

Regulation of State and Supplementary Pension Schemes in South Africa: Overview

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Country Q&A | Law stated as at 01-Dec-2025 | South Africa

A Q&A guide to pensions law in South Africa.

The Q&A gives a high-level overview of the regulation of national government pensions and supplementary pensions. On national government pensions, it covers employer/employee contributions; national government pension age and monthly amount; and the public pensions body. On supplementary pensions, it covers the provision of supplementary schemes; the requirements to receive vested rights and disclosure/indexing/revaluation requirements; funding and solvency requirements; pension plan investment; member transfers; the regulatory body; applicable tax reliefs on contributions and approval/registration requirements; and the tax treatment of scheme investments and payments to members. Legal protection of employees' pension rights on a business transfer, together with participation in pension schemes, employer insolvency protection and overall scheme solvency, are also included.

National Government Pensions

1. Do employers and/or employees make pension contributions to the government in your jurisdiction?

Contributions Paid to the Government

Neither employers nor employees make direct pension contributions to the government in respect of a state pension system in South Africa. Whilst the South African Government does not provide a national pension scheme, the [South African Social Security Agency](#) (SASSA) does provide social grants for retired persons whose income is assessed as below a certain threshold (currently, ZAR107,880 for single persons and ZAR215,760 for married persons), which are funded through general taxation rather than through a formal contributory pension scheme.

Retirement savings are typically accumulated through private or employer-sponsored schemes, such as pension funds, provident funds, or retirement annuities, where contributions are made by employers, employees, or both.

Taxation of Contributions

Since there are no formal pension contributions payable directly to the government, there are no specific tax provisions that apply.

National Government Pension Age

2. Where a national government pension is provided, at what age can pension payments be collected by an employee? Are there any provisions allowing for the early payment of this type of pension to an employee?

There is no national government pension system, though the [SASSA](#) does provide social grants for retired persons whose income is assessed as below a certain threshold (see *Question 1, Contributions Paid to the Government*). The social grant becomes payable at 60 years of age for both men and women. However, permanently disabled and ill persons can collect another form of grant before the age of 60 provided the requisite conditions are met, though they will instead qualify for a separate disability grant.

Monthly Amount of the National Government Pension

3. What is the monthly amount of the national government pension?

South Africa does not offer a national government pension, though the [SASSA](#) does provide social grants for retired persons whose income is assessed as below a certain threshold. The monthly amount of the social grant depends on the person's age, as follows:

- Persons aged between 60 and 74 years of age: ZAR2,320.
- Persons aged between 75 years of age and above: ZAR2,340.

Public Pensions Body

4. Is there a public body or agency that oversees the operation and policy of national government pension schemes? Do any other governance regimes apply to national government pension schemes?

Public Pensions Body

Whilst the South African Government does not provide a national pension scheme, the [SASSA](#) provides social grants for retired persons whose income is assessed as below a certain threshold.

Name. *South African Social Security Agency* (SASSA)

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Other Governance Regimes

There are no other governance regimes that apply, since a national contributory pension scheme does not apply in South Africa.

Supplementary Pensions

5. Is it common (or compulsory) for employers to provide access, or contribute, to supplementary pension schemes for their employees? If they do, are they:

- Occupational (that is, linked to an employment or professional relationship between the plan member and the entity that establishes the plan)?
- Personal (that is, not linked to an employment relationship, established and administered directly by a pension fund or a financial institution acting as pension provider, where individuals independently purchase and select material aspects of the arrangements, though the employer may make contributions)?

Given that supplementary pension funds are generally understood to be additional retirement savings arrangements provided by employers in addition to a national pension, the pension schemes facilitated or provided by employers in South Africa are not "supplementary", since there is no national pensions scheme in South Africa. Instead, employers can provide pension schemes

(such as pension or provident funds, or retirement annuities) from privately funded schemes. It is not compulsory for employers to provide access to, or contribute to, these pension schemes, though in practice many employers do contribute to these schemes.

When offered, these schemes are typically occupational and collective in nature, meaning they are linked to the employment relationship and involve pooling contributions from multiple employees into a single fund managed collectively, such as pension or provident funds or group retirement annuities. These collective schemes allow members to share in the investment risks and returns as part of a broader group.

In addition to pension schemes offered by, or contributed to (or both) by employers, nothing precludes an employee from having personal retirement savings options, such as individual retirement annuities, where the employee independently manages contributions.

6. Where supplementary pension schemes are provided, do these schemes provide pensions, the value of which:

- Is linked to the employee's salary (defined benefit)?
- Is linked to employer and/or employee contributions and investment return on those contributions (defined contribution)?

Both defined contribution (DC) pension schemes and defined benefit (DB) pension schemes exist in South Africa. However, the number of DB pension schemes has significantly reduced over time.

Linked to Employer and/or Employee Contributions

Under DC pension schemes, the value of the pension is directly linked to:

- The level of contributions made by the employer, the employee, or both.
- The investment returns earned on those contributions.

DC pension schemes are the most common type of pension schemes. These are typically established through financial vehicles such as pension funds, provident funds, umbrella funds (multi-employer arrangements), or group retirement annuity (RA) policies.

Pension, provident, and umbrella funds are generally trust-based, governed by the *Pension Funds Act No. 24 of 1956* (PFA), and managed by a board of trustees, which usually includes both employer and member-elected representatives. Conversely, group RA policies are contract-based and are administered by licensed financial services providers, though they are facilitated by the employer.

