

Live-in-lover may claim pension fund

PARTNER MUST PROVE DEPENDANCY

DID you know that there are financial implications upon the death of a pension fund member in a cohabitation or "vat-en-sit" relationship?

A cohabitee is a person who has an intimate relationship with another, including heterosexual or same sex relationships and shares a common residence outside marriage. This excludes housemates.

If you are in a vat-en-sit relationship and think you can escape from sharing your inheritance because you have no written agreement, you are only fooling yourself if you provide accommodation, share expenses or support your side-kick financially.

For the past weeks Consumer Line has been running articles about beneficiaries who cannot claim death benefits because of marriage dispute or children born of such relationships or an unregistered customary marriage.

Some relatives dispute such relationships and forget that such dependents stand a good chance to claim from the pension fund if they have children or can prove dependency on the dead member.

One such relationship is that of Lucy Skosana who has waited for 16 years for her death benefit to be processed.

Her problem was that her brother-in-law was disputing the existence of her relationship, refused to sign off Metal Industry Benefit Fund forms and refused to take blood test after disputing the child born out her relationship.

Skosana says she stayed with Joshua Mnyakeni at her parent's home for more than 10 years before he paid lobola for her. She never registered her customary marriage due to ignorance.

Consumer Line spoke to Makhado Ramabulana, a senior assistant pension fund adjudicator, about the legal implications of cohabitation on a member's pension fund.

Keep this in mind: If you curl up and die now, your six months live-in lover may claim from your pension fund as a life partner if she/he can prove dependency.

Secondly, the fact that you are identified as a beneficiary by the pension/provident fund board does not guarantee that you will get a benefit from deceased pension fund. It only means you will be considered for a benefit. That's all.

Ramabulana says there are complications if you die before you exit the fund or retire.

He says even if you had a will, your pension fund does not fall within your estate and cannot be distributed as you wish.

Secondly, even if you have nominated anyone in or outside your family, your nomination is not binding as Pensions Act leaves the decision to the board of trustee of your Pension Fund.

Ramabulana says in terms of the Constitutional Court decision a vat-en-sit on its own does not create legal duties for cohabitating partners, but for pension purposes a cohabitee may benefit if that person was dependant on the member.

"This means a cohabitee must have been dependent on the member for accommodation, shared expenses and must have enjoyed on-going financial support from the member to benefit," says Ramabulana.

He says it is not always easy for the boards dealing with cohabitation relationships to decide on the beneficiaries.

Ramabulana says the children born of that relationship will automatically qualify by virtue of being legal dependants.

But children that came with either party will have to prove how they were dependant to the dead member.

He says the Pension Funds Act identifies legal dependants, which are children of the deceased, the factual dependants and nominees.

**'Your live-in
lover may
claim
money'**