



LAWS OF KENYA

THE NATIONAL SOCIAL SECURITY FUND ACT

CHAPTER 258

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28 of 1965,
L.N. 35/1968,
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15 of 1987,
5 of 1997,
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CHAPTER 258

THE NATIONAL SOCIAL SECURITY FUND ACT

Commencement: See Subsidiary Legislation

An Act of Parliament to establish a National Social Security Fund; to provide for contributions to and the payment of benefits out of the Fund; and for matters connected therewith and incidental thereto

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the National Social Security Fund Act.

Interpretation.
7 of 1971, s. 2,
15 of 1987, s. 2,
5 of 1997, s. 2.

2. (1) In this Act, unless the context otherwise requires—

“benefit” means a benefit payable under this Act;

“Board of Trustees” means the National Social Security Fund Board of Trustees established by section 4;

“brother” includes a half-brother;

“casual worker” means any employee the terms of whose contract of service provide for his wages to be paid at the end of each day and who is engaged for less than one month at any one time;

“contract of service” means any contract whether entered into orally or in writing, whether expressed or implied, to employ or to serve as an employee for any period of time and includes a contract of apprenticeship or learnership;

“contributing employer” means any employer who—

(a) belongs to a class or description of employers specified as contributing employers by an order made under section 5; or

(b) has registered voluntarily as a contributing employer pursuant to section 6;

“contribution” includes standard contribution and special contribution;

“contribution period” has the meaning assigned to that expression by section 10 (3);

“daughter” includes a stepdaughter, an illegitimate daughter and a daughter adopted in any manner recognized as lawful in Kenya;

“dependent relative” means, in relation to a deceased member of the Fund, any relative of the deceased who survives the deceased and who, on the date of the deceased’s death—

- (a) was a wife or husband of the deceased;
- (b) was a son or daughter of the deceased who had not attained the age of eighteen years; or
- (c) was wholly or substantially dependent on the deceased for the provision of the ordinary necessities of life suitable to a person of his station, and was a relative of the deceased, being a parent, grandparent, son, daughter, grandchild, brother, sister or such other relative as may be prescribed;

“employee” means any person who has attained the age of sixteen years and who—

- (a) is employed in Kenya under a contract of service; or
- (b) is ordinarily resident in Kenya and is employed outside Kenya (or partly in and partly outside Kenya) under a contract of service entered into with an employer who resides in or has a place of business in Kenya; or
- (c) is ordinarily resident in Kenya and is employed under a contract of service as master or a member of the crew of any ship, or as pilot, commander, navigator or member of the crew of any aircraft, where the owner of the ship or aircraft (or managing owner if there is more than one owner) or the manager resides in or has a place of business in Kenya:

Provided that “employee” shall not include any person who has not attained the age of eighteen years and who—

- (i) is undergoing full-time instruction in a school, or in any such place of education or training as may be prescribed for the purposes of this definition, or who is an apprentice; and

(ii) is not in receipt of wages which provide him wholly or substantially with a livelihood;

“employee’s share”, in relation to a contribution, means such part of that contribution (if any) as the employer may lawfully deduct from the wages of the employee in respect of whom that contribution is payable;

“employer” includes the Government;

“exempt person” means any person of a class or description specified in the Second Schedule;

“financial year” means a period of twelve months ending on the 30th June in every year;

“Fund” means the National Social Security Fund established under section 3;

“grandchild” means a son or daughter of a son or daughter.

“grandparent” means a parent of a parent;

“managing trustee” means the managing trustee of the Fund appointed under section 33 and includes any person acting in the office of the managing trustee whenever the office is vacant or the holder of the office is absent or for any reason incapable of acting;

“member” and “member of the Fund” means a person who is registered as a member of the Fund pursuant to this Act.

“Minister” means the Minister for the time being responsible for matters relating to labour and social security;

“parent” means a father or mother, and includes a step-parent, a parent of an illegitimate child, and a parent by adoption of a child adopted in any manner recognized as lawful in Kenya;

“permanent total incapacity” means such incapacity of a permanent nature as incapacitates person for any employment which he was capable of undertaking before the accident, illness or other occurrence that was the cause of that incapacity;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Minister under this Act;

“sister” includes half-sister;

“son” includes a stepson, an illegitimate son and a son adopted in any manner recognized as lawful in Kenya;

“special contribution” means the contribution payable under section 13;

“standard contribution” means the contribution payable under section 10;

“wages” include all emoluments which would be payable in cash to an employee under his contract of service if no deductions were made, whether in pursuance of any law requiring or permitting the making of any deduction or otherwise.

(2) In this Act, any reference to this Act includes a reference to regulations made thereunder.

2A. The provisions of the Retirement Benefits Act, 1997 shall apply to the Fund.

The Retirement Benefits Act, 1997 to apply to the Fund. 5 of 1997, s. 3.

PART II—THE NATIONAL SOCIAL SECURITY FUND

3. (1) There shall be a Fund known as the National Social Security Fund which shall vest in and be operated and managed by the Board of Trustees.

