

Zambia

## National Pension Scheme Act, 1996

### Chapter 256

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## Zambia

# National Pension Scheme Act, 1996

## Chapter 256

Published on 12 December 1996

**Commenced**

*[This is the version of this document as it was at 31 December 1996 to 31 January 2000.]*

**An Act to establish the National Pension Scheme Authority; to constitute the National Pension Scheme and to provide for matters connected with or incidental to the foregoing.**

### Part I – Preliminary

#### 1. Short title and commencement

This Act may be cited as the National Pension Scheme Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**appointed date**" means the date appointed by the Minister under section one;

"**Authority**" means the National Pension Scheme Authority established under section three;

"**average monthly earnings**" means the amount determined under section nineteen;

"**Chairperson**" means the Chairperson under paragraph I of the First Schedule;

"**contributing employer**" means an employer designated by section twelve as a contributing employer;

"**Director-General**" means the Director-General appointed under section six;

"**existing fund**" means the Zambia National Provident Fund;

"**medical board**" means a medical board established under section thirty-seven;

"**member**" means an employee who is required to contribute to the Scheme under section eight;

"**national average earning**" means the amount determined under section nineteen;

"**pensionable age**" means the age of fifty-five years;

"**pensionable employment**" means employment in respect of which contributions are payable under this Act;

"**Secretary**" means the person appointed under section seven;

"**Scheme**" means the National Pension Scheme constituted under section eight;

"**Vice-Chairperson**" means the Vice-Chairperson elected under paragraph 1 of the First Schedule; and

"**repealed Act**" means the Zambia National Provident Fund Act.

[Cap. 273]

## **Part II – National Pension Scheme Authority**

### **3. Establishment of National Pension Scheme Authority**

- (1) There is hereby established the National Pension Scheme Authority, which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.
- (2) The provisions of the First Schedule shall apply to the Authority.

### **4. Functions of Authority**

- (1) The functions of the Authority shall be—
  - (a) implement the policy relating to the National Pension Scheme in accordance with this Act; and
  - (b) control and administer the Scheme.

### **5. Powers of Authority**

- (1) The Authority shall have power to—
  - (a) subcontract any of its functions to a consultant or corporation with proven experience in the particular function being subcontracted;
  - (b) give such directions as it may consider necessary regarding the operations of the Scheme; and
  - (c) do all such other acts and things as are necessary to give effect to the provisions of this Act.
- (2) In the performance of its functions, the Authority shall, subject to the provisions of this Act, not be subject to the control or direction of any person or authority.

### **6. Director-General**

- (1) There shall be a Director-General who shall be the Chief Executive officer of the Authority and who shall, subject to the control of the Authority, be responsible for the day to day administration of the Authority.
- (2) The Director-General shall be appointed by the Minister for a three year renewable term of office and shall be eligible for reappointment.
- (3) The Director-General shall attend meetings of the Authority and may address such meetings but shall have no vote.

### **7. Secretary, inspectors and other staff**

- (1) There shall be a Secretary of the Authority appointed by the Authority on such terms and conditions as the Authority may determine.
- (2) The other staff of the board shall be appointed by the Authority on such terms and conditions as the Authority may determine.
- (3) The Authority shall appoint inspectors for purposes of this Act.
- (4) The Director-General shall issue an identity card to each inspector.

- (5) An inspector shall have power, on production of the identity card issued to him under subsection (4), to inspect any book, register, account, receipt or any document relating to contributions or to the provision to register or to contribute under this Act are being compiled with.
- (6) In inspecting the documents referred to in subsection (5), the inspectors shall ensure that the records kept are in accordance with the provisions of this Act.
- (7) Any person who obstructs an inspector appointed under subsection (3) in the exercise of his duties under this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding three months or to both.

### Part III – National Pension Scheme

#### 8. Constitution of the National Pension Scheme

- (1) There is hereby constituted a Scheme to be known as the National Pension Scheme into which shall be paid all contributions authorised under this Act and out of which shall be met all payments authorised to be paid under this Act.
- (2) The Authority shall be the trustees of the Scheme.