Linked to the Employee's Salary

DB pension schemes provide pension benefits that are linked to:

- The employee's salary (typically final or career-average salary).
- The employee's years of service.

These arrangements offer a guaranteed benefit upon retirement, with the employer bearing the investment and longevity risk. Employer contribution rates are actuarially determined based on the scheme's funding status and the benefits promised. DB schemes are rare in the context of new pension offerings, particularly in the private sector. Where they still exist, they are generally legacy arrangements or found within the public sector or certain state-owned entities.

7. For supplementary pensions:

- Is there a minimum period of service before workers are entitled to receive vested rights?
- Are there any requirements to disclose pension benefits to participants or beneficiaries?
- Are there any legal requirements for schemes or providers to index pensions in payment and/or revalue pension rights in deferment?

Minimum Period of Service

There is no statutory minimum period of service required before a member becomes entitled to vested rights. The treatment depends on the rules of the fund or the employment contract.

Disclosure Requirements

There are legal requirements to disclose pension benefits to participants and beneficiaries. If the arrangement is provided through a registered pension, provident, or umbrella fund, it falls under the PFA, which requires the following regular and transparent communication with members:

- Members must receive a benefit statement at least annually, detailing their accumulated savings, contributions, investment returns, fees, and projected benefits.
- Members have the right to access the fund rules and must be informed of any amendments that affect their rights or entitlements.

- Upon withdrawal, retirement, or death, the fund or the fund administrator must provide clear information about the benefits payable, tax implications, and available options for preservation or transfer.

For DC schemes, members must also be informed of:

- Investment choices.
- Portfolio performance.
- Any default investment strategies.

In the case of contract-based arrangements such as group RA policies, disclosure obligations fall under the *Long-Term Insurance Act No. 52 of 1998* and the *Financial Advisory and Intermediary Services Act No. 37 of 2002* (FAIS), requiring insurers or administrators to provide:

- Policy documents.
- Annual benefit summaries.
- Information on surrender or transfer value.

Across all types of pension vehicles, these disclosure requirements aim to ensure transparency, informed decision-making, and the protection of member interests, and are enforced by the *Financial Sector Conduct Authority* (FSCA).

Failure to disclose the necessary information can result in regulatory sanctions being imposed by the FSCA.

Legal Requirement to Index

There are no statutory legal requirements under the PFA that mandate automatic indexation or revaluation of pensions in payment or deferred pension rights.

Funding and Solvency Requirements

8. In relation to supplementary schemes, are these generally funded or unfunded? If funded, are there any solvency requirements? Are there any legal requirements relating to how the scheme employer, trustee or provider must invest the assets of the scheme?

Funded or Unfunded?

In South Africa, pension schemes are usually funded and structured through pension or provident funds.

Solvency Requirements for Funded Schemes

Pension schemes are subject to solvency and funding requirements under the PFA. The key requirements include:

- Regular actuarial valuations for DB or partially guaranteed schemes.
- Trustees must ensure the fund remains financially sound.

There are also strict legal requirements for how the assets of pension funds must be invested. These are outlined in Regulations to the PFA, which:

- Set limits on exposure to certain asset classes (for example, equities, property, and offshore investments).
- Aim to ensure diversification, risk management, and long-term sustainability of member savings.
- Impose a fiduciary duty on trustees to act in the best interests of members, implement an investment policy statement (IPS), and monitor fund managers.

Pension Plan Investment

9. Can supplementary pension schemes hold employer stock of the plan sponsor as a plan investment? If so, are there any limitations that apply?

Retirement funds are permitted to invest in employer stock (that is, shares of the plan sponsor), but such investments are subject to strict limitations and regulatory oversight to manage conflicts of interest and concentration risk.

Regulation 28 to the PFA governs the prudential investment limits, including limits on investment in the sponsoring employer. Specifically, Regulation 28 restricts a pension fund's aggregate exposure to instruments issued by, or loans made to, the employer (or any related parties) to a maximum of 5% of the total fair value of the fund's assets. This rule applies across asset classes and is aimed at ensuring the diversification of fund assets and protecting members' retirement savings from employer-specific risk. In addition, trustees must ensure that any investment in employer stock complies not only with Regulation 28 but also with their fiduciary duties, including acting in the best interests of the members. The FCSA monitors compliance and can intervene if a pension fund is found to have breached these prudential investment rules.

10. Are there any fiduciary requirements that apply to the sponsoring employer, trustee, provider or administrator of supplementary pension schemes?

Fiduciary Requirements

Fiduciary duties are a cornerstone of the regulatory framework for pension schemes, and they apply to various role players involved in the governance and administration of pension schemes. In particular, fund trustees owe a fiduciary duty to act in the best interests of the fund and its members. This includes duties of care, diligence, skill, and good faith, and trustees must avoid conflicts of interest. Section 7C of the PFA expressly codifies these duties, requiring trustees to:

- Ensure proper governance.
- Comply with the legal and fund rules.
- Ensure the prudent management of fund assets.

While the employer is not a fiduciary per se, it can assume fiduciary responsibilities in certain circumstances. The FSCA and the *Prudential Authority* (PA) have the power to enforce fiduciary duties and standards and impose penalties for breaches.