National Social Security Fund. 15 of 1987, s. 3, 5 of 1997, s. 4.

(2) There shall be paid—

(a) into the Fund, all contributions and other payments required by this Act to be paid into the Fund; and

(b) out of the Fund, all benefits and other payments required by the Act to be paid out of the Fund.

(3) The provisions of the Fourth Schedule shall have effect with respect to the Fund.

4. (1) There shall be a board of trustees to be known as National Social Security Fund Board of Trustees which shall, by that name be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued and may purchase, hold, manage and dispose of movable and immovable property and enter into all such contracts as it may deem necessary or desirable and for the purposes of this Act.

National Social Security Fund Trustees. 15 of 1987, s. 3, 5 of 1997, s. 5.

(2) The Board of Trustees shall perform the functions assigned to the Board of Trustees under this Act.

(3) The provisions of the First Schedule shall have effect with respect to the Board of Trustees.

(4) The Board of Trustees shall report to and consult with the Minister on a regular basis.

PART III—MEMBERSHIP AND CONTRIBUTIONS

5. (1) Subject to this Part, the Minister may, on the recommendation of the Board of Trustees, by order in the Gazette—

- (a) specify any class or description of employees as persons who are to be registered as members of the Fund;
- (b) specify any class or description of employers as contributing employers:

Provided that an order shall not apply to employees who are casual workers unless the order expressly provides that it shall so apply.

(2) Any classification or description of employers or employees in an order made under subsection (1) may be made, wholly or in part, by reference to the number of employees or to the number of employees of any particular class or description in the employment of the employer.

(3) Regulations shall provide for the registration of employees who are to be registered as members of the Fund and for the registration of employers specified as contributing employers, and such regulations may require such employees or their employers, and such contributing employers, to take such steps to secure such registration as may be prescribed.

(4) Any person who fails to comply with any of the provisions of this section or with any regulations made thereunder shall be guilty of an offence.

6. (1) Regulations may provide, subject to such terms and conditions as may be prescribed therein, for—

- (a) the voluntary registration of any class or description of employees as members of the Fund;

Compulsory registration of members of Fund and contributing employers. 16 of 1977, Sch., 5 of 1997, s. 6.

Voluntary membership of Fund. 9 of 2007, s. 35.

(b) the voluntary registration as a contributing employer of any employer.

(2) For the purposes of subsection (1)—

“employee” includes a minister of religion;

“employer” includes any person or body from whom a minister of religion receives his stipend;

“minister of religion” includes any clerk in holy orders, pastor, missionary, kadhi, imam, sheikh or other person acting in any similar capacity who is engaged in ministering to the spiritual needs of others.

(3) Regulations may provide, subject to such terms and conditions as may be prescribed therein, that any member of the Fund in respect of whom a standard contribution has ceased to be payable under section 10, who makes application in that behalf within the time and in the manner prescribed, may make voluntary contributions to the Fund:

Provided that such regulations shall provide that the rate of the contribution which may be made by such a member shall not exceed the average rate of standard contribution formerly payable by his employer, calculated over such period and in such manner as may be prescribed, and shall not be less than the average rate of the employee’s share of that contribution, similarly calculated.

7. (1) Notwithstanding the foregoing provisions of this Part, no person shall be registered as a member of the Fund at any time when—

Certain employees not to be registered. 5 of 1997, s. 7.

(a) he is an exempt person; or

(b) he is a casual worker, unless there is in force an order made under section 5 specifying casual workers generally, or casual workers of a class or description to which he belongs, as persons who are to be registered as members of the Fund.

(2) For the purposes of this Act, every person of a class or description specified in the Second Schedule shall be an exempt person.

(3) The Minister may, on the recommendation of the Board of Trustees, by notice in the Gazette, add to, delete from or vary in the Second Schedule any class or description of exempt person.

Cancellation of registration of contributing employers.

8. Regulations may provide for the cancellation of the registration of any person as a contributing employer upon his making application in the prescribed manner, and upon his satisfying such conditions as may be prescribed as to his having ceased, for such period as may be prescribed, to be an employer of persons who are required or permitted to be registered as members of the Fund.

Accounts of members and duration of membership. 7 of 1971, s. 3, 15 of 1987, s. 4.

9. (1) There shall be established and maintained for each member of the Fund an account, to which shall be credited all contributions other than special contributions made to the Fund by or in respect of such member and to which shall be charged all benefits paid and refunds made to or in respect of such member.

(2) Subject to subsection (3), the account of a member shall be deemed to be closed when, and shall not be closed until—

- (a) all the moneys credited to that account have been paid out of that account in accordance with this Act; and
- (b) he has ceased to be a member of the Fund.

(3) The account of a member shall vest in the Board of Trustees and shall be disposed of by them in accordance with section 21—

- (a) upon the death of the member; or
- (b) if at any time when the member has attained the age of sixty-five years—
 - (i) no contribution has been paid into the account of that member during the previous five years; and
 - (ii) no claim by that member to benefit is pending determination.