#### 9. Benefits under Scheme

- (1) The Authority shall pay pension benefits to a member who—
  - (a) retires from employment on reaching the retirement age;
  - (b) retires five years before he reaches pensionable age and has contributed to the Scheme for a minimum period prescribed by the Authority; and
  - (c) has made contributions for at least twelve months and is certified by the medical board that he is incapable of gainful employment due to total or partial mental or physical incapacity which pension shall be determined by a formula by an actuarial study and prescribed by the Minister by statutory instrument.
- (2) The Authority may pay lump sum benefits under such conditions as the Authority may prescribe.
- (3) The Authority shall exchange the lump sum benefits referred to under subsection (1) in accordance with actuarial advice, in such circumstances as may be prescribed.
- (4) On the death of the member, the Authority shall pay the pension benefits due to the member in accordance with the provisions of the Intestate Succession Act and the Wills and Administration of Testate Estate Act.

*[Cap. 59; Cap. 60]*

#### 10. Vesting of existing fund and funds of the Scheme

- (1) Without further assurance the existing fund shall be transferred to the Scheme and shall vest in the Authority which shall, subject to the provisions of this Act, have the sole management and control of it.
- (2) The funds of the Scheme shall consist of—
  - (a) the fund of the existing fund;
  - (b) the assets of the existing fund;
  - (c) the combined contributions of contributing employers and members determined by, statutory instrument, in accordance with actuarial valuation and paid into the Scheme;

- (d) income and capital appreciation derived from the holding of the assets of the Scheme in any form; and
- (e) such other moneys or assets as may accrue to the Scheme.

## **11. Membership of Scheme**

- (1) Every person who, before the commencement of this Act, is under pensionable age and is a member of the existing fund, shall be a member of the Scheme.
- (2) Every person who, on the commencement of this Act, is not a member of the existing fund under subsection (1) and is not less than sixteen years but who is under pensionable age and is employed by a contributing employer, shall be registered as a member of the Scheme as provided for under section thirteen.
- (3) The Minister may, by statutory instrument, provide for the conditions and procedures under which any person who is not eligible to become a member of the Scheme under this Act, may become a member.

## **12. Contributing employer**

Subject to subsection (2) of section eleven, contributing employer shall mean—

- (a) a person, association, institution or firm registered as a tax payer with a contract of service with an employee; and
- (b) the Government of the Republic of Zambia, local authority or parastatal or statutory body.

## **13. Registration of contributing employers**

- (1) Subject to the other provisions of this Act, every contributing employer shall, within one month, register under this section in the prescribed manner, unless such employer is registered under the existing fund.
- (2) The employees listed in the Second Schedule shall be exempt from the provisions of this Act and the Minister may, by Statutory Instrument, vary or add the list of employees in the Second Schedule.
- (3) The Minister may, by statutory instrument, prescribe the minimum number of employees in the service of any employer and the categories to be exempted under this section.
- (4) The period of one month mentioned in subsection (1) shall, in every case, begin upon the commencement of this Act or the date when the person concerned becomes a contributing employee.
- (5) On the first day of the month following the month in which the period mentioned in subsection (1) expires, the employee shall be a contributing employee for the purposes of this Act unless a further period is specified in the statutory order declaring that other categories of employers be contributing employers.
- (6) Any employer who belongs to a category of employers exempted under subsection (1) shall with the consent in writing of the majority of his employees, apply to the Authority in the prescribed manner, to register under this Act.
- (7) The Authority shall notify an employer registered under subsection (1) that his application has been approved.
- (8) An employer registered under subsection (7) shall become a contributing employer on the first day of the month following the month in which such employer receives notification that the employer has been registered under this section.



- (9) A religious organisation which desires to make statutory contributions in respect of any minister of religion or any other category of employees may apply to the Authority in the prescribed manner to register under this section.
- (10) The Authority shall notify the religious organisation registered as a contributing employer for the purposes of this Act that the application has been approved.
- (11) A religious organisation registered under subsection (9) shall notify the Director-General of the prescribed particulars of any minister of religion or any other category of employees in respect of whom it wishes to make contributions and shall become an eligible employer on the first day of the month following the month in which notification is made under this subsection.
- (12) A contributing employer who ceases to be an employer of any employee shall cease to be a contributing employer in respect of such employee.
- (13) Any contributing employer who registers or is registered under the provisions of this section shall, without delay, register, as a member of the Scheme, every person who is or who subsequently becomes an employee in his service, by notifying the Director-General of such particulars of the employee as may be prescribed.