Prohibited Activities

The law prohibits certain activities by fiduciaries, particularly where such actions would amount to:

- A breach of trust.
- Self-dealing.
- A conflict of interest.
- The mismanagement of fund assets.

Under section 7C of the PFA, trustees and other fiduciaries are prohibited from placing themselves in positions where personal interests conflict with the interests of the fund or its members. As a result, they cannot improperly benefit from transactions involving the fund, and any conflicted or related-party transactions must be disclosed and carefully managed, often requiring approval under strict governance protocols. Moreover, fraud, misappropriation of assets, insider trading, and failure to comply with the investment restrictions (such as those under Regulation 28 (see [Question 9](#))) are also prohibited and can result in criminal liability, regulatory sanctions, or removal from office. Fiduciaries are also prohibited from delegating their core responsibilities without oversight, and from failing to conduct proper due diligence when appointing service providers (such as administrators). The FSCA takes a firm stance against negligent or dishonest conduct by fiduciaries and can:

- Institute investigations.
- Impose administrative penalties.
- Pursue debarment where misconduct is found.

Accounts and Disclosure

Members of the pension scheme. Trustees and administrators have an obligation to disclose accurate, timely, and comprehensible information to members. This includes providing annual benefit statements that outline:

- Each member's fund value.
- Investment returns.
- Contributions received.
- Applicable fees or charges.

Section 7D of the PFA provides that trustees must inform members of:

- Their rights and obligations.
- The rules of the fund.
- Any material changes affecting their benefits.

Regulation 28 also requires funds to disclose their investment composition and risks. Member communications must be transparent, particularly concerning:

- Investment choices and costs.
- The implications of transfers, withdrawals, or annuitisation.

Regulatory body. Pension funds must regularly submit detailed reports to the FSCA, the principal regulatory body, which include:

- Audited annual financial statements.

- Actuarial valuation reports (where applicable).
- Compliance certifications.
- Detailed reports on fund governance and investment compliance (especially with Regulation 28).

Administrators must also file statutory returns regarding their administration practices, and any material breach of the legal or regulatory provisions must be promptly reported to the FSCA. In certain cases, the [South African Revenue Service \(SARS\)](#) and the PA (for systemically significant entities) must also receive specific disclosures.

The public. While pension funds are not generally required to disclose funding and investment information to the public at large, there are limited circumstances under which such information becomes publicly accessible. For example, certain regulatory filings submitted to the FSCA may be made available upon request, and in the case of umbrella funds or public sector funds, summaries of financial statements or governance reports may be published voluntarily or under sector-specific obligations. Additionally, corporate sponsors of retirement funds listed on the [Johannesburg Stock Exchange \(JSE\)](#) may be required to disclose pension-related obligations and risks in their financial statements in accordance with the [Companies Act No. 71 of 2008](#) and IFRS standards.

11. Are there any legal requirements relating to how the scheme's sponsoring employer, trustee, provider or administrator must account for the scheme's assets and liabilities in their financial report and accounts?

There are clear legal requirements which are designed to promote transparency, accountability, and good governance, which are set out primarily in the PFA, along with subordinate legislation such as Board Notices, and the applicable financial reporting standards.

Section 15 of the PFA requires every registered fund to maintain full and proper accounting records reflecting the fund's financial position, including its assets, liabilities, income, and expenditure. Trustees have the ultimate fiduciary responsibility to ensure that accurate and complete financial statements are prepared annually. These statements must:

- Reflect the true financial position of the fund.
- Include detailed disclosures of:
 - investments;
 - contributions received;
 - benefits paid;
 - liabilities;

- reserves; and
- administrative expenses.

A pension fund must also appoint an independent auditor approved by FSCA to audit the annual financial statements. The audited financial statements, along with an auditor's report and any additional prescribed schedules, must be submitted to the FSCA within six months after the fund's financial year-end.

In relation to administrators, the *Financial Sector Regulation Act No. 9 of 2017* and the licensing conditions under the *FAIS* require that they also maintain accurate financial records and prepare audited annual financial statements for submission to the FSCA. The providers and investment managers involved in managing pension fund assets must similarly meet financial reporting and auditing standards as part of their regulatory obligations.

While the sponsoring employer is generally not required to consolidate the fund's assets and liabilities into its own financial statements (since retirement funds are separate legal entities), the employer may have disclosure obligations under the *Companies Act No. 71 of 2008*; the IFRS, or the listing requirements.

12. Are there any other legal requirements for disclosure of pension scheme information to members, regulatory bodies or the public?

Disclosure to Members

Section 7D of the PFA requires trustees to provide members with clear, accurate, and timely information about their rights, benefits, fund rules, investment options, and costs. This includes annual benefit statements, membership certificates, and updates on material changes to fund rules or service providers. Where applicable, investment choice must be accompanied by the disclosure of associated risks, fees, and performance history. Trustees must also respond to reasonable member requests for further information. Failure to meet these obligations can result in regulatory action by the FSCA, including:

- Compliance notices.
- Administrative penalties.
- The removal or debarment of trustees in serious cases.

Disclosure to Regulatory Bodies

Disclosure to the regulatory authorities, primarily the FSCA, is governed by various sections of the PFA, particularly sections 15 and 16. Trustees and administrators must submit:

- Audited annual financial statements.
- Statutory returns.
- Actuarial valuation reports (where applicable).
- Investment reports.
- Governance disclosures.