(4) The membership of a member of the Fund shall cease, and his registration shall be cancelled—

- (a) upon his death; or
- (b) upon the payment to him of emigration grant:

Provided that a person who has ceased to be a member by reason of the payment of emigration grant shall, notwithstanding that payment, be liable to compulsory registration or eligible for voluntary registration as a member of the Fund if at any time he becomes so liable or eligible in accordance with this Act.

10. (1) Subject to this Part, a contributing employer shall, after the appointed day, for every contribution period during which he employs a person who is or is required by this Act to be registered as a member of the Fund, pay to the Fund the standard contribution specified in the Third Schedule in respect of that person.

Standard contributions by contributing employers. 5 of 1997, s. 8.

Provided that no contribution shall be paid under this section in respect of any wages earned by a person at any time when he is—

- (i) an exempt person; or
- (ii) a casual worker, unless there is in force an order made under section 5 specifying casual workers generally, or casual workers of a class or description to which he belongs, as persons who are to be registered as members of the Fund.

(2) Every standard contribution shall be paid in the prescribed manner to the Fund within fifteen days after the end of the month in which the last day of the contribution period to which it relates falls.

(3) Subject to subsection (4), in this Act “contribution period” means—

- (a) where wages are payable to an employee daily, the day on which the wages are payable;
- (b) where wages are payable to an employee at intervals of a week or less (except where they are payable daily), the week in which the wages are payable;
- (c) where wages are payable to an employee at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the wages are payable;
- (d) where wages are payable to an employee at intervals of more than a fortnight, the month in which the wages are payable.

(4) In any case where wages are payable to an employee at intervals of more than a month the wages of that employee shall be deemed for all the purposes of this Act to be payable to him at a monthly rate by monthly instalments.

(5) The Minister may, on the recommendation of the Board of Trustees, prescribe the maximum contribution payable in a contribution period.

Deduction of employee's share of standard contribution. 11 of 1983, Sch.

11. (1) A contributing employer may deduct the employee's share of a standard contribution (being the part of that contribution specified as such in the Third Schedule) from the wages payable by him to any employee in respect of the contribution period to which that contribution relates.

(2) Where, through inadvertence and without negligence an employer pays any wages to an employee without making any deduction which he was entitled to make in accordance with subsection (1), that employer may make that deduction, and may not make that deduction otherwise than, from any wages due and payable by him to that employee at any time within the period of six months immediately following the day on which the first mentioned wages were paid without deduction:

Provided that a deduction made under this subsection shall be made in not less than four equal monthly instalments unless the employee agrees in writing to the deduction being made over a shorter period.

(3) Where an employer deducts the employee's share of a standard contribution from the wages of that employee in advance of the payment of such contribution to the Fund, the employer shall hold such share in trust for the Fund.

(4) Where an employer has deducted the employee's share of a standard contribution from the wages of a member of the Fund but has failed to pay the contribution or the employee's share thereof to the Fund, then, whether or not such contribution or share is recovered from the employer, the amount of the employee's share shall be credited to the member's account in the Fund and the cost thereof shall be charged to the general revenue of the Fund.

(5) (*Deleted by 11 of 1983, Sch.*).

(6) For the purposes of any enactment which provides for the payment of minimum remuneration, and for the purpose of seeing whether a person's remuneration is less than the minimum provided for by that enactment, his remuneration shall be calculated before deduction of his share of any standard contribution payable under this Act.

Employer's share of contributions not to be deducted from wages.

12. Except as provided in section 11 in respect of the employee's share of a standard contribution, an employer shall not be entitled to deduct from the wages of his employee, or otherwise to recover from

him, any part of any contribution payable by him under this Act in respect of that employee.

13. (1) A contributing employer shall, after the appointed day, for every month during which he employs a casual worker, and whether or not that casual worker is a member of the Fund, pay to the Fund the special contribution specified in this section:

Special contributions in respect of casual workers.
7 of 1971, s. 4,
9 of 2007, s. 36.

Provided that no special contribution shall be payable under this section in respect of any wages earned by a member of the Fund in respect of which a contribution is payable under section 10.

(2) Every special contribution shall be paid in the prescribed manner to the Fund within fifteen days after the end of the month to which it relates.

(3) The amount of the special contribution shall be one shilling for every full twenty shillings of the total sum of the wages (excluding wages in respect of which a contribution is payable under section 10 payable by the contributing employer in the month to all the casual workers employed by him.

(4) The amount of special contribution payable under subsection (3) shall be declared as surplus benefits when actuarial valuation of the Fund is carried out and shall be used to augment voluntary individual accounts.

14. If any contribution for which a contributing employer is liable under this Act is not paid within one month after the end of the month in which the contribution period or the last day of the contribution period to which it relates falls, a sum equal to five per cent of the amount of that contribution shall be added to the contribution for each month or part of a month thereafter that the amount due remains unpaid, and any such additional amount shall be recoverable in the same manner as the contribution to which it is added.