## Part IV – Contributions

### 14. Responsibility for payment of contributions

- (1) A contributing employer shall pay to the Scheme a contribution in respect of an employee in his employment consisting of the employer's contribution and the employee's contribution at the prescribed percentage.
- (2) A contributing employer shall be entitled to recover from his employee who is a member of the Scheme, the amount of the employer's contribution by deduction from his earnings to which the contribution relates.
- (3) Notwithstanding any agreement to the contrary, an employer shall not be entitled to deduct from the earnings of a member or otherwise reduce such earnings as part of the employer's contribution.
- (4) The prescribed percentage referred to under subsection (1) shall be determined by actuarial valuation calculated to ascertain the financial sustainability of the the Scheme.

### 15. Payment of contributions

- (1) A contributing employer shall pay contributions to the Authority at the end of each month and such employer shall submit, with such payment, all prescribed supporting particulars concerning his identity, period of employment and earnings of the member to whom the contributions relate.
- (2) If any contribution is not paid within the time stated under subsection (1) a sum equal to twenty *per centum* of the amount unpaid shall be added as a penalty for each month or part thereof after the date the payment is due and the amount of the penalty shall be recoverable as a debt owing to the Scheme by the employer.

### 16. Treating unpaid contributions as paid

Where the Director-General is satisfied that an employee's contribution has been deducted from his earnings, but the employer has failed to pay this contribution together with the employer's contributions to the Authority, he may treat the unpaid contributions as wholly or partially paid for the purpose of any claim to the payment or benefits, provided that this shall be without prejudice to any action to recover the amount due from the employer.

## 17. Refund of contributions paid in error

Where the Director-General is satisfied that any amount has been paid to the Authority as contributions which were not properly payable and that such amount was paid as a result of a *bona fide* error, the amount paid in error shall be refunded or applied to any current liability with the consent of the person who made the payment.

## Part V – Benefits

## 18. Conditions for the award of retirement pension

Subject to the other provisions of this Act, a retirement pension shall be paid to a retired member who has

- (a) attained pensionable age; and
- (b) made not less than one hundred and eighty monthly contributions.

## 19. Amount of retirement pension

- (1) The Minister shall prescribe the monthly retirement pension, by statutory instrument, based on the actuarial valuation calculated to ascertain that the Scheme is financially viable.
- (2) The average monthly earnings shall be determined for each member at the time he makes a claim dividing the aggregate of pensionable earnings by the number of months of pensionable employment.
- (3) Notwithstanding subsection (2), the level of pensionable earnings shall be adjusted annually by an index based on the national average earnings as may be prescribed by the Minister, by statutory instrument.
- (4) The minimum monthly pension shall be twenty per cent of the national average earnings.
- (5) The Authority shall determine the national average earnings referred to in subsection (3) annually, by applying statistics and data compiled by the Central Statistical Office.

## 20. Duration of retirement pension

The retirement pension payment shall commence from the month following the month by which the retired employee satisfies the conditions in section eighteen and shall end in the month in which the retired member dies.

## 21. Lump-sum payment

A member who has attained pensionable age and has retired from employment but does not meet the qualifications for a pension under section eighteen, shall be entitled to the payment of a lump sum as may be prescribed by the Authority.

## 22. Early retirement

- (1) A member shall qualify for early retirement if he is within five years of pensionable age and has paid contributions for at least one hundred and eighty months.
- (2) The amount of the pension paid on early retirement under subsection (1) shall be the amount that would be payable under subsection (1) of section eighteen reduced in accordance with a prescribed actuarial formula.

- (3) An early retirement pension shall not be payable if the amount of the pension calculated in accordance with the provisions of subsection (2) would be lower than the minimum pension under subsection (4) of section nineteen.

