected in the minimum information.**

## What is the minimum information required in subsequent contribution statements?

The minimum information must include all the information required for an initial contribution statement and further provide:

1. changes in respect of the **Responsible Person** in respect of the contributions.
2. the membership number allocated to each member by the fund; and
3. any changes as compared to the contribution statement for the previous period showing any differences in the data, including:
  - additions as a result of new members,
  - reductions as a result of membership terminations,
  - adjustments as a result of changes in pensionable emoluments,
  - the payment of additional voluntary contributions,
  - corrections due to error or any other information that may be relevant.



## What happens if an employer pays late?

The employer will be liable to pay compounding interest referred to as Late Payment Interest (LPI).

The prescribed rate for LPI is prime rate plus 2%.

LPI will be calculated from the first day following the expiration of the period in respect of which the contributions were payable until the date of receipt of the contributions by the fund.

Contributions are due by the end of a month for that month. Payment of contributions by the **7th** of the month following the period for which contributions are due, is a grace period for making a payment. Therefore, LPI will run from the **1st** of this month and not from the **8th** of this month.



## What happens if an employer does not pay their contributions?

Non-payment of contributions constitutes non-compliance. This breach is reportable by a fund to the South African Police Services whereupon a **criminal charge** can be levied against the **Responsible Person**. The sanction is a maximum of R10 million and/or 10 years imprisonment.



A fine in respect of the non-compliance, at a rate of R1 000 per day may be levied by FSCA.

## Reporting duties

Non-payment of contributions and/or not providing the minimum information invokes a duty to report the non-compliance. The following sequence of reporting is required following non-compliance:

1. The administrator will report the non-compliance to the Principal Officer (or monitoring person) of the fund.
2. The Principal Officer (or monitoring person) will report the non-compliance to the Board of Trustees.
3. The Board of Trustees will:

- inform all affected members of the non-compliance;
- inform the Financial Sector Conduct Authority (FSCA) of the non-compliance; and
- report any material non-compliance to the South African Police Services where such non-compliance continues for a period of 90 days.



## Consequences of non-compliance

1. A criminal offence occurs.
2. Non-compliance fines levied.
3. Non-compliance will be communicated to members.
4. Benefit payments are delayed.
5. Risk benefit premiums, if applicable, cannot be paid.  
If the insurer cancels an insured risk policy, the employer may be liable for the benefit.
6. A potential investment risk arises.



It is therefore important that employers and **Responsible Persons** understand the prevailing legal requirements and ensure adherence at all times.



## Minimum information - Data compilation

The Conduct Standard has introduced several new requirements under the section “Minimum information for an initial contribution statement”.

This, in effect, means that data submitted for the period February 2023, must conform to the requirements of the initial contribution statement.

Employers should start reviewing the new data requirements against the data currently provided and implement the necessary changes to ensure compliance by 19 February 2023.

GTC’s online payroll interface will be updated to include the new requirements. Employers must ensure that the interface is populated fully with the relevant information.

Employers who do not use the online payroll interface must ensure that all information required is transmitted to the fund.



## Next steps?

GTC will keep you informed should anything further arise on this issue. If you have any questions in this regard, please feel free to contact your GTC consultant or your benefit consultant.



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