Penalty for delayed payment of contributions.
7 of 1971, s. 5.

15. (1) Subject to this Act, the account of a member of the Fund and any benefit payable out of his account shall not be assignable or transferable and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever.

Accounts and benefits to be inalienable, and not to be affected by bankruptcy.
16 of 1977, Sch.

(2) Notwithstanding the bankruptcy of a member of the Fund, contributions shall be paid in respect of him and the employee's share may be deducted from his wages, and no part of the account of that member and no benefit paid out of that account shall pass to any trustee or other person acting on behalf of his creditors.

Special provision regarding former exempt persons not qualifying for pension benefits.

16. (1) Regulations under this section may be made to apply to persons of any class or description who cease to be employed in any employment by virtue of which they were exempt persons before becoming entitled to any pension benefits in respect of that employment, and who would have become entitled to pension benefits if they had continued for any further period of time in that employment.

(2) Regulations made under this section shall provide, with respect to every employed or formerly employed person to whom those regulations apply—

- (a) for the former employer to take such steps to secure the registration of that person as a member of the Fund, unless that person is already so registered, as may be prescribed;
- (b) for the former employer to pay to the Fund in respect of that person a sum equal to the aggregate of the sums that he would have paid to the Fund in respect of that person if he had paid to the Fund, throughout the period for which that person was employed by him and was an exempt person, the standard contribution less the employee's share thereof; and
- (c) for the sum so paid to be credited to the account of that person as a member of the Fund.

(3) In this section—

- (a) the “former employer”, in relation to any person, means the employer who formerly employed him in employment by virtue of which he was an exempt person;
- (b) a reference to a person becoming entitled to a pension benefit includes a reference to a person becoming entitled to a benefit payable at any time in the future or payable upon a contingency.

Persons to be treated as employers.

17. In relation to persons who—

- (a) are employed by more than one employer in any contribution period; or
- (b) work under the general control or management of some person other than their immediate employer,

and in relation to any other case for which it appears to the Minister that special provision is needed, regulations may provide that for the purposes of this Act the prescribed person shall be treated as their

employer; and such regulations may provide for adjusting the rights between themselves of employers, persons prescribed as employers and employees.

18. Regulations may provide—

- (a) for any matters incidental to the payment and collection of contributions under this Act;
- (b) for the return of contributions paid under this Act in error and for the adjustment of a member's account accordingly;
- (c) for the remission in whole or in part of penalties incurred under section 14, in such circumstances and subject to such conditions as may be prescribed.

Regulations regarding contributions.

PART IV—BENEFITS

19. (1) Benefits shall be of the following descriptions—

- (a) age benefit;
- (b) survivor's benefit;
- (c) invalidity benefit;
- (d) withdrawal benefit;
- (e) emigration grant;
- (f) such other benefits as may be prescribed by the Minister on the recommendation of the Board of Trustees.

Descriptions of benefits.
7 of 1971, s. 6,
5 of 1997, s. 9.

(2) Except with as otherwise provided, the amount of the several descriptions of benefits shall be the total standard contributions paid in respect of the member together with investment income earned by the member, calculated at the appropriate rate.

(3) In subsection (2), the expression "appropriate rate" means the rate of investment income required to be credited to the accounts of individual members of registered defined contribution pension schemes under the Income Tax Act.

20. (1) Subject to this Act, a member of the Fund shall be entitled to age benefit if he has attained the age of fifty-five years and has retired from regular employment.

Age benefit.
15 of 1987, s. 5.

(2) For the purposes of this section a member may be treated as having retired from regular employment—

- (a) whether or not he has previously been engaged in a gainful occupation; or
- (b) notwithstanding that he is engaged or intends to engage in a gainful occupation, if he is engaged or intends to engage therein only occasionally or to an inconsiderable extent or otherwise in circumstances not inconsistent with retirement.

Survivor's benefit.
7 of 1971, s. 7,
15 of 1987, s. 6.

21. (1) Subject to this Act, the dependent relatives of a member of the Fund shall be entitled upon his death to survivor's benefit, to the extent and subject to the conditions provided in this section.

(2) Survivor's benefit shall be apportioned among the dependent relatives of a deceased member of the Fund in accordance with regulations made under this section.

Provided that the regulations shall provide—

- (i) that where the dependent relatives of a deceased member include a wife, husband, son or daughter of the deceased, no part of the benefit shall be paid to or for the benefit of any person other than a dependent relative of one of the foregoing descriptions;
- (ii) that where the dependent relatives of the deceased do not include a dependent relative of one of the descriptions referred to in the foregoing paragraph, but include a parent, brother or sister of the deceased, no part of the benefit shall be paid to or for the benefit of any person other than a dependent relative of a description referred to in this paragraph.

(3) No benefit under this section shall be paid except to or in respect of a dependent relative who is alive on the date of payment, and any benefit that is paid otherwise than in accordance with this subsection shall be recoverable by the Board of Trustees as a sum due to the Fund from the estate of that dependent relative, or from the person to whom it was paid, as the case may require.