In cases of material non-compliance, funds are obligated to self-report breaches. The FSCA has broad enforcement powers under the *Financial Sector Regulation Act No. 9 of 2017*, including the ability to:

- Impose fines.
- Suspend or withdraw fund registration.
- Take legal action against trustees or administrators who fail to meet disclosure obligations.

Disclosure to the Public

There is no general statutory obligation requiring pension funds to disclose information directly to the public. However, under the *Promotion of Access to Information Act No. 2 of 2000* (PAIA), individuals (including journalists, researchers, or members of the public) can request access to fund information if both:

- A legitimate public interest can be demonstrated.
- The information is not legally protected (for example, due to confidentiality or privacy restrictions).

Additionally, public sector funds, such as the Government Employees Pension Fund (GEPF), are subject to higher transparency standards and routinely publish:

- Annual reports.
- Investment disclosures.
- Governance documents.

While there are no automatic penalties under *PAIA* for a pension fund declining to release information, refusal to disclose without valid legal grounds can be challenged through the courts. Moreover, if a fund makes public disclosures that are false or misleading, the FSCA can take enforcement action under the *Financial Sector Regulation Act No. 9 of 2017*.

13. Are there any specific disclosure rules regarding environmental, social or governance requirements?

The law incorporates environmental, social and governance (ESG) considerations into the regulatory framework, particularly through Regulation 28 of the PFA, which requires trustees to consider ESG factors as part of their fiduciary duty when making investment decisions. This positions ESG not as an optional overlay, but as an integral component of prudent investment decision-making.

Additionally, section 7C of the PFA requires trustees to act with due care and in the long-term interests of members, which includes having responsible investment principles aligned with ESG integration. Although penalties for non-compliance are not ESG-specific, failure to consider or disclose ESG factors in accordance with Regulation 28 may result in the FSCA:

- Issuing compliance notices.
- Conducting onsite inspections.
- Imposing administrative sanctions under the *Financial Sector Regulation Act No. 9 of 2017*.

Overall, ESG disclosure is evolving into a regulatory expectation, with potential for more prescriptive rules in the future as sustainability reporting standards develop further in the South African context.

Member Transfers

14. In relation to access for members to the funds in their supplementary pension scheme:

- To what extent can members transfer their funds to another pension scheme?
- How do members normally receive the benefit of their funds (for example, lump sums, income withdrawals (drawdown), life annuity arrangements)?
- What are the legal restrictions upon access to the funds (for example, age)?

- What are the common arrangements for early retirement and ill-health retirement?
- Are dependants of deceased members entitled to receive benefits payable on the member's death? What form do these commonly take?

Member's Transfer of Funds

At a general level members can transfer their retirement savings from one registered pension or provident fund to another, through a process that is tightly regulated by section 14 of the PFA. Any such transfer requires FSCA approval and must be shown to be reasonable and equitable, protecting members' rights and reasonable benefit expectations. Members must be informed by the board of the transferring fund of the transfer details, including estimated values and the effective date, and given at least 30 days to raise objections.

However, where the fund is linked to employment, an employee member may not be at liberty to transfer to another fund under the PFA. Union sponsored funds often also make demands for their members to transfer from an employer sponsored fund to the union sponsored fund.

Taking Pension Benefits

At retirement, members typically access their benefits in one of the following ways, depending on the type of fund and applicable rules:

- The most common method is:
 - a one-third lump sum withdrawal (taxable according to the retirement lump sum tax table); and
 - the use of the remaining two-thirds to purchase a compulsory annuity (such as a life annuity or living annuity).

This arrangement is standard for retirement annuity funds and pension preservation funds.

- For provident preservation funds, especially those with contributions prior to 1 March 2021, members may be entitled to take the full benefit as a lump sum, subject to the transitional rules and the relevant tax provisions.

On 1 September 2024, a new system was introduced, namely the "Two Pot Retirement System". This new system restructures retirement savings into three components:

- The Savings Component, which receives one-third of new contributions and allows members to make one withdrawal per tax year before retirement, taxed at their marginal rate.

- The Retirement Component, which receives two-thirds of new contributions and must be preserved until retirement to purchase an annuity.
- The Vested Component, which holds all savings accumulated before implementation and remains subject to the previous rules, including the option to take up to one-third as a lump sum and the rest as an annuity, with certain provident fund members retaining full cash-out rights on vested benefits.

This system aims to improve preservation while offering limited pre-retirement access for emergencies.

Legal Restrictions

Access to pension funds is tightly regulated to ensure the long-term preservation of retirement savings. Generally, members cannot withdraw benefits before retirement unless they:

- Resign.
- Are retrenched.
- Are dismissed.
- Permanently emigrate.

Even then, withdrawals are subject to specific tax and fund rules (the PFA and Financial Sector Regulation Act No. 9 of 2017, enforced by the FSCA, underpin these restrictions).

Recent reforms introduced the Two Pot Retirement System (see [Taking Pension Benefits](#)), which applies to most pension, provident, and retirement annuity funds from 1 September 2024, and creates:

- A Savings Component (one-third of new contributions) that permits one withdrawal per tax year above ZAR2 000, taxed at the member's marginal rate.
- A Retirement Component (two-thirds), which remains locked in until retirement.
- A Vested Component, into which existing balances fall, where the previous rules continue to apply, including the one-third lump sum and two-thirds annuity rule at retirement, with certain provident fund members retaining full cash-out rights on vested benefits.