## **23. Invalidity pension**

A member shall qualify for invalidity pension if—

- (a) he suffers from permanent invalidity; and
- (b) he is under pensionable age and either—
  - (i) the provisions of section eighteen regarding pension contributions are satisfied; or
  - (ii) the member had paid at least sixty monthly contributions of which twelve or more were paid in the period of thirty-six months immediately preceding the date the invalidity began.

## **24. Amount of invalidity pension**

- (1) The Minister shall, by statutory instrument, prescribe monthly rate of invalidity pension determined on the basis of the members average monthly earnings and the length of pensionable service.
- (2) The monthly rate of invalidity pension shall be supplemented by a prescribed percentage.
- (3) The minimum monthly invalidity pension shall be twenty *per centum* of the national average earnings.

## **25. Duration of invalidity pension**

Subject to the provisions of this Act, invalidity pensions shall be payable for the duration of a permanent invalidity commencing with the month following the date of invalidity and ending either—

- (a) when the member reaches pensionable age, if at that time the member is entitled to a retirement pension at the same or a higher rate; or
- (b) when the member dies.

## **26. Invalidity lump-sum payment**

A member who qualifies for invalidity pension but does not satisfy the conditions under section eighteen, that member shall be entitled to a lump-sum payment as may be prescribed by the Authority.

## **27. Establishment of medical boards and appointment of medical officers**

- (1) The Authority shall appoint medical boards or appoint medical officers for the purpose of examining claimants or beneficiaries who have claims to any benefits under this Act.
- (2) A member of the medical board or a medical officer shall be paid such remuneration or allowance as the Authority may determine.
- (3) The procedure for medical boards, guidelines to be followed and reports to be prepared by the medical boards and submitted to the Authority shall be prescribed by the Minister, by statutory instrument.

## **28. Medical examinations**

- (1) A person shall apply for a claim for invalidity benefits to the Director-General.
- (2) The Director-General shall refer a claim submitted under subsection (1) to a medical board for determination.

- (3) The Director-General may, at any time after the award of an invalidity pension, refer a person who receives an invalidity pension to a medical board to determine the medical state of the permanent invalidity.
- (4) A claim to invalidity benefit referred to a medical board shall be, in a manner prescribed by regulations made under section fifty-three.
- (5) A beneficiary of an invalidity pension shall cease to receive his invalidity pension if he fails to comply with directions of the Director-General under subsection (2), to be medically examined by a medical Board and to supply all necessary documents or information as may be necessary for the purposes of determining his continued entitlement.

## 29. Survivor's benefits

Subject to this Act, a survivor's benefits shall be paid to a member of the family or a dependant if at any time of death the member-

- (a) was in receipt of a retirement pension or an invalidity pension;
- (b) would have been entitled to an invalidity pension for permanent invalidity at the time of death; or
- (c) had reached pensionable age and was entitled to a retirement benefit and had made a claim to such benefit.

## 30. Family dependants

The following persons shall be regarded as family dependants for the purpose of section twenty-nine:

- (a) a surviving spouse of the deceased member;
- (b) a child of the deceased member; or
- (c) such other persons as may be entitled to benefit under the Intestate Succession Act or Wills and Administration of Testate Estates Act or as nominated by the member.

*[Cap. 59; Cap. 60]*

## 31. Survivor's pensions

The pension payable to each family dependant shall be at a rate prescribed and payable to the deceased member or the pension that would have been payable to him under section eighteen or section twenty-one.

## 32. Duration of survivor's pensions

Survivor's pensions shall be paid to—

- (a) a surviving spouse who, at the date of death of the deceased member is forty-five years old or above or is under the age of forty-five and has the care for dependant children under the age of fifteen, for life or until his remarriage;
- (b) a surviving spouse who, at the date of death of the deceased member, is under the age of forty-five and does not have the care of children under the age of fifteen years, for a period of two years from the date of death of the member;
- (c) a child, until the age of eighteen years or until the child completes full-time education but not later than the age of twenty-five or, if the child is an invalid, for life.

**33. Survivor's lump-sum**

Where a deceased member did not satisfy the qualifying conditions specified in section twenty-six, his family dependants shall be entitled to a lump-sum payment prescribed by the Minister by statutory instrument.

