

SECURITY

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Unscrupulous employers deprive security employees



An Opinion Piece by
Jackson Simon

With an industry that employs more than 450 000 security employees, only 22 000 belong to the mandatory Private Security Sector Provident Fund. This is despite it being a statutory requirement for every security employer and employees to contribute to this Fund which is the only retirement benefit that caters for security employees who remain the lowest paid at R2 637 per month.

Currently, as per the Private Security Industry Regulatory Authority (PSIRA), there are more than 5 500 private security employers actively operating in the sector, employing approximately 450 000 security officers.

Only 12 employers employing 16 000 employees have been exempted from participating in the Fund. The Fund currently has around 144 000 of the 220 000 members registered paying every month.

The Fund receives around R1-billion annually, which is based on the figures highlighted above. Using the salary of the lowest paid employee, the amount lost by the Fund as a result of non-

compliant employers is more R1,1-billion every year.

The sectoral determination which governs the terms and conditions of employment in the security sector necessitates that all security employers and employees should belong to the PSSPF unless exempted in terms of the rules of the Fund.

Compliance to the latter remains a challenge as a large number of private security companies are not making contributions to the Fund, denying compulsory benefits to security employees.

The five current non-compliant categories, but not limited, include:

1. Employers not registered with the Fund, not taking any deductions from employees and not making any payments to the Fund.
2. Employers not registered, but collecting monies from workers and not paying these over to any Fund.
3. Employer is registered with the Fund, but not making any payments to the Fund.
4. Employer is registered with the Fund, but only paying for some of the employees and leaving out others in order to cut costs.
5. Employer is registered with the Fund, but skips payments regularly resulting in huge arrears and risking having members not covered due to non-payment of insurance premiums.

Security employees and their families, who should be benefitting from various benefits offered by the Fund, are unable to receive what is due to them as their claims are being repudiated as a result of non-contributions by some employers.

All the employees whose money has not been paid to the Fund have forfeited their benefits. This has affected thousands of outstanding withdrawal claims.

This includes 409 funeral claims between July 2010 and December 2014 due to outstanding contributions by employers. Two hundred and seventy-seven of these cases are member

deaths where an additional life cover totalling approximately R20,7-million would have been payable to families of the deceased.

The recent amendments to the Financial Services Act have a direct and positive impact on the PSSPF's ability to honour its legal obligation in that the recent re-criminalisation of Section 13A of the Act allows for far more effective regulation and law enforcement.

Security service providers are now obliged to provide details of all company shareholders, directors, members in a CC, partners and trustees. These persons are personally liable for payments to the Fund and failure to do so could lead to fines of up to R10-million or even imprisonment.

Other defaulting security service providers registered with the Fund have entered in an admission of debt arrangement. Failure to meet obligations will result in litigation, the attachment of assets and possible liquidation, should the employer not comply.

The recovery process involves negotiation for the recovery of funds and where this is unsuccessful it is followed by litigation. Over 170 acknowledgement of debt and payment arrangements have been signed with more than R180-million secured by way of AODs and more than R110-million having physically entered the Fund's bank account. Various matters are also in court and being pursued to recover members' monies.

The law, under the Sectoral Determination 6 and the rules of the Fund, requires all security employees and their employers to participate and contribute towards the Private Security Sector Provident Fund unless exempted as per the rules of the Fund.

The above figure excludes a large number of employees working in administration and support services that are supposed to also belong to the Fund. It also excludes a number of employees employed by the fly-by-night companies who are not registered with the Authority and the Fund.

Of this number, only less than 300 000 security employees are members of the Fund, while the rest remain unaccounted for.

The security industry is one of the largest and most vulnerable industries with a significant

number of unscrupulous employers who are hell-bent on not providing appropriate working conditions and benefits offered in the private security sector such as the provident fund.

Such employers do not only expose their employees to unbearable conditions of employment but also, by default, expose the families of their employees to the same conditions by denying them the financial protection provided through the provident fund established by law.

More often as a result of some employers not complying with the relevant provisions of the law, security employees and their families find themselves not covered by the provident fund when faced by unforeseen circumstances.

This situation is also exacerbated by the relationship between some users of private security services who, in an effort to save on their bottom line, award security contracts to the lowest bidders. In most cases, the amount charged by these bidders cannot even cater for wages and other important benefits such as the provident fund, workman's compensation, the UIF, etc.

The above happens even though the Regulatory Authority (PSIRA) has provided the pricing contract structure serving as a guide on the costs of various grades for security employees. These guides are not considered. Instead, a company with the cheapest quote is appointed in contrast to the set laws and government's efforts in seeking a better life for all.

Private security employees risk their lives to protect the assets and lives of security consumers who are part of the general public. These employees should not be left at the mercy of their employers. Society should play a significant role in ensuring that these workers enjoy the protection provided for by the law.

The onus also rests on security employees themselves, as they should not wait until something happens to them or their families before taking the initiative to continuously check their status with the provident fund. The clients of private security are also urged to check the status of the companies that they are procuring.

There are other instances that lead to security employees being unable to receive their benefits. It sometimes occurs that when an employee is off sick, a withdrawal form is submitted to the Fund to pay out the withdrawal benefit. Some unscrupulous employers view this as an opportunity to escape the compulsory contribution as the law and the rules of the Fund stipulates that during the period of authorised leave (sick), the employer is required to contribute for a period of six months. If unfortunately, during this period of illness, a member or his/her family member passes on, then such a member is left without the coverage of funeral and death benefits.

Sometimes, due to illness, the employee is unable to work or communicate with the employer. Family members do not take the responsibility of notifying the employer or ensure that they obtain proof of illness to advise the employer. This results in some employers running away from their legal obligations and simply alleging that the member withdrew from the provident fund.

It is also alleged that sometimes when families are faced with financial distress, they often reach out to the employer by seeking the employee's salary. The families will then be provided with the withdrawal form that has to be signed by the sick employee before the salary could be paid out. Once again, the employer evades the responsibility to contribute to the Fund.

Urgent focus is also needed on cases where a security employee eventually passes on after having sustained serious injuries while on duty and remains in hospital for a longer period than anticipated. It happens that during this period some unscrupulous employers who again in the act of deviating from their legal obligations will submit a withdrawal form to the Fund so that the withdrawal benefit is paid to the employee. After this process has been undertaken, if it happens that the employee or a member of their family passes on, they are not covered.

The Fund is currently faced with a challenge of having to investigate case by case and assess the merits of submitted claims by members or their families after their withdrawal forms were submitted and paid out, thereby forfeiting the funeral and death benefits.

My view is that PSIRA should make it an obligation for employers to report cases of injury and death on duty and publish details of those reports annually. This will prevent unscrupulous employers from carrying on with the unlawful practices of concealing the information. It will also allow the Fund to evaluate, monitor and mitigate risks it encounters with such events.

Members are urged to update their details and regularly check their status with the Fund by registering on the Fund's website: www.psspfund.co.za.

Private security consumers are also encouraged to verify with the Fund whether the employer they intend procuring is compliant and up to date with the contributions to the PSSPF. ■



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MUTUAL AUSTEN SAFE & SECURITY

0800 002 971
info@mutual.co.za
www.mutual.co.za

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