Early and Ill-Health Retirement

Early retirement is permitted from age 55 onwards in most pension schemes, even if the member is no longer employed. This is common in retirement annuity funds where membership is not linked to employment status. Ill-health retirement can occur at any age, provided:

- The member is deemed permanently unfit to work by a registered medical practitioner.
- This is accepted by the fund trustees.

In such cases, the member can access their full retirement benefit early. The benefit may be taken as a combination of lump sum and annuity (subject to the annuitisation rules) and is subject to SARS approval and the applicable tax.

Some funds also provide disability benefits or risk cover through insurance policies in the employment context. Fund rules will specify the criteria for early or ill-health retirement, and such decisions are overseen by the trustees, who may require additional documentation and medical evidence.

Dependants' Benefits

Dependants of deceased members are entitled to receive death benefits. The identification of the dependant beneficiaries can be made by the member and is highly recommended.

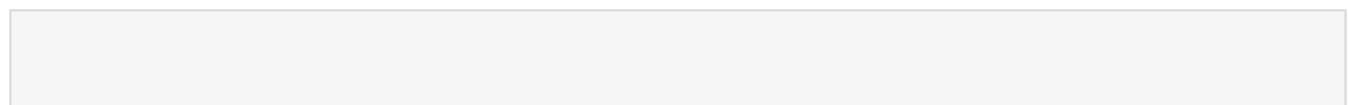
Under section 37C of the PFA, when a member dies before or after retirement, the fund trustees are legally obligated to identify, and allocate benefits to, legal and factual dependants, including:

- Spouses (legal and customary).
- Children (biological and adopted).
- Financial dependants.
- Nominees.

Benefits can be paid as lump sums, monthly pensions (annuities), or a combination of both, depending on the fund's rules and the beneficiary's/beneficiaries' wishes.

Trustees must exercise discretion in distributing the benefit equitably among dependants and nominees, taking into account their level of dependency, age, financial situation, and any relevant nominations. Payment is not automatic to the nominated beneficiary if other dependants are identified, and trustees have up to 12 months to conduct the investigation before finalising distributions. This process is subject to oversight by the FSCA, and disputes can be referred to the [Pension Funds Adjudicator](#) for resolution.

Regulatory Body



15. Is there a regulatory body that oversees the operation of supplementary pension schemes? Do any other governance regimes apply to supplementary pension schemes?

Regulatory Body

The primary regulatory body is the FSCA. The FSCA is responsible for supervising the conduct of all financial institutions that provide financial products and services, including:

- Retirement funds.
- Administrators of retirement funds.
- Financial advisers involved in pension scheme operations.

It promotes the fair treatment of pension fund members, enforces compliance with the legislation, and ensures that retirement funds are managed prudently and transparently.

The FSCA regulates schemes under the PFA, the *Financial Sector Regulation Act No. 9 of 2017*, and various Conduct Standards and Board Notices. It monitors compliance with governance, disclosure, and the investment regulations, and has the power to:

- Conduct inspections.
- Issue directives.
- Impose penalties.
- Refer matters to the Pension Funds Adjudicator, where necessary.

In addition, pension funds must appoint auditors and, in many cases, actuaries, to ensure sound governance and reporting, aligning with the broader framework of prudential supervision and market conduct regulation.

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Regulatory Framework

The regulatory framework is a hybrid model of both prudential and conduct-based regulation, primarily governed by the PFA, the *Financial Sector Regulation Act No. 9 of 2017*, and associated Regulations. The FSCA is responsible for ensuring that

pension funds are managed in a sound, honest, and fair manner, with particular attention given to governance, investment practices, disclosure, and the treatment of members.

The FSCA supervises schemes through a combination of:

- Statutory reporting obligations (for example, annual financial statements, actuarial reports, and Regulation 28 compliance reports).
- Onsite inspections.
- Desktop reviews.
- Thematic or risk-based supervision.

The FSCA also assesses:

- Trustee governance.
- Fund administration.
- Conflict management.
- Member communications.

The FSCA has the power to request information, conduct investigations, and appoint statutory inspectors or curators where serious governance failures are suspected.

Other Key Governance Requirements

Governance requirements arise both from the FSCA (the regulator) and from other legal sources of which employers and trustees must be aware.

In addition to the regulatory rules (such as Conduct Standards and the PFA), governance duties also stem from:

- The common law fiduciary duties of trustees (for example, the duty of care, loyalty, and good faith).
- The fund's own rules, which are binding legal instruments.

Employers must ensure that their appointed representatives (for example, on the board of trustees) understand these duties and avoid conflicts of interest. Employers are also responsible for supporting good governance by ensuring that:

- The fund is properly constituted.

- Contributions are paid in a timely manner.
- Governance structures are in place (for example, trustee training, risk management policies).

Penalties for Non-Compliance

Non-compliance with the regulatory or governance obligations for pension funds can lead to a wide range of civil, administrative, and criminal penalties, depending on the nature and severity of the breach. Penalties can be applied to:

- Funds.
- Trustees.
- Administrators.
- Employers.
- Other related parties.

