

**NEWS
FLASH!**



APRIL 2024

STOP NON-COMPLIANCE

EMPLOYER NEWSFLASH **CALL TO ACTION**

What are the 3 types of non-compliance?

What are the consequences of not being compliant?

What does the FSCA say about non-compliance?

NON-COMPLIANCE ON THE FUND, IN THE NON-PAYMENT OF CONTRIBUTIONS, IS A SERIOUS OFFENCE

Non-Compliance in the non-payment of Contributions is a serious offence

The types of non-compliance on the Fund include:

1. Employers who do not deduct contributions from their employees;
2. Employers who deduct contributions from their employees but do not pay them over to the Fund;
3. Employers who deduct contributions and pay them to the Fund but do not send a schedule that is used to allocate contributions. Please remember to finalise your billing and use the correct reference number when making payment.

What are the consequences of not being compliant?

Employers need to understand that failure to comply with the Fund Rules, Section 13A of the Pension Funds Act and related legislation is in fact a criminal offence with serious consequences. It is therefore critically important that employers ensure strict compliance.

The following are some of the consequences that employers may be liable for in the event of non-compliance:

- Penalties can amount to R1 000 per non-compliant item, per day of non-compliance.
- The Fund is obligated to directly inform members, in writing, if the employer is not compliant with any of the requirements.
- Lodging of a criminal complaint at the SAPS against the persons personally responsible at the Participating Employer for compliance. Any person who fails to comply is guilty of an offence and may be liable, on conviction, to a fine not exceeding R10 million or imprisonment not exceeding 10 years, or both.
- Interest on late payments will be charged at the prime rate plus 2 percent.
- Publishing the name of the participating employer on its website for public notice in terms of FSCA Communication 17 of 2022 (RF) of 9 June 2022.

What does the FSCA say about non-compliance?

Did you know that according to FSCA South Africa, 4 000 employers have failed to pay over contributions to pension fund!

Astrid Ludin, the deputy commissioner at the FSCA says that there are some R7 billion in unpaid contributions, while there are also cases where employers have unlawfully used this money for their own purposes. Some contributions have been outstanding for 21 years as at July 2023!

Those responsible for ensuring that contributions are paid – including even the full board of directors – can be fined up to R10 million or imprisoned for up to 10 years if found guilty of non-payment.

Call to Action

If you are behind on your contributions and have not provided membership data to TSRF, do not ignore the various S13A letters of demand and contact the Fund's Front Office urgently. Non-compliant employers are being reported to the FSCA and the SAPS. Directors and responsible persons will be held personally responsible, so it is imperative to contact the Fund to resolve non-compliance urgently.