**34. Funeral grants**

- (1) On the death of a member who has paid at least twelve monthly contributions during the thirty-six months immediately preceding his death, a funeral grant in the form of a lump-sum shall be paid to his next of kin.
- (2) The lump-sum referred to under subsection (1) shall be determined by the Minister by statutory instrument.
- (3) For the purpose of this section, the next of kin shall be the surviving spouse, or, in the case of an unmarried person, the father or mother, brother or sister or the person responsible for the payment of funeral expenses.

**35. Adjustment of benefits**

The Authority shall review the pension rates annually and adjust them in line with increases in national average earnings.

**36. Time and manner of making claims**

- (1) A person shall have the right to benefits if he—
  - (a) makes a claim to the Director-General in the prescribed manner within the prescribed time; and
  - (b) produces such certificates, documents, information and evidence for the purpose of determining his right to benefits as the Director-General may require.
- (2) The contributing employer shall maintain records, or reports and such other information as may be prescribed by the Minister by statutory instrument for the purpose of establishing any person's entitlement to any benefits.

**37. Repayment of benefit improperly received**

- (1) Any person who fails to disclose or misrepresents any material fact, whether such non-disclosure or misrepresentation is or is not fraudulent and receives any benefits he was not entitled to receive shall be liable to repay the benefits so received.
- (2) Any person liable to repay any benefits received under subsection (1) shall repay the benefits and the Authority shall recover by deducting from any payment or benefit to which the person referred to in subsection (1) is entitled.

**38. Benefits to be inalienable**

Every assignment or charge on benefits and every agreement to assign or charge any benefit shall be void, and on the bankruptcy of a beneficiary the benefit shall not pass to any trustee or other person acting on behalf of creditors.

### 39. Transitional provisions for benefits

The Minister may by statutory instrument prescribe—

- (a) the conditions for qualifications for entitlement to benefits under this Part in respect of members who are above a prescribed age on the day the Act comes into force;
- (b) that member of the existing fund may convert the amount in their account under that fund into pensionable employment for the purpose of entitlement to retirement pension or invalidity pension in accordance with a prescribed formula; or
- (c) the transfer of pensionable employment in respect of persons covered under other pension legislation before the date of commencement of this Act.

## Part VI – Management of Scheme

### 40. Management objectives of Scheme

- (1) The Authority shall prudentially manage the Scheme so as to ensure that at all times it is in a state of actuarial correctness, financially sustainable, fair in its benefit distribution and is affordable.
- (2) Notwithstanding the generality of subsection (1), the Authority shall ensure that the Scheme is managed in accordance with the prudential management principles specified in the Pension Scheme Regulation Act.

*[Cap. 255]*

### 41. Investment of Fund

The Authority may invest any liquid assets of the Scheme not immediately required to meet any charges or obligations in—

- (a) a savings account of any bank or institution which is governed by any written law of Zambia or by the law of the United Kingdom of Great Britain and Northern Ireland, or on fixed deposit or at call with any such bank or institution;
- (b) real estate;
- (c) stocks, securities or funds issued by or on behalf of the Government or in stocks, securities or funds guaranteed by the Government; or
- (d) such other investment as may be approved generally or specially, by the Authority.

### 42. Application of Funds of Scheme

There shall be charged on, and discharged from, the liquid assets of the Scheme—

- (a) the payment of benefits in accordance with the provisions of this Act;
- (b) the whole of the expenses incurred in connection with or incidental to the management and administration of the Scheme, including the cost of staff and the audit and actuarial investigations of the Scheme;
- (c) any losses incurred on the realisation or decrease in the value of any assets of the Scheme; and
- (d) any other payments authorised to be made out of the Scheme under the provisions of this Act.

**43. Appointment of actuary**

The Authority shall appoint any actuary who shall be a Fellow of the Institute of Actuaries of London, the Faculty of Actuaries in Scotland or Institute of Actuaries of America or any other equivalent qualifications to carry out the duties and exercise the powers imposed or conferred upon him under this Act.