Administrative penalties (imposed by the FSCA). These can include:

- Fines for failure to submit the required reports (for example, financials, actuarial valuations, and Regulation 28 reports).
- Compliance notices requiring specific corrective actions.
- Suspension or withdrawal of fund registration or the approval of a service provider.
- Debarment or removal of trustees, principal officers, or administrators.

Civil liability. Civil liabilities include the following:

- Trustees or employers can be held personally liable for losses suffered by the fund or its members due to breach of duty or negligent governance.
- Members or beneficiaries can lodge complaints with the Pension Funds Adjudicator, which can result in compensation orders or restitution.

Criminal penalties. Certain breaches constitute criminal offences under the PFA or the *Financial Sector Regulation Act No. 9 of 2017*, including:

- Fraud or misappropriation of fund assets.
- Obstruction of investigations by the FSCA.
- Falsification of records or failure to keep proper accounts.
- Failure to comply with FSCA directives.
- Non-payment of contributions by the employer to the fund.

Penalties can include criminal fines or imprisonment (of up to ten years, depending on the offence under the *Financial Sector Regulation Act No. 9 of 2017*).

Reputational and operational consequences. These can include the following:

- Regulatory findings can be publicly disclosed, damaging the employer's or the fund's reputation.
- Sanctioned individuals can be barred from holding fiduciary roles in financial services.

Tax on Pensions

16. Are any tax reliefs available on contributions to supplementary pension schemes (by the employer and employees)?

Tax Relief on Employer Contributions

Employers receive tax relief on contributions they make on behalf of their employees to approved retirement annuity funds, pension funds, and provident funds, as these contributions constitute deductible amounts under section 11(e) of the *Income Tax Act No. 58 of 1962* (ITA). However, the deduction is limited to the amount of any consideration accrued to the employer in respect of services rendered or to be rendered by such employee. The limitation means that employers can only deduct pension contributions up to the value of the work or services that the employee has provided (or will provide) to the employer. In practical terms, this limitation ensures that:

- The deduction cannot exceed compensation. An employer cannot claim a tax deduction for pension contributions that are greater than what they would reasonably pay the employee for their work.

- Artificial tax deductions are prevented. Employers are prevented from making excessive pension contributions purely for tax avoidance purposes, where the contributions would be disproportionate to the actual value of the employee's services.
- Contributions are linked to the employment value: The pension contribution deduction must have a reasonable connection to the employee's role and the economic value they bring to the employer.

Employer contributions therefore reduce the employer's taxable income, lowering their overall tax liability. To qualify for this relief:

- The contributions must be made to an approved fund under the *ITA*.
- The fund must be registered as required by the PFA (see [Question 17](#)).

Tax Relief on Employee Contributions

Whilst the employer can deduct employer contributions under section 11(e) of the *ITA*, the employee faces a corresponding tax consequence on employer contributions. Employer contributions to pension and provident funds are taxable benefits to the employee under paragraph 2(1) of the Seventh Schedule to the *ITA*. The cash equivalent of the taxable benefit for defined contribution categories is the amount of the employer's contribution.

However, where the employee is deemed to have made their own personal contribution, the employee can claim a deduction under section 11F of the *ITA* (subject to annual limits), and can claim the lesser of either:

- 27.5% of remuneration or taxable income (whichever figure is higher applies).
- ZAR350,000 per annum (for the 2025 tax year).

Contributions exceeding these limits do not qualify for immediate relief but can be carried forward to subsequent years. This relief encourages retirement savings. Employees must ensure contributions are made to an approved fund as defined in the *ITA*.

17. Are there any approval or registration requirements with the local tax authority where a supplementary scheme is established?

When a pension scheme is established, under the PFA it must be registered with the FSCA (the regulatory authority). This is a regulatory requirement for the fund to operate legally.

For tax purposes, the fund must be approved by the Commissioner of the SARS under the *ITA*. This approval is crucial to access the tax benefits available to retirement funds, as it:

- Provides the tax benefits in relation to employer and employee contributions.
- Allows for tax-free investment growth within the fund.
- Ensures benefits are taxed according to favourable provisions under the *ITA*.

Once approved, the fund has ongoing reporting obligations to SARS, including:

- Providing details of contributions and withdrawals.
- Requesting tax directives before paying any benefits.
- Issuing annual tax certificates to members.

Failure to comply with these requirements can result in the fund losing its tax-approved status or incurring penalties, making proper registration and continuous reporting essential for compliance.

18. What is the tax treatment of investments made by the scheme?

The receipts and accruals of approved pension, pension preservation, provident, provident preservation, and retirement annuity funds are generally exempt from income tax under section 10(1)(d)(i) of the *ITA*, but remain subject to capital gains tax (CGT) on their investment activities. This means that all investment growth, whether from interest, dividends, or capital gains, is tax-free within the fund. Tax is only triggered when benefits are paid to members.

19. What is the tax treatment of pension and lump sum payments made to members?

The tax treatment depends on the type of payment and the relevant Component under the Two Pot Retirement System (Savings Component, Retirement Component, or Vested Component) (see *Question 14, Taking Pension Benefits*).

Savings Component Withdrawals Before Retirement

Savings withdrawals are included in the individual's gross income, and PAYE must be withheld at a commissioner directed rate on such payments (that is, a Directive must be applied for from SARS to determine the amount of tax to be withheld and paid over to the SARS). The benefit is included in the member's total taxable income for the year and does not qualify for the concessional retirement lump sum tax table in the Second Schedule of the *ITA*.