(4) Any sum standing to the credit of the account of a member which has vested in the Board of Trustees by virtue of section 9 (3) and which is not paid out or appropriated to the payment of any benefit in

consequence of a claim made before the expiration of five years from the date of such vesting shall not be the subject of any claim to benefit.

22. Subject to this Act, a member of the Fund shall be entitled to invalidity benefit if either— Invalidity benefit.
5 of 1997, s. 10.

- (a) he is subject to such physical or mental disability as to be suffering from permanent total incapacity; or
- (b) he is subject to such physical or mental disability as to be suffering from partial incapacity of a permanent nature and is unable by reason of such disability to earn a reasonable livelihood.

23. Subject to this Act, a member of the Fund shall be entitled to withdrawal benefit if— Withdrawal benefit.
15 of 1987, s. 7.

- (a) he has attained the age of fifty years; and
- (b) at the time of claiming the benefit, he is no longer employed by an employer who is liable under section 10 to make a contribution in respect of him.

24. Subject to this Act, a member of the Fund shall be entitled to emigration grant if he emigrates from Kenya to a country (other than a country with which a reciprocal agreement has been made pursuant to section 43) without any present intention of returning to reside in Kenya. Emigration grant.

25. Regulations may—

- (a) provide for the manner of the making and determination of any claim to a benefit as a member or as a dependent relative;
- (b) require attendance for and submission to such medical or other examination as may be prescribed by members or dependent relatives claiming benefit;
- (c) provide for the postponement of any payment of benefit pending the determination of any relevant inquiry;
- (d) provide which benefit shall be paid in any case where a member of the Fund is entitled to claim more than one description of benefit at any one time;
- (e) provide for the disqualification of any person from receiving

Regulations
regarding benefits.

any payment in respect of benefit while he is undergoing imprisonment or detention in legal custody;

- (f) provide for any benefit (other than emigration grant) to be converted into and paid as an annuity or other recurrent payment, or to be paid by instalments in such circumstances and subject to such conditions and in such manner as may be prescribed;
- (g) make provision for enabling or requiring a person to be appointed to receive a benefit on behalf of any other person, or to exercise any right or power under this Act on behalf of a person entitled to a benefit who is unable for the time being to act;
- (h) make provision for the imposition of any conditions on the application of any benefit paid to a person for the benefit of any other person.

PART V—FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

Finance

26. *(Repealed by 15 of 1987, s. 8.)*

Investment of Fund.
15 of 1987, s. 9,
5 of 1997, s. 11.
Cap. 167.

27. (1) All moneys in the Fund which are not for the time being required to be applied for the purposes of the Fund shall be invested in such investments, being investments in which any trust fund (or part thereof) is permitted by the Trustee Act to be invested, as may be determined by the Board of Trustees with the approval of the Minister and the Minister for the time being responsible for matters relating to finance:

Provided that any investments under this section shall be subject to the provisions of section 37 of the Retirement Benefits Act, 1997 and any regulations issued under subsection (2) of that section.

(2) All investments made under this section shall be held for and on behalf of the Fund in the name of the Board of Trustees.

28. *(Repealed by 7 of 1971, s. 9.)*

29. *(Repealed by 7 of 1971, s.10.)*

Expenses of
administering the

30. There shall be paid out of the Fund, at such times and in such manner as the Board of Trustees in consultation with the Minister may

determine, such sum as the Board of Trustees may estimate to be their expenses in carrying this Act into effect; and in estimating expenses for the purposes of this section there may be included—

- (a) an amount representing the accruing liability in respect of any pensions benefits to which any officers or servants employed for the purposes of this Act will become entitled in respect of that employment; and
- (b) an amount representing the rental value of any premises used for the purposes of this Act.

31. (1) The Board of Trustees shall cause to be kept all proper books of account and other books and records in relation to the Fund and to all the undertakings, funds, investments, activities and property of the Fund as the Board of Trustees may deem necessary.

Accounts and audit.
Fund.
15 of 1987, s. 10.
15 of 1987, s. 11,
5 of 1997, s. 12.
Cap. 412.

(2) Within a period of four months after the end of each financial year, the Board of Trustees shall prepare, sign and transmit to the Auditor-General (Corporations) or to an auditor appointed under subsection (3)—

- (a) a balance sheet showing in detail the assets and liabilities of the Fund;
- (b) a statement of income and expenditure of the Fund; and
- (c) such other statements of account as the Board of Trustees may deem necessary.

(3) The accounts of the Fund shall be audited and reported upon in accordance with sections 29 and 30A of the Exchequer and Audit Act, by an auditor appointed by the Board of Trustees under the authority of the Auditor-General (Corporations), given in accordance with section 29 (2) (b) of the Act.

(4) The Board of Trustees shall cause the audited accounts of the Fund to be published in the Gazette and in at least two newspapers circulating throughout Kenya.