**44. Actuarial valuation of Scheme**

- (1) The Scheme shall be valued by an actuary as may be required by the Authority.
- (2) The Scheme shall be valued at intervals not exceeding three years.
- (3) The actuary shall—
  - (a) prepare a report on the state of the Scheme;
  - (b) state any surplus or deficiency in the Scheme; and
  - (c) recommend the action to be taken.
- (4) The actuary shall submit the report prepared under subsection (3) to the Authority with a copy to the Minister.

**45. Action on actuarial report**

- (1) The Authority shall pay due regard to any recommendations made by the actuary under section forty-four and, in doing so may, notwithstanding anything to the contrary contained in this Act—
  - (a) increase or decrease in the rates of contribution payable in respect of members; or
  - (b) require members to pay such sums as the actuary may determine to cover any deficiency directly attributable to an action of such member.
- (2) The Authority shall report to the Minister its reasons for failing to carry out any recommendations made by the actuary.
- (3) If, within six months of the receipt of a report by the Authority, the Authority fails to carry out any recommendation contained in such report, the Minister may, exercise any of the powers conferred on the Authority by subsection (1), and the exercise of such powers by the Minister shall have the same effect as if such powers were exercised by the Authority.

**Part VII – Miscellaneous****46. Vesting of assets and transfer of liabilities**

On the appointed date, there shall vest in, and be owned by the Authority without further assurance, all property, rights, liabilities and obligations which immediately before the appointed date, were the property, rights, liabilities and obligations of the existing fund.

**47. Registration of property to be transferred**

- (1) All property, rights, liabilities or obligations of the existing fund shall be transferred to the Authority and where any written law provides for registration, the Authority shall make an application in writing to the proper officer or the appropriate registration authority for the registration of the transfer.
- (2) The proper officer referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue the transferee concerned with a

certificate to the register, as the case may be, and shall make endorsements on the deeds relating to the title, right or obligation concerned.

#### **48. Legal proceedings**

- (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the existing fund, the Authority and all other persons, as from the commencement of this Act, shall have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, or enforcing those rights, liabilities or obligations as they would have at all times been a right, liability or obligation of the existing fund under the repealed Act.
- (2) Any legal proceedings or application to any authority pending immediately before the commencement of this Act by or against the existing fund in relation to the assets transferred to the Authority, may be continued by or against the authority.
- (3) After the commencement of this Act, proceedings in respect of any right or obligations which were vested in, held, enjoyed incurred or suffered by the existing fund may be instituted by, or against the Authority.

#### **49. Protection against attachment**

Notwithstanding anything contrary contained in any written law, where any judgement or order has been obtained against a member, no execution or attachment or process of any nature shall be issued against his contributions, except in accordance with the terms of the Authority and such contributions shall not form part of the assets of the member in the event of bankruptcy.

#### **50. Transfer of staff**

- (1) The Minister may, by statutory instrument, approve arrangements under which all or some of the employees of the existing fund shall be transferred to the Authority.
- (2) Where a person is transferred in accordance with the arrangements made under subsection (1), his terms and conditions with the Authority shall be no less favourable than those enjoyed while employed by the existing fund and for the purposes of determining his rights to or eligibility for any pension, gratuity, leave or other benefits, his previous service with the existing fund shall be treated as service with the Authority.

#### **51. Offences and penalties**

- (1) Any person who—
  - (a) evades paying for any contribution by him or some other person and makes any false statement or representation;
  - (b) fails to register within the period specified in or under this Act when required to register,
  - (c) when required by or under this Act to furnish any information, without lawful excuse, fails to disclose that information or furnishes information which is false;
  - (d) fails to pay to the Scheme within the period specified any contribution which he is liable to pay under this Act;
  - (e) obstructs any inspector, officer or servant of the Scheme in the discharge of his duties;
  - (f) fails without lawful excuse to produce documents which he has been required under this Act to produce;
  - (g) by duress obtains the consent of employees to any course of action provided for under subsection (6) of section thirteen;



- (h) deducts from a member's wages any amount by way of the member's share which is in excess of the amount due to be deducted under this Act; or
- (i) contravenes any other provision of this Act:

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding three months or to both.