Retirement Component

On retirement, the full Retirement Component must be paid as an annuity, subject to exceptions for small amounts as defined in the pension fund, provident fund, and retirement annuity fund definitions in section 1 of the *ITA*.

Annuities are included in gross income and taxed at the usual marginal income tax rates. Section 10C of the *ITA* exempts from income tax the portion of qualifying annuities that represents contributions which did not rank for a deduction under section 11F of the *ITA* and have not previously been allowed or exempted (this provides tax relief for the non-deductible element of contributions).

Vested Component

The Vested Component holds the value accumulated before 1 September 2024 and follows the transitional rules:

- **Pension funds and retirement annuity funds.** Generally, no more than one-third of the vested component can be commuted as a lump sum (which is taxed under the Second Schedule of the *ITA* retirement lump sum table), with the balance annuitised (which is taxed as normal income), subject to the thresholds and exceptions set out in the fund definitions.
- **Provident funds.** For provident fund members who were 55 years or older on 1 March 2021, special carve-out rules apply, allowing greater flexibility in taking lump sums from the Vested Component without mandatory annuitisation. The provident fund definition contains detailed provisions regarding how amounts and fund returns for such members are treated when determining commutation and annuitisation proportions. For members under 55 on 1 March 2021, the one-third commutation/two-thirds annuitisation rule generally applies to the Vested Component.

Lump sum payments (whether taken at retirement, withdrawal, death, on certain terminations, commutations, divorce order assignments, or specified transfers) are included in gross income. These payments are taxed according to specific tax tables for retirement lump sums, which apply concessional rates with a tax-free threshold (currently, up to ZAR550,000 for the 2025/2026 tax year) and progressive rates that differ from the usual income tax rates. These retirement lump sum tables apply across a person's lifetime and take into account all lump sums received from any retirement fund, including previous withdrawals and severance benefits. However, savings withdrawal benefits are excluded from these tax tables.

20. Are there any other applicable tax charges on schemes?

In addition to the taxation of contributions and benefits, there are a few additional tax-related matters that can arise which affect pension schemes in South Africa. However, these charges do not generally apply to the fund's investment income (which is tax exempt), but instead apply to:

- Specific transactions (see *Foreign Withholding Tax on Foreign Investments*).
- Non-compliance with the tax obligations (see *Non-Approved/Unregistered Schemes* and *Non-Compliance with SARS Requirements*).

Generally, approved and compliant supplementary pension schemes face minimal direct taxation, but proper governance and tax administration are essential to avoid indirect tax costs or penalties.

Exclusions from Capital Gains Tax

Retirement lump sums. Paragraph 54 of the Eighth Schedule of the *ITA* requires capital gains or losses to be disregarded for disposals resulting in lump sum benefits as defined in the Second Schedule of the *ITA* or similar foreign retirement benefits. This means capital gains within the fund that result in retirement lump sum payments are not subject to CGT.

Change of residence (exit charge). On ceasing to be a resident, section 9H(4)(g) of the *ITA* excludes from the exit CGT charge the value of an interest in a pension, pension preservation, provident, provident preservation, or retirement annuity fund. Members who emigrate do not face an exit CGT charge on their retirement fund interests.

Death. Section 9HA of the *ITA* excludes a deemed disposal at death for South African and similar foreign retirement fund interests where a lump sum would have been disregarded under paragraph 54 of the Eighth Schedule of the *ITA*. This prevents a CGT charge arising on death in respect of retirement fund interests.

Foreign Withholding Tax on Foreign Investments

Whilst approved retirement funds are exempt from South African income tax under section 10(1)(d)(i) of the *ITA*, they may face foreign withholding tax when investing in foreign assets.

When an approved South African retirement fund receives dividends from foreign companies, the source country (not South Africa) may impose withholding tax on those dividends under its domestic law. Double taxation agreements between South Africa and the source country, where applicable, can reduce the withholding tax rate. However, because the fund is exempt from South African income tax under section 10(1)(d)(i), it typically cannot claim a foreign tax credit against South African tax (as it has no South African tax liability). The foreign withholding tax represents a cost to the fund that reduces net investment returns.

Similar withholding tax issues can also arise for foreign interest, royalties, and other foreign-source income, depending on the source country's tax laws and any applicable double taxation agreements.

Non-Approved/Unregistered Schemes

Potential tax exposure arises from non-approved funds or unregistered schemes, which do not qualify for tax exemptions and may be subject to corporate income tax on investment returns (depending on its legal structure). The employer and employee contributions will not receive the favourable tax treatment discussed above, and benefits paid to members will not qualify for the concessional retirement lump sum tax tables in the Second Schedule of the *ITA*. This highlights the importance of ensuring that all schemes are both:

- Properly approved by the SARS.

- Registered with the FSCA.

Non-Compliance with SARS Requirements

Where a fund or administrator fails to comply with the SARS requirements (for example, late submission of tax directives, incorrect reporting, or misapplication of the tax tables), penalties and interest charges can be imposed under the *Tax Administration Act No. 28 of 2011*. These are administrative in nature and are designed to enforce compliance rather than impose routine charges on properly run schemes.