Administration

32. (1) Subject to this Act, regulations may provide for the determination by an officer appointed by the Minister, or by a person or tribunal appointed or constituted in accordance with the regulations, of any question arising under or in connexion with this Act, including any claim for benefit, and subject to the regulations the decision in

Determination of
claims and questions.

accordance therewith of any such question shall be final.

(2) Regulations under subsection (1) may provide—

- (a) for enabling appeals to be brought from the decisions of any officer, person or tribunal to any other person or tribunal appointed or constituted in accordance with the regulations to hear such appeals; and
- (b) for the reference to the High Court for decision of any question of law arising in connexion with the determination of any question by any officer, person or tribunal, and for appeals to the High Court from the decision of any such officer, person or tribunal on any such question of law; and the Chief Justice shall have power to make rules of court for regulating such references and appeals, for empowering the court to make orders as to the costs of such references and appeals, and for limiting the time within which such appeals may be brought.

Managing trustee and
officers of the Fund.
15 of 1987, s. 12.

33. (1) For the purpose of this Act, the Minister shall, on the recommendation of the Board of Trustees, appoint a managing trustee who shall hold office on such terms and conditions of service as may be specified in the instrument of his appointment.

(2) The managing trustee shall be the chief executive of the Fund and responsible to the Board of Trustees for its management.

(3) The Board of Trustees shall have power to appoint on such terms and conditions of service as they may determine, such other officers, inspectors and servants of the Fund as may be necessary for the efficient administration of the Fund; and the Board of Trustees shall exercise disciplinary control over such officers, inspectors and servants.

(4) The Board of Trustees may, with the approval of the Minister and subject to such conditions as the Board of Trustees may think fit, by directions in writing, delegate any of their powers under subsection (3) to any one or more of the Trustees or to the managing trustee or other officer of the Fund.

Inspectors.
5 of 1997, s. 13.

34. (1) An enforcement officer appointed under this Act shall, for the purpose of ascertaining whether this Act is being or has been complied with in any premises or place liable to inspection under this section, have power to enter any such premises or place at all reasonable times, and to examine every person whom he finds therein.

(2) The occupier of any premises or place liable to inspection under this section, and any person who is or has been employing any person, and the servants and agents of any such occupier or other person, and any employee, shall furnish to an enforcement officer all such information and produce for inspection all such documents as the enforcement officer may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person, or whether any benefit is or was payable to or in respect of any person.

(3) The premises and places liable to inspection under this section are any premises or places where an enforcement officer has reasonable grounds for supposing that any persons are employed, except that they do not include any private dwelling not used for the purposes of a trade or business.

(4) Any person who—

- (a) wilfully delays or obstructs an enforcement officer in the exercise of any power under this section; or
- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this section,

shall be guilty of an offence and liable to a fine not exceeding fifteen thousand shillings and where the offence is a continuing one, such person shall be liable to a further fine of one thousand shillings for every day during which the offence continues.

Provided that no one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself.

(5) Every enforcement officer shall, if so required on applying for admission to any premises or place for the purposes of this Act, produce a certificate of his appointment signed by or under the authority of the Minister.

(6) Where any premises or place are or is liable to be inspected by a public officer for the purpose of enforcing any law other than this Act, the Minister may make arrangements for any of the powers and duties of enforcement officers under this section to be carried out by that public officer and, where such an arrangement is made, that public officer shall have all the powers of an enforcement officer under this section.

35. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by any person on behalf of or in

Exemption from stamp duty.
Cap. 480.

favour of the Fund or in respect of the payment of any benefit or the refunding of any contribution under this Act in any case where, but for this exemption, the Fund or any person acting on behalf of the Fund would be liable to pay such duty.

Legal Proceedings

Offences relating to contributions.
7 of 1971, s. 12,
16 of 1977, Sch.,
15 of 1987, s. 13.

36. Any person who—

- (a) fails without lawful excuse to pay to the Fund within the period prescribed by this Act any contribution which he is liable as a contributing employer to pay under this Act; or
- (b) knowingly makes any deduction from the wages of his employee in respect of any contribution which he is liable as a contributing employer to pay under this Act, other than a deduction which he is authorized to make by this Act; or
- (c) for the purpose of obtaining any benefit for himself or for any other person, knowingly makes any false statement or representation, or produces or furnishes, or causes to be produced or furnished, any document or information which he knows to be false in any material particular; or
- (d) fails to return to the Fund at the end of each calendar year contributions records, dockets or other documents which are required for the proper maintenance of members' accounts,

shall be guilty of an offence and liable to a fine not exceeding fifteen thousand shilling.

General provisions as to offences.

37. (1) Proceedings for an offence under this Act may, notwithstanding anything in any law to the contrary, be commenced at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Minister to justify a prosecution for the offence, comes to his knowledge, or within the period of twelve months after the commission of the offence, whichever period last expires.

(2) Where an offence under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of a body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

38. (1) The court before whom any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any contributions or any other sum, together with any interest or penalty thereon, found to be due from such person to the Fund, and any sum so ordered shall be recoverable as a fine and paid into the Fund.

Proceedings to recover sums due to Fund.
15 of 1987, s. 14.

