

Section 13A

Late Payment of Contributions

Practice Note 5 Version 2 - September 2019



Introduction

The Operations & Administration division (O&A) issue practice notes to:

- increase awareness and provide insight into the best practices and procedures adopted by Alexforbes for the effective administration of your fund
- clarify our administration role
- align expectation between Alexforbes, trustees, employers and members of the retirement funds.

Please note that in an event of a conflict, the fund's rules, applicable legislation or the signed service level agreement will take precedence over the processes set out in this practice note.

In this issue, we highlight the amendment made to Section 13A of the Pension Funds Act ("the Act"). The "Act" clearly defines that where contributions are paid later than the prescribed period (7th day of the following month with effect from 13 September 2007), an interest rate as prescribed from time to time by the Minister by notice in the gazette, shall be payable from the first day following expiration of the period in respect of which such amounts were payable. The affected changes to Section 13A of the Act has a direct impact on retirement funds and will certainly affect the day-to-day administration of your retirement fund.

Calculation of the Interest Rate

The interest rate is currently linked to the Repo interest rate. The way in which the Repo rate is applied is as follows:

a) Values not exceeding R10 000, the Repo Rate plus one third thereof, plus 11 percentage points with an interest cap of 23% p.a.

b) Values exceeding R10 000, the Repo Rate plus one third thereof, plus 8 percentage points with an interest cap of 20% p.a.

For the purpose of calculating these rates, the Repo Rate is the Repurchase Rate as determined by the



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Monetary Policy Committee of the South African Reserve Bank. All changes will become effective after 7 days after any changes in the Repo Rate.

Questions & Answers

1. When must contributions (employee and employer) be paid to the fund?

Contributions must be paid to the fund not later than 7 days after the end of the month for which the contributions were payable. All references in the Pension Funds Act and Regulations to “days” refers to calendar days, which includes weekends and public holidays. Should any of the due days fall on a weekend or a public holiday, the following working day will be regarded as the day specified in the Pension Funds Act and Regulations.

2. When must the contribution schedule be submitted to Alexforbes?

In terms of Section 13A of the Pension Funds Act, the contribution schedule must be submitted to the fund administrator not later than 15 days after the end of the month for which the contributions were due. In order not to delay the contribution update process i.e. reconciliation of the contribution schedule to the actual amount deposited, it is recommended that the contribution schedule be submitted to Alexforbes at the same time as the deposit into the Fund’s bank account. As stated above, our best practice for the deposit, and therefore also the contribution schedule, is to schedule these processes to run as soon as possible after the particular month’s payroll run.

3. Where contributions are paid to the fund after the 7th of the following month when it was due, how is late payment interest calculated?

Late payment interest using the current Section 13A interest rate is calculated from the 1st day of the month following the period for which the contributions were payable. Note that interest is not calculated from the 7th of the month to the date when the payment was made.

Example: Contributions for September 2018:

- **Contributions must be paid to the fund no later than 7 October 2018;**
- **However, contributions were only paid on 20 October 2018, resulting in:**
 - Interest calculated from 1 October 2018 to 19 October 2018 (both days included). (Other penalties set out in the rules of a fund may also apply.)
 - Interest payable by no later than 30 November 2018.

The interest is due and payable to the fund not later than 2 months after the month in respect of which the late contributions were due.

4. Is this the only interest that will be charged for late payment of contributions?

No.

Additional interest (compounded daily) will be calculated and due on the initial interest from the date of the original calculation to the date of the payment of the initial interest.

5. How would the company/employer/paypoint know of the interest due and date of payment?

When the contributions are received by the fund, Alexforbes will reconcile the contributions with the amount due for the individual members of the fund and any disparities will be discussed with the contact person at the company/employer or paypoint. After finalizing all queries (if any), the fund administrator will calculate the underpayment (where applicable) and forward a notification of interest due to the relevant contact person. The letter will specifically state the amount of interest due and the date when it must be paid by.

Alexforbes will follow up on a monthly basis with the company/employer/paypoint to ensure that the notification of interest due was received and is acted upon.

6. What is the preferred layout and minimum information that must be included in contribution schedules?

Alexforbes uses a standard file layout for contribution updates which is available from your fund administrator. Should the contribution updates not be submitted in the required layout or if the data contained in the contribution update do not meet the minimum quality criteria, it may delay the reconciliation process and cause late investment of member contributions.

7. What action is taken against companies/ employers/paypoints who pay contributions late, do not pay contributions at all or do not submit correctly completed contribution schedules timeously to the administrator?

On a monthly basis, a Section 13A report must be prepared by the fund administrator, recording the following:

- **All late contributions greater than 2.5% of contributions due;**
- **Any interest due and not paid; and**
- **Late receipt of contribution schedules.**

This report is submitted to the Principal Officer/ Monitoring Person of the fund by no later than the 22nd of the month following when the contributions were due and payable.

The Principal Officer/Monitoring Person has the responsibility to:

- Report to the Trustees where contributions have been paid late or where schedules have been submitted late or incomplete;
- Inform the affected members within a reasonable period of the late payment;
- Advise the Authority at the Financial Sector Conduct Authority (FSCA) of any action taken. (The Trustees must prescribe the period and the manner of the disclosure.); and
- Where contributions are outstanding more than 97 days from the 1st day of the month following the period for which the contributions were due, this must be reported in detail within 14 days of the expiry to the Director of Public Prosecutions and the FSCA.

8. What would be the impact on the member's benefits if contributions are not paid timeously?

The member's contributions would not be invested timeously in the applicable investment portfolios. In a volatile market the member could either benefit or be penalized as a result of such delays and the member would be entitled to claim any damages, if applicable, from the guilty party. Furthermore, the member's risk benefit premiums would not be paid, i.e. for death benefit, funeral benefit and disability benefit. In the event of a claim, the insurers reserve the right to repudiate any such claims.



Important item to note:

1. The Principal Officer is usually the monitoring person but the Fund may appoint another person to perform this function. The FSCA must be notified in writing where the role of the monitoring person is moved from the Principal Officer to another person.
2. Members in respect of whom no contributions are received would remain as active members on the fund until the administrator is officially notified, through the submission of a properly completed claim form, of the member's withdrawal from the fund. The member's fund credits would remain invested in, and be exposed to the volatility associated with the applicable investment portfolios.