Business Transfers

21. Is there any legal protection of employees' pension rights on a business transfer?

Transfer of Accrued Pension Rights

Employee retirement rights are protected during a business transfer under section 197 of the *Labour Relations Act No. 66 of 1995*. This provision ensures that when a business (or part of a business) is transferred as a going concern from one employer (the transferer) to another (the transferee), all employees automatically transfer to the new employer on the same terms and conditions of employment (which includes rights to pension benefits). Importantly, the employees' accrued pension rights up to the date of transfer remain intact and are not forfeited or diminished. The treatment of these rights can vary, as they can be:

- Preserved in the existing fund.
- Transferred to the new employer's fund.
- Cashed out

If the original fund is not continued by the transferee, the accrued benefits can be:

- Transferred to a new or existing approved fund of the new employer, subject to the requirements of section 14 of the PFA and approval by the FSCA.
- Transferred by the member to a preservation fund.

This ensures that the employees' retirement savings are preserved and not prejudiced by the transfer.

Other Protection for Pension Rights

Employees are further protected by the PFA, which mandates that any transfer of retirement fund benefits between funds, whether due to a business transfer or restructuring, must be done through an approved process under section 14 of the PFA and overseen by the FSCA. This regulatory approval ensures that:

- The rights of members are safeguarded.
- The transfer does not result in any loss or reduction in benefits.

The transferee employer is not legally obliged to provide an identical pension arrangement post-transfer, but they must ensure that a comparable or reasonable retirement funding arrangement is in place for future service. Any change in pension fund membership post-transfer must be communicated to employees, and their consent may be required depending on the fund rules and the nature of the transfer.

Participation in Pension Schemes

22. Can the following participate in a pension scheme established by a parent company in your jurisdiction:

- Employees who are working abroad?
- Employees of a foreign subsidiary company?

Employees Working Abroad

Employees of a South African parent company can, in principle, participate in the parent company fund where they remain employees of the South African entity and the fund's rules permit such participation. There is no automatic restriction under South African pension law preventing this. However, the rules of the retirement fund must allow for contributions to continue while the employee is abroad. Additionally, continued participation may be subject to exchange control regulations (administered by the *South African Reserve Bank*), especially if contributions or benefits are paid cross-border. The retirement fund does not need separate FSCA approval for these employees, but compliance with the SARS tax rules, reporting rules, and contribution limits remains essential. It is also important to consider any tax obligations in the host country, as dual taxation or foreign benefit rules may apply.

Employees of a Foreign Subsidiary Company

Employees of a foreign subsidiary of a South African parent company will not generally participate in a South African registered pension fund, unless very specific conditions are met. Under the PFA, participation in a registered South African pension fund is typically limited to employees of South African employers or their approved associated entities. For a foreign subsidiary's

employees to participate, the subsidiary will usually need to become a participating employer in the fund, which will require FSCA approval and possible SARS registration to comply with the tax and regulatory requirements. In practice, this is rare and complex, due to cross-border pension governance issues, differing tax regimes, and the difficulty of aligning the foreign entity's operations with South African pension legislation.

Therefore, while theoretically possible under certain conditions, it is generally not standard practice for employees of foreign subsidiaries to be members of a South African pension scheme. Most multinational groups establish either:

- Local pension arrangements in the jurisdiction where the employee is based.
- An international group pension solution offshore.

Employer Insolvency and Overall Scheme Solvency

23. Is there any protection provided for pension scheme benefits where the sponsoring employer becomes insolvent? If so, who provides the protection, and how does this operate? If the scheme itself is underfunded, are there any funding obligations on connected or associated legal entities?

There is limited protection for pension scheme benefits where the sponsoring employer becomes insolvent, but this protection is not guaranteed by the state or a central insurance fund. Instead, it is primarily governed by the PFA and supported by protections under the *Insolvency Act No. 24 of 1936*.

When an employer becomes insolvent, the pension fund itself generally remains separate from the employer's assets, as it is a legal entity in its own right and the pension fund's assets are held in trust for the members' benefit. This separation offers a basic layer of protection: the employer's creditors cannot claim against the pension fund assets. However, problems arise if either:

- The employer has not paid over contributions that were due to the pension fund.
- The pension fund is underfunded at the time of insolvency.

Where the employer has not paid over contributions that were due, the PFA prioritises unpaid contributions owed to the pension fund in the winding-up of the employer. Specifically, outstanding contributions are treated as a preferent claim in the employer's estate, ranking above unsecured creditors. However, recovery is still subject to the availability of funds in the employer's estate and full recovery may not be possible where there are inadequate funds.

Where the pension fund itself is underfunded, there is no statutory guarantee or public safety net to top up member benefits. Connected or associated entities (such as group companies) are not automatically liable for funding shortfalls unless a contractual or legal obligation exists (for example, through guarantees, undertakings, or the pension fund rules). The trustees

may attempt to recover losses from responsible parties where there has been mismanagement, but this is a legal process and does not provide immediate relief.

In summary, while there is structural protection through the legal separation of pension fund assets and limited preference in insolvency proceedings, there is no state-backed guarantee of benefits, and no statutory obligation on group entities to fund pension fund shortfalls. The actual level of protection therefore depends on:

- The funding status of the scheme.
- The employer's compliance with its pension fund contribution obligations.
- The specific terms of the fund rules or any corporate guarantees in place.

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