- (2) Notwithstanding the provisions of subsection (1), the court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order that person to pay to the Scheme the amount of any contributions, together with any interest or penalty, certified to be due from that person to the Scheme at the date of conviction; and such amount shall be recovered in the same manner as a fine and shall be paid into the Scheme for the credit, where applicable, of the accounts of the members concerned.

## 52. General penalty

Any person who contravenes any provision not provided for under this Act shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding three years or to both.

## 53. Regulations

- (1) The Minister may, by statutory instrument, make regulations for the better carrying out of provisions of this Act.
- (2) Notwithstanding subsection (1), the regulations prescribed under subsection (1) shall provide for—
  - (a) the prevention of the receipt of more than one benefit and the adjustment of benefits in special circumstances;
  - (b) the time and manner of the payment of benefit and the information to be furnished by any person applying for payment;
  - (c) suspending payment of benefit to any person during any period when he—
    - (i) is absent from Zambia subject to any contrary provisions contained in any social security bilateral agreement or international convention ratified by Zambia; or
    - (ii) is legally imprisoned or under some other legal custody:

Provided that specifications are prescribed for the circumstances and manner in which payment of the whole or any part of the benefit may instead of being so suspended may be paid during any such period to any person nominated by the beneficiary, or for the maintenance of any prescribed person who the Director-General is satisfied is a dependent of the beneficiary;

- (d) appointing a person to exercise on behalf of any other person who, as a minor is unable to act, any power or right which that other person may be entitled to exercise under this Act and to authorise the person so appointed to receive and deal with any sum payable by way of benefit to that other person;
- (e) a claim to be made or proceeded with in the name of any person who is dead, for authorising payment to or among persons claiming as his or personal representatives, legatees, next-of-kin, creditors or otherwise and for dispensing with strict proof of title of persons so claiming; and
- (f) such other matters as may be necessary for proper administration of benefits, including the obligations of claimants, beneficiaries and employers.

## **54. Repeal of Cap. 513 of the 1972 edition**

The National Provident Fund Act is hereby repealed.

### **First Schedule (Section 3)**

#### **Administration**

##### **Part I**

### **1. Composition of the Authority**

- (1) The members of the Authority shall be—
  - (a) two representatives from such associations of employees as the Minister shall designate;
  - (b) two representatives from such associations of employers as the Minister shall designate;
  - (c) a representative and an alternate member from the Ministry responsible for finance;
  - (d) a representative and an alternate member from the Ministry responsible for social security;
  - (e) a representative of the Bank of Zambia;
  - (f) a representative of the Bankers Association of Zambia; and
  - (g) a representative of the Pension Managers Association.
- (2) The members referred to in subsection (1) shall be appointed by the Minister.
- (3) The Chairperson shall be appointed by the Minister.
- (4) The Vice-Chairperson shall be elected from amongst the members.

### **2. Seal of Authority**

- (1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Secretary.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Authority.
- (3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Authority in that behalf.
- (4) Any document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be executed or issued as the case may be, without further proof, unless the contrary is proved.

### **3. Tenure of office of member**

- (1) Subject to the other provisions of this Act, a member shall hold office for a period of three years from the date of appointment and may be re-appointed for a like period.
- (2) A member may resign by giving one month's notice in writing to the Secretary.

#### 4. Removal of member

Notwithstanding paragraph 3, the Authority may, at any time, with the approval of the Minister remove a person from the Office of member—

- (a) if that person has been absent from three consecutive meetings of the Authority and that absence was in the opinion of the Authority without reasonable excuse; or
- (b) if the Authority is satisfied that the continuance of that person in the office of member will be prejudicial to the interest of the Scheme.

#### 5. Filling of casual vacancy

- (1) Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates the office.

