



Legal update

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Section 13A of the Pension Funds Act - Due date for the payment of contributions and late payment interest

What is the due date for the payment of contributions in terms of section 13A of the Pension Funds Act?

It is the employer's responsibility to ensure that Momentum receives the contribution amount not later than seven days after the end of the month for which the contributions are paid. This is irrespective of the method of payment, whether by automatic fund transfer ("debit order") or electronic funds transfer.

When does the employer fulfil its obligations under section 13A - Is it when they push the "confirm" button on employer portal or is it when the contribution is received in Momentum's bank account?

The contributions must be *cleared* in Momentum's bank account *within* the seven day period so that Momentum can invest the money on behalf of members. So, in the case of an electronic fund transfer, the employer must ensure that they "confirm" the contribution in advance so that the cleared funds are in Momentum's bank account by the seventh day. On automatic fund transfer Momentum pre-funds the contribution which means that we invest the money on the date that it is collected from the employer's bank account.

How do we define "day" and "month" for the purposes of section 13A?

The meaning of the word "day" for the purpose of statutory interpretation is defined in section 4 of the Interpretation Act 33 of 1957 ("the Interpretation Act"), and reads as follows:

"When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday".

This means that the seven-day period must be calculated excluding the first day and including the last day, unless the last day falls on a Sunday or a public holiday, in which case the period will end on the next business day, but including a Saturday.

The word "month" is defined in section 2 of the Interpretation Act to mean "a calendar month".

"Calendar month" refers to the first day until the last day of each of the twelve periods into which the year is divided (i.e. from 1st to 31st January, from 1st to 28th or 29th February etc.).

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Contributions must be paid into Momentum's bank account on or before the following due dates:

Contribution month	Due date
April 2015	8 May 2015
May 2015	8 June 2015
June 2015	8 July 2015
July 2015	8 August 2015
August 2015	8 September 2015
September 2015	8 October 2015
October 2015	9 November 2015*
November 2015	8 December 2015
December 2015	8 January 2016

*8th falls on a Sunday

From what date should the penalty for the late payment interest be calculated?

Section 13A(7) and Regulation 33(7) deal with charging of late payment interest (LPI). If contributions are not paid within the seven day period, or if the contributions are not confirmed, then LPI is charged from the first of that month up to the date that it was paid or confirmed.

Example: Contributions paid for the month of April 2015 must be paid by 8 May 2015. If the employer pays the contributions on 11 May 2015, the LPI will be calculated from 1 May 2015 to 10 May 2015.

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