

Pension surplus benefit ruling critical of interpretation

Pension funds adjudicator, Muvhango Lukhaimane has ruled in a matter involving the payment of a surplus benefit amounting to R596,76 in a veiled criticism of the interpretation of Section 37C of the Pension Funds Act.



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"This case is an indication of what a farce the law can be at times. The Financial Sector Conduct Authority's (FSCA) interpretation ruling requiring amounts for exits such as these to be dealt with in terms of section 37C of the Act is such a case in point," says Lukhaimane, from the Office of the Pension Funds Adjudicator (OPFA).

In the meantime, everyone is scratching their heads as to what unnecessarily drives costs within retirement fund administration. This interpretation ruling being administrative action that is not even grounded properly in law," adds Lukhaimane.

No instructions to the fund

The complainant sought payment of a surplus benefit following the death of her husband who was a member of the Auto Workers Provident Fund from October 2004 until his resignation on 5 February 2007.

Following his exit from the fund, a surplus benefit of R596.76 became available and payable to the deceased. However, he did not instruct the fund on how his benefit should be paid.

The fund stated that as the deceased passed away without providing the fund with an instruction on how his surplus benefit should be paid, the benefit should be paid in terms of section 37C of the Act in line with the Interpretation Ruling 1 of 2020 issued by the FSCA.

Duty on fund board management

In her determination, Lukhaimane says Section 37C of the Act places a duty on the board of management of the fund to identify the beneficiaries of a deceased member and vests the board or management with discretionary powers on the proportions and manner of distributing the proceeds of a death benefit.

“Already, the complainant has spent more than R596.76 trying to access this surplus benefit. The fund in turn is going to spend more than R596.76 to determine who is entitled to the benefit,” she states.

The fund was ordered to investigate and identify the deceased's dependents in terms of section 37C of the Act and allocate and pay the surplus benefit to the deceased's beneficiaries.

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