

6 February 2023

Employment Law ALERT

IN THIS ISSUE

Repeal of Regulation 33: Employers and trustees' obligations in relation to retirement fund contributions

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Repeal of Regulation 33: Employers and trustees' obligations in relation to retirement fund contributions

In an alert published on [9 January 2023](#), we dealt with shortcomings in Regulation 33 and the proposed changes to be introduced by Conduct Standard 1 of 2022 (Conduct Standard).

On 27 January 2023, the Minister of Finance repealed Regulation 33. This is a regulation published in terms of the Pension Funds Act 24 of 1956 (PFA).

Regulation 33 is replaced by the Conduct Standard, which takes effect on 20 February 2023.

As outlined in the previous alert, Regulation 33 sets out requirements relating to the payment of pension fund contributions by employers to pension funds in terms of section 13A (2) of the PFA. The Conduct Standard sets out requirements related to the payment of pension fund contributions which mirror those contained in Regulation 33, as well as additional measures to remedy shortcomings in Regulation 33.

Some important aspects of the Conduct Standard are:

Employer's obligations and duties

One of the major changes brought by the Conduct Standard is the obligation on retirement funds to notify every employer that intends to join the fund of their duties, obligations and liability under section 13A of the PFA and the Conduct Standard. The retirement funds are required to do this on an annual basis.

Employer's arrear contributions

Retirement funds will also be required to recover arrear contributions from participating employers. The Conduct Standard allows for this function to be outsourced to an attorney or third party. Trustees will therefore be required to formulate policies and procedures to account for this process. This is positive.

Hybrid Event Invitation

The Economic Outlook for 2023 and Employment Law: What to Expect?

Join the CDH Employment team for a discussion on what implications this may have in the workplace.

Speakers:

Gillian Lumb | Director
Hugo Pienaar | Director
Tamsanqa Mila | Senior Associate
Abigail Butcher | Associate



Thursday,
9 February 2023



09h00 – 10h00 (CAT)

Register Here >

For more information contact
cdhevents@cdhlegal.com



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CONTINUED

Conclusion

Trustees of Funds should ensure that the rules are in line with the Conduct Standard.

Employer's data collection obligations

The Conduct Standard provides for an employer's obligation to provide a retirement fund with information regarding contributions collected and paid over to retirement funds on behalf of its employees. This must be accompanied by a declaration

from the employer stating that the information provided is a true and correct reflection of contributions required to be paid to the retirement fund.

It is anticipated that the Conduct Standard will assist in eradicating employer non-compliance with their obligations as outlined in the PFA. This, however, will only be achieved through the collaboration of all the relevant stakeholders as well as strict compliance and application of the Conduct Standard.

**Imraan Mahomed and
Tshepiso Rasetlola**



OUR TEAM

For more information about our Employment Law practice and services in South Africa and Kenya, please contact:



Aadil Patel

Practice Head & Director:
Employment Law
Joint Sector Head:
Government & State-Owned Entities
T +27 (0)11 562 1107
E aadil.patel@cdhlegal.com



Anli Bezuidenhout

Director:
Employment Law
T +27 (0)21 481 6351
E anli.bezuidenhout@cdhlegal.com



Jose Jorge

Sector Head:
Consumer Goods, Services & Retail
Director: Employment Law
T +27 (0)21 481 6319
E jose.jorge@cdhlegal.com



Fiona Leppan

Joint Sector Head: Mining & Minerals
Director: Employment Law
T +27 (0)11 562 1152
E fiona.leppan@cdhlegal.com



Gillian Lumb

Director:
Employment Law
T +27 (0)21 481 6315
E gillian.lumb@cdhlegal.com



Imraan Mahomed

Director:
Employment Law
T +27 (0)11 562 1459
E imraan.mahomed@cdhlegal.com



Bongani Masuku

Director:
Employment Law
T +27 (0)11 562 1498
E bongani.masuku@cdhlegal.com



Phetheni Nkuna

Director:
Employment Law
T +27 (0)11 562 1478
E phetheni.nkuna@cdhlegal.com



Desmond Odhiambo

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E desmond.odhiambo@cdhlegal.com



Hugo Pienaar

Sector Head:
Infrastructure, Transport & Logistics
Director: Employment Law
T +27 (0)11 562 1350
E hugo.pienaar@cdhlegal.com



Thabang Rapuleng

Director:
Employment Law
T +27 (0)11 562 1759
E thabang.rapuleng@cdhlegal.com



Hedda Schensema

Director:
Employment Law
T +27 (0)11 562 1487
E hedda.schensema@cdhlegal.com



Njeri Wagacha

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E njeri.wagacha@cdhlegal.com



Mohsina Chenia

Executive Consultant:
Employment Law
T +27 (0)11 562 1299
E mohsina.chenia@cdhlegal.com



Faan Coetzee

Executive Consultant:
Employment Law
T +27 (0)11 562 1600
E faan.coetzee@cdhlegal.com



Jean Ewang

Consultant:
Employment Law
M +27 (0)73 909 1940
E jean.ewang@cdhlegal.com



Ebrahim Patelia

Legal Consultant:
Employment Law
T +27 (0)11 562 1000
E ebrahim.patel@cdhlegal.com



Nadeem Mahomed

Professional Support Lawyer:
Employment Law
T +27 (0)11 562 1936
E nadeem.mahomed@cdhlegal.com

OUR TEAM

For more information about our Employment Law practice and services in South Africa and Kenya, please contact:



Asma Cachalia

Senior Associate:
Employment Law
T +27 (0)11 562 1333
E asma.cachalia@cdhlegal.com



Jordyne Löser

Senior Associate:
Employment Law
T +27 (0)11 562 1479
E jordyne.loser@cdhlegal.com



Tamsanqa Mila

Senior Associate:
Employment Law
T +27 (0)11 562 1108
E tamsanqa.mila@cdhlegal.com



Christine Mugenyu

Senior Associate | Kenya
T +254 731 086 649
T +254 204 409 918
T +254 710 560 114
E christine.mugenyu@cdhlegal.com



JJ van der Walt

Senior Associate:
Employment Law
T +27 (0)11 562 1289
E jj.vanderwalt@cdhlegal.com



Abigail Butcher

Associate:
Employment Law
T +27 (0)11 562 1506
E abigail.butcher@cdhlegal.com



Rizichi Kashero-Ondego

Associate | Kenya
T +254 731 086 649
T +254 204 409 918
T +254 710 560 114
E rizichi.kashero-ondego@cdhlegal.com



Biron Madisa

Associate:
Employment Law
T +27 (0)11 562 1031
E biron.madisa@cdhlegal.com



Thato Maruapula

Associate:
Employment Law
T +27 (0)11 562 1774
E thato.maruapula@cdhlegal.com



Fezeka Mbatha

Associate:
Employment Law
T +27 (0)11 562 1312
E fezeka.mbatha@cdhlegal.com



Kgodisho Phashe

Associate:
Employment Law
T +27 (0)11 562 1086
E kgodisho.phashe@cdhlegal.com



Tshepiso Rasetlola

Associate:
Employment Law
T +27 (0)11 562 1260
E tshepiso.rasetlola@cdhlegal.com



Taryn York

Associate:
Employment Law
T +27 (0)11 562 1732
E taryn.york@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.

Dx 154 Randburg and Dx 42 Johannesburg.

T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.

T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E cdhkenya@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

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