

MEDIA RELEASE Pension funds payment compliance: PSA welcomes dual enforcement mechanisms

DATE 21 January 2026

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The Public Servants Association (PSA) welcomes recent legislative developments that strengthen protections for workers by introducing dual enforcement mechanisms against employers who fail to pay over benefit fund contributions.

The Minister of Employment and Labour formally withdrew the 2003 exemption that previously shielded employers from the application of section 34A of the *Basic Conditions of Employment Act*. This exemption had, for more than two decades, limited the state's ability to hold employers accountable for late or non-payment of pension, provident, medical aid, and similar benefit contributions. This withdrawal means that employers who deduct contributions from employees' salaries are now subject to a dual enforcement regime. Labour Inspectors may enforce compliance with section 34A of the BCEA, which mandates that any amount deducted for a benefit fund must be paid to the relevant fund within seven days of deduction. Furthermore, the Financial Sector Conduct Authority (FSCA) retains its regulatory authority under the *Pension Funds Act*, enabling it to hold employers accountable for failing to transmit contributions within seven days after the end of the month in which these are due.

The withdrawal was necessitated by widespread employer non-compliance, which became more evident following the rollout of the two-pot retirement system in 2024. This system exposed thousands of employers who had been deducting pension contributions from employees without remitting these to retirement funds, with arrears reaching billions of rand. Recent regulatory reports further highlight the gravity of the situation. As of late 2024, the FSCA identified 7 770 employers across the public and private sectors as non-compliant, collectively owing more than R5.2 billion in outstanding retirement contributions. Municipalities remain amongst the worst offenders, accounting for approximately R1.4 billion of the arrears.

The PSA condemns the unethical and unlawful practice of deducting employees' hard-earned funds without ensuring these transfer to intended benefit funds. This misconduct directly prejudices workers, jeopardises their financial security, and undermines the sustainability of retirement systems designed to protect employees in their later years.



The PSA thus welcomes the strengthened enforcement framework, which enhances state oversight through the Department of Employment and Labour (DEL) and the FSCA, creates wider avenues for legal action and penalties against non-compliant employers, and provides greater protection for workers whose contributions are the cornerstone of their future financial stability.

The PSA calls on all employers, including government departments, municipalities, private contractors, and other entities, to immediately regularise compliance in this regard. The PSA further urges the DEL and the FSCA to use these enhanced powers proactively to ensure that employers who disregard the law face appropriate consequences.

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