#### 6. Proceedings of Authority

- (1) Subject to the other provisions of this Act, the Authority may regulate its own procedure.
- (2) The Authority shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairperson may decide.
- (3) Upon giving notice of not less than fourteen days, a meeting of the Authority may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:  
  
Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) The quorum at any meeting of the Authority shall be the Chairperson or the Vice-Chairperson and three other members.
- (5) There shall preside at any meeting of the Authority—
  - (a) the Chairperson; or
  - (b) in the absence of the Chairperson or Vice Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.
- (6) A decision of the Authority on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.
- (7) Where a member is for any reasonable cause unable to attend any meeting of the Authority, he may, in writing, nominate another person from the same organisation to attend such meeting in his stead and such person shall be deemed to be a member for the purpose of such meeting.
- (8) The Authority may invite any person, whose presence in its opinion is desirable, to attend and to participate in the deliberations of a meeting of the Authority but such person shall have no vote.
- (9) The validity of any proceedings, act or decision of the Authority shall not be affected by any vacancy in the membership of the Authority or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.
- (10) The Authority shall cause minutes to be kept of the proceedings of every meeting of the Authority and every meeting of any committee established by the Authority.

#### 7. Committees of Authority

- (1) The Authority may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it thinks fit.

- (2) The Authority may appoint as members of a committee established under subsection (1), persons who are or are not members of the Authority and such person shall hold office for such period as the Authority may determine.
- (3) Subject to any specific or general direction of the Authority any committee established under subsection (1), may regulate its own procedure.

## **8. Remuneration and allowances of members**

There shall be paid to the members of the Authority or any committee of the Authority such remuneration and allowances as the Authority may determine, with the approval of the Minister.

## **9. Disclosure of interest**

- (1) If a member is present at a meeting of the Authority or any committee of the Authority at which any matter is the subject of consideration and in which matter the member's spouse is directly or indirectly interested in a private capacity the member shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Authority otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

## **10. Prohibition of publication of, or disclosure of information to unauthorised persons**

- (1) A person shall not, without the consent in writing given by or on behalf of the Authority, publish or disclose to any unauthorised person, otherwise than in the course of his duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act.
- (2) Any person who contravenes the provisions of subparagraph (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.
- (3) If any person having information which to his knowledge has been published or disclosed in contravention of sub-paragraph (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three months or to both.

# **Part II – Financial provisions**

## **11. Funds of Authority**

- (1) The funds of the Authority shall consist of such money as may—
  - (a) be paid to the Authority by way of contributions, fees, levy, grants or donations; or
  - (b) vest in or accrue to the Authority.
- (2) The Authority may—
  - (a) accept moneys by way of grants or donations from any source;
  - (b) raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; or
  - (c) charge and collect fees for services provided by the Authority.

- (3) There shall be paid from the funds of the Authority—
  - (a) the salaries, allowances and loans of the staff of the Authority;
  - (b) such reasonable travelling, transport and subsistence allowances for members or members of any committee of the Authority when engaged on the business of Authority, at such rates as the Authority may determine; and
  - (c) any other expenses incurred by the Authority in the performance of its functions.
- (4) The Authority may invest in such manner as it thinks fit such of its funds it does not immediately require for the performance of its functions.

## 12. Financial year

The Financial year of the Authority shall be the period of twelve months ending on the 31st of December, in each year.

## 13. Accounts

The Authority shall cause to be kept proper books of account and other records relating to its accounts.

## 14. Annual report

- (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Authority shall submit to the Minister a report concerning its activities during such financial year.
- (2) The report referred to in paragraph (1) shall include information on the financial affairs of the Authority and there shall be appended thereto—
  - (a) an audited balance sheet;
  - (b) an audited statement of income and expenditure; and
  - (c) such other information as the Minister may require.
- (3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after the receipt of the report referred to in sub-paragraph (1), lay it before the National Assembly.

## Second Schedule (Section 10)

### Persons exempted from the provisions of the Act

The following persons shall not be required to register as members of the National Pension Scheme:

- (a) an employed person whose monthly earnings are less than K 15,000;
- (b) the spouse of the employer;
- (c) a member of the family of the employer who ordinarily resides with the employer,
- (d) an employee of an international organisation who is not a citizen of Zambia;
- (e) an employee of a foreign government who is accorded diplomatic or equivalent status and who is not a citizen of Zambia;
- (f) a member of the armed forces; and
- (g) a public officer appointed before this Act comes into force and who is on pensionable employment under the Public Service Pensions Fund or the Local Authorities Superannuation Fund.