

PENSION FUNDS ADJUDICATOR



WHAT THE ADJUDICATOR DOES

The office of the Pension Funds Adjudicator was established with effect from 1 January 1998 to investigate and decide complaints lodged in terms of the Pension Funds Act. The word "Pension Fund" in the Act includes a provident fund and a retirement annuity fund.

HOW TO LODGE A COMPLAINT IN TERMS OF THE PENSIONS FUNDS ACT OF 1956

Lodge your complaint with the pension fund or the employer first.

In terms of Section 30A of the Pension Funds Act of 1956, before one is entitled to lodge a complaint with the Pension Funds Adjudicator, it is necessary to lodge an initial written complaint with the pension fund or the employer participating in the fund. The pension fund or the employer then has 30 days within which to respond to the written complaint. Should it fail to respond, or should the complainant be unhappy with the response, the complainant may then lodge a complaint with the office of the Pension Funds Adjudicator.

PLEASE NOTE - that the Pension Funds Adjudicator does not have jurisdiction over funds to which the State contributes financially, for example, the Government Employees Pension Funds, the Social Assistance Pension Scheme and AIPF, as these are not required to register under the Pension Funds Act.

The aim of Section 30A is to encourage pension funds to embark upon a conscientious attempt to resolve disputes or to narrow the issues by means of an internal process before referring the disputes to the Adjudicator. It is hoped that pension funds will give due consideration to setting up effective internal means to achieve that objective.

It is important to understand therefore that the Adjudicator will have no jurisdiction over a complaint that has not first been submitted to the fund.

CONTENT OF THE COMPLAINT

Please also note that the Act is very specific about what can be complained about. The complaint must relate to one of the following:

- The administration of the fund;
- The investment of the fund's money, or
- The interpretation and application of the rules of the fund.

In addition to this, the complaint must allege one of the following:

- That the fund made a decision outside its powers; or
- That the complainant has been prejudiced as a result of misadministration by the fund; or
- That there has been a dispute of fact or law that the employer has not fulfilled its duties in terms of the pension funds rules.

LODGING A COMPLAINT WITH THE PENSION FUNDS ADJUDICATOR

Should you wish to lodge a complaint with the Pension Funds Adjudicator, please provide full and detailed information, in particular the following:

- Full personal details, including your employment history and length of membership with the fund.
- Contact details (addresses, fax and phone numbers) of the pension fund, and the person you have been dealing with.

Concerning the complaint itself, make sure it falls within the powers of the Adjudicator in terms of the Act and be sure to give full details about the complaint. Attach the reply from the pension fund and any other documentation or correspondents between yourself and the fund, relevant to the claim.

If possible, please provide a comprehensive copy of the rules of the pension fund. Supply proof that the complaint has been submitted to the pension fund by attaching a registered letter slip or fax confirmation sheet. Please spell out what remedy you wish the

Adjudicator to grant you. In other words, what is the solution to the problem, as you see it?

Finally, please ensure that the fund receives an exact copy of the complaint, including all the annexures and relevant documents lodged with this office. This will be in addition to the initial complaint originally lodged with the fund.

There is no charge for bringing a complaint to the Pension Funds Adjudicator. There is also no prescribed format that you must follow in setting out your complaint. It is however, important that all the required information is set out clearly and systematically, as if you are telling a story for the very first time.

Should you have difficulty in formulating your complaint, please contact your local legal aid clinic or advice office (address will be supplied in the telephone directory) for assistance.

The Pension Funds Adjudicator has provided this information. The contact details are as follows:

3rd Floor, Sanclare Building, Dreyer Street, Claremont, 7700
P.O. Box 23005, Claremont, 7735
Tel: (021) 6740209 / Fax: (021) 6740185
E-mail: enquiries@pfa.org.za
Website: <http://www.fsb.co.za>

RELEVANT LEGISLATION

Pension Funds Act of 1956; second amendment Act 39, of 2001