



THE FINANCIAL SERVICES TRIBUNAL

Case No.: PFA11/2026

In the matter between:

ZUMANE TRANSPORT SERVICES CC

First Applicant

MZWANDILE ENOCK DLAMINI

Second Applicant

and

TRANSPORT SECTOR RETIREMENT FUND

First Respondent

SALT EMPLOYEE BENEFITS

Second Respondent

PENSION FUNDS ADJUDICATOR

Third Respondent

TRIBUNAL PANEL:

Appearance for Applicant: n/a

Appearance for Respondent: n/a

Date of hearing: n/a

Summary: Application for reconsideration in terms of section 230 of the FSR Act 9 of 2017 and condonation

DECISION

1. The applicants have brought an application for reconsideration in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 against the decision of the third respondent (“the Adjudicator”) on 10 July 2025.
2. The applicants seek condonation for the late filing of their application for reconsideration and the setting aside of the determination.
3. The applicants contend, in essence, that they were unaware of both the complaint proceedings and the determination and that the calculations underlying the determination are incorrect because they were based on 39 employees whereas the first applicant allegedly employed only 6 employees during November 2024 to February 2025 (the relevant period).
4. Section 230(2)(b) of the FSR Act provides that an application for reconsideration must be made within 60 days after the applicant was notified of the decision, unless a longer period is allowed on good cause shown.
5. In determining whether good cause has been shown, regard is ordinarily had to the extent of the delay, the explanation therefor, the prospects of success, prejudice and the interests of justice. None of these factors is individually decisive and they must be weighed together.
6. Rule 77 of the Tribunal Rules provides for a *dies non* period between 16 December and 15 January. However, Rule 78 expressly provides that the *dies non* period does not apply to periods prescribed by the Act, including the period for filing an application for reconsideration.

7. Accordingly, the statutory period under section 230(2) runs continuously and the *dies non* period is not excluded from the calculation.
8. Even accepting, in favour of the applicants, their version that they became aware of the determination on 27 October 2025, the application remained out of time and condonation is required.
9. The intervening December holiday period therefore does not assist the applicants in explaining non-compliance with section 230(2).
10. Rule 1(h) of the Tribunal Rules provides that references to “day” does not refer to court or business days but (in accordance with the Interpretation Act) to ordinary days and shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.
11. Accordingly, the 60-day period under section 230(2) runs continuously and is calculated using ordinary calendar days.
12. The applicants explain the delay on the basis that they were unaware of the complaint and determination, they only became aware of the matter after execution steps were taken and consultations with legal representatives and the intervening December period contributed to the delay.
13. In our view, this explanation is unsatisfactory.

14. The applicants do not provide a full explanation covering the entire period of delay. In particular, the application does not explain with sufficient detail as to when consultations occurred, when legal representatives were instructed to proceed, why the application could not be prepared sooner and why further delay occurred after the applicants became aware of the determination.
15. In addition, the record reflects that communications were directed to contact details supplied by the applicants themselves and that opportunities were afforded for participation before the determination was issued.
16. The Adjudicator dealt specifically with the applicants' complaint that they had not been afforded an opportunity to be heard. In further reasons furnished after the determination, the Adjudicator recorded that section 30F of the Pension Funds Act had been complied with and that various opportunities had been afforded to the parties to respond to the allegations. The Adjudicator further recorded that the complaint had been served using the email address provided by the Fund, that no delivery failure message had been received and that the applicants did not dispute the validity of the email address used. The Adjudicator accordingly concluded that the *audi alteram partem* principle had been observed.
17. While these findings are not determinative of the present application, they provide little support for the applicants' explanation and tend rather to indicate that opportunities to participate in the proceedings were afforded.

18. It is thus unnecessary for purposes of this decision to make a definitive finding regarding the precise date upon which the applicants became aware of the determination. Even accepting the applicants' version at its highest, this Tribunal finds that the explanation furnished thereafter remains incomplete and insufficient to establish good cause. We are accordingly not satisfied that the applicants have shown a full, reasonable and acceptable explanation for the delay.
19. Although prospects of success remain a relevant consideration in the condonation enquiry, they do not outweigh the inadequate explanation for the delay. In any event, based on the reasons below the Tribunal is not persuaded that the applicants have demonstrated sufficient prospects that the determination would ultimately be set aside. The Tribunal's function under section 230 is to reconsider the decision under challenge and not to permit the introduction of a materially different factual case unsupported by the record.
20. The applicants' substantive challenge on the merits is confined largely to an assertion that the contribution calculations were based on 39 employees instead of 6. The applicants rely on annexure "C" to the application for reconsideration (pages 27 to 28 of the record) in support of their contention that only six employees were employed during the relevant period. However, annexure "C", viewed in isolation, does not explain the apparent discrepancy between the number of employees reflected by the Fund and the number alleged by the applicants, nor does it provide a reconciliation nor does it provide a reconciliation or any other supporting material from which the Tribunal is able to determine the correctness of the applicants' assertion. Accordingly, annexure "C" does not materially assist the Tribunal.

21. The determination itself contemplated the furnishing of contribution information and reconstruction where necessary. The applicants failed to place before the Tribunal the material necessary to demonstrate that the Adjudicator's outcome was materially wrong. Nor have the applicants shown that, had they participated earlier, the result would probably have differed.
22. The complaint that they were not heard therefore does not, on the present record, establish that the determination was substantively incorrect.
23. The applicants contend that they will suffer prejudice if reconsideration is refused. The first respondent points to prejudice suffered by members where contribution disputes remain unresolved and benefits cannot properly be administered.
24. Furthermore, the Adjudicator specifically recorded in the determination that the Fund had issued 30-day, 60-day and 90-day arrears letters prior to the complaint. The complaint to the Adjudicator was therefore not the first attempt to secure compliance with the applicants' statutory obligations. Significantly, the applicants do not dispute that contributions were in arrears during the relevant period. Their challenge is directed principally at the calculation of the amount due and the number of employees taken into account. No explanation has been furnished by the applicants as to why the arrears persisted notwithstanding the repeated demands made by the Fund.
25. Moreover, the determination itself contemplated the submission by the applicants of the outstanding contribution schedules in order to facilitate the

computation of the arrear contributions. The applicants do not suggest that they have complied with that aspect of the determination or furnished the information requested therein. Accordingly, refusal of condonation does not leave the applicants without a mechanism to place the relevant contribution information before the Fund. Rather, the determination remains extant, and its terms continue to regulate the parties' respective obligations.

26. The first respondent and, more importantly, the members of the Fund continue to suffer prejudice where contributions remain unpaid, and members' benefits cannot be properly administered.
27. In these circumstances, the prejudice that the applicants may suffer if condonation is refused does not outweigh the prejudice to the Fund and its members, nor does it outweigh the applicants' failure to furnish a satisfactory explanation for the delay.
28. We accordingly make the following order:
 - 28.1. The application for condonation is refused.
 - 28.2. The application for reconsideration is dismissed.
 - 28.3. There is no order as to costs.

SIGNED ON BEHALF OF THE TRIBUNAL ON THIS THE 15th DAY OF JUNE 2026.

___ *Sgd A Saldulker* _____

Adv A Saldulker

For self and on behalf of LTC Harms (Chair)