(2) All sums due to the Fund shall be recoverable as debts due to the Board of Trustees, and without prejudice to any other remedy shall be a civil debt recoverable summarily.

39. All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by any enforcement officer or other officer of the Fund and, where the proceedings are instituted or brought in a magistrate's court, any such enforcement officer or other officer may prosecute or conduct the proceedings.

Institution and conduct of proceedings.
5 of 1997, s. 14.

40. All sums recovered by legal proceedings in respect of sums which should have been but were not paid to the Fund and credited to members' accounts shall be so credited, and where any such sum so recovered is insufficient for that purpose that sum shall be apportioned and paid into the respective accounts of the members concerned so that all such members receive as near as may be the same proportion of their respective claims.

Application of sums recovered in respect of members.

41. In any proceedings under this Act, a copy of any entry in the accounts of the Fund or any extract from the records of the Fund shall, if stated to be a true copy by a certificate purporting to be signed by the managing trustee be received in evidence as prima facie evidence of the truth of the contents thereof.

Evidence.
15 of 1987, s. 15.

PART VI—MISCELLANEOUS PROVISIONS

42. (1) Where an employer—

Existing Schemes.

(a) is liable to pay a standard contribution under this Act in respect of a member of the Fund; and

(b) is, whether by himself or in association with any other person, operating or contributing to any existing scheme under which that member of the Fund is a beneficiary for the provision of any benefits of a similar description to the benefits provided by this Act,

that employer may, by virtue of this subsection where the rules or other provisions of the scheme do not already so allow, amend the rules or

other provisions of the existing scheme, in so far as they apply to that member of the Fund, so as—

- (i) to reduce any contribution payable by that member under the scheme for any period by an amount not exceeding one-half of the amount payable in respect of that member under this Act by way of standard contribution for the same period;
- (ii) to reduce any contribution payable in respect of that member by that employer under the scheme for any period, not being a contribution that is recoverable by him from that member, by an amount not exceeding one-half of the amount payable in respect of that member under this Act by way of standard contribution for the same period; and
- (iii) to reduce accordingly the value of the benefits payable under the scheme.

(2) In this section, “existing scheme” means a scheme which is in existence on the day appointed for the commencement of section 10 in relation to the employer who is operating or contributing to the scheme.

Reciprocal
Agreements.

43. (1) For the purpose of giving effect to any agreement providing for reciprocal arrangements with the government of any country in which a fund or scheme similar to the Fund has been established, the Minister may make regulations for giving effect in Kenya to any such arrangements and for modifying or adapting this Act in its application to cases affected by such arrangements.

(2) The modifications of this Act which may be made by virtue of subsection (1) shall include provision—

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Act and under the law of that country, which of those rights shall be available to the person concerned;
- (c) for making any provisions as to administration and enforcement contained in this Act or in any regulations

applicable also for the purposes of the law of the country;
and

(d) for making any necessary financial adjustments by payments into or out of the Fund.

44. (1) The Minister may make regulations modifying in such manner as he thinks proper the provisions of this Act in their application— Modification of Act for special cases.

(a) to persons who are or have been outside Kenya while being members of the Fund;

(b) to persons who are employed on board any ship or aircraft.

(2) Regulations may provide—

(a) for the application of this Act to employed persons who are ordinarily resident in Kenya, notwithstanding that they are not employees within the meaning of this Act;

(b) for treating or for not treating as wages for the purposes of this Act any payment in cash in the nature of an allowance made at any time to an employee by his employer.

45. (1) This Act shall, subject to the provisions thereof relating to exempt persons, apply to persons in the service of the Government as it would apply if their employer were a private person, subject however to such modifications as may be made therein by regulations for the purpose of adapting the provisions of this Act to the case of such persons. Act to apply to Government servants. 7 of 1971, s. 13.

(2) All moneys required to be paid under this Act by the Government in respect of contributions in relation to persons in the service of the Government shall be charged on and paid out of the Consolidated Fund without any further appropriation than this Act.

46. (1) Without prejudice to any specific power conferred by any of the foregoing provisions of this Act, regulations may be made for facilitating the implementation of this Act, including in particular regulations— Regulations.

(a) prescribing the particulars, information, proof or evidence to be furnished as to any question or matter arising under this Act, including any question or matter relevant to the registration of any person, the payment of contributions by

or in respect of any person, the making or validity of any claim or application for the payment of any benefit, under this Act;

- (b) prescribing, in respect of any action required or permitted to be taken under this Act, the time and manner of taking that action, the procedure to be followed, and the forms to be used.

(2) Any regulations made under this Act may make different provision with respect to different cases or classes of case and for different purposes of this Act, may impose conditions and make exceptions, and may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.

Consideration of regulations by Board of Trustees.
15 of 1987, s. 16,
5 of 1997, s. 15.

47. (1) Before making any regulations under this Act, the Minister shall submit a draft thereof to the Board of Trustees for consideration and report.

