

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 1933

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Dr D T George (DA) to ask the Minister of Finance:

Whether, with regard to non-payment of pension fund contributions by the Private Sector Security Provident Fund and the Contract Cleaning National Provident fund, the Financial Services Board (FSB) laid criminal charges with the SA Police Service against defaulting employers; if not, why not; if so, what are the relevant details?

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REPLY:

No. The Financial Services Board has indicated that it has not laid any criminal charges against the defaulting employers of the Private Sector Security Pension Fund and the Contract Cleaning National Provident Fund. This is the responsibility of the pension fund's "monitoring person", who by the extension of the board of trustees of the fund, are required to institute relevant action. This includes the reporting of non-payment of contributions to the prosecuting authorities. these responsibilities are in terms of section 13A of the Pensions Fund Act 24 of 1956, read with subsections (4) and (5) of regulation 33.

It is important that trustees of a fund exercise their responsibilities and do not shift such responsibility to the FSB or to any other person. Given that the FSB has over 6000 pension funds to supervise, it is not feasible for the FSB to be doing work that the trustees should be doing.

However, the FSB does monitor the extent of delays which extend beyond 90 days, as the trustees are obligated in terms of subsection 4 (b) of the Pension Fund Act

Regulations to report such material transgressions to the FSB, and also to state what action they have taken or intend to take.

The new Enforcement Tribunal set up by the FSB, which came into effect from 1 November 2008, assists in providing a more cost effective and expedient process to deal with late or non-payments. By contrast as the formal process of prosecution is far more lengthy. It is up to the trustees to decide whether to lay charges or use the new enforcement tribunal to seek payment.

The current practice is for the FSB to schedule a compliance visit should the FSB Registrar of Pension Funds become aware of non-compliance in respect of the above mentioned reporting requirements by a pension fund,

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