(2) Where a draft is so submitted to them, the Board of Trustees shall publish, in such manner as they think best adapted for notifying persons affected, notice of the fact and of the place where copies of the draft may be obtained and of the time, which shall not be less than fourteen nor more than twenty-eight days, within which any objection made with respect to the draft by or on behalf of persons affected must be sent to the Board of Trustees.

(3) Every objection shall be in writing and shall state the portions of the draft which are objected to, the specific grounds of objection, and the omissions, additions or modifications asked for.

(4) The Board of Trustees shall forthwith consider any draft submitted to them under this section and shall consider any objection made by or on behalf of any person appearing to them to be affected which is sent to them within the required time, and shall report on the draft to the Minister.

(5) Whenever any regulations which have been submitted in draft to and reported on by the Board of Trustees are laid before the National Assembly, there shall be laid together therewith a copy of the report of the Board of Trustees on the draft thereof and a statement—

- (a) showing what amendments (if any) have been made since the report of the Board of Trustees and what effect (if any) has been given to any recommendation of the Board of Trustees; and

- (b) if effect has not been given to any recommendation, giving reasons for not adopting it.

48. Any person who is guilty of any offence under this Act or who contravenes or fails to comply with any of the provisions of this Act or any regulations made thereunder for which no penalty is expressly provided shall be liable to a fine not exceeding twenty thousand shillings.

Penalty where not expressly provided. 16 of 1977, Sch., 15 of 1987, s. 17, 5 of 1997, s. 16.

FIRST SCHEDULE

(s. 4 (1))

15 of 1987, s. 18, 5 of 1997, s. 17.

THE NATIONAL SOCIAL SECURITY FUND BOARD OF TRUSTEES

1. Subject to paragraph 2, the Board of Trustees shall comprise—

- (a) a chairman to be appointed by the Minister from amongst the trustees appointed under subparagraphs (iii), (iv) or (v) of paragraph (d);
- (b) the Permanent Secretary to the Treasury;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to labour and social security;
- (d) seven other trustees appointed by the Minister of whom—
- (i) two shall be appointed by virtue of their knowledge and experience in matters relating to employers, to represent employers in Kenya;
 - (ii) two shall be appointed by virtue of their knowledge and experience in matters relating to employers, to represent employees in Kenya;
 - (iii) one shall be appointed by virtue of his knowledge and experience in matters relating to banking and investment;
 - (iv) one shall be appointed by virtue of his knowledge and experience in matters relating to pension funds or insurance;

(v) one shall be appointed by virtue of his knowledge and experience in matters relating to accounting and auditing, law, corporate or business management; and

(vi) one shall be the managing trustee.

2. No person shall be appointed as a trustee under paragraph 1 if such person—

(a) has been convicted of an offence by a court of competent jurisdiction and sentenced to imprisonment for a term of six months or more;

(b) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

(c) is disqualified under the provisions of any other written law from appointment as such.

3. The chairman and other trustees, except the trustees under subparagraphs (b), (c) and (d) (vi) of paragraph 1 shall hold office for a period of three years, but shall be eligible for re-appointment.

4. A trustee other than the trustees under subparagraphs (b), (c) and (d) (vi) of paragraph 1 may—

(a) at any time resign from office by notice in writing to the Minister; or

(b) be removed from office by the Minister if the trustee—

(i) has been absent from three consecutive meetings of the Board of Trustees without justifiable cause or the permission of the chairman;

(ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term of six months or more; or

(v) is incapacitated by prolonged physical or mental illness;
or

(vi) is otherwise unable or unfit to discharge his functions.

5. The quorum for any meeting of the Board of Trustees shall be six of whom at least one shall be a representative of employees and one a representative of employers.

6. All questions proposed at a meeting of the Board of Trustees shall be decided by a majority of the votes of the trustees present and voting, and in the event of an equality of votes, the chairman or the person presiding shall have a casting vote in addition to his deliberative vote.

7. The Board of Trustees may act notwithstanding any vacancy among the trustees.

8. The Board of Trustees may make rules for regulating the procedure at their meetings.

9. The seal of the Board of Trustees shall be authenticated by the signature of the chairman of the Board of Trustees and the managing trustee and any document not required by law to be under seal and all decisions of the Board of Trustees may be authenticated by the chairman and the managing trustee:

Provided that the Board of Trustees shall, in the absence of either the chairman or the managing trustee, in any particular case, or for any particular case or for any particular matter, nominate the secretary and the secretary shall, in the particular case or matter in respect of which he is nominated, authenticate the seal of the Board of Trustees on behalf of either the chairman or the managing trustee.

10. (1) The Board of Trustees shall appoint a secretary to the Board of Trustees on such terms and conditions as the Board of Trustees may determine.

(2) The secretary shall perform such duties as the Board of Trustees may assign from time to time.

(3) In the performance of his duties under this Act, the secretary shall be responsible to the managing trustee.

EXEMPT PERSONS

Cap. 189

1. Persons eligible to receive any pension benefits under any scheme to which the Pensions Act applies, and persons entitled to receive pension benefits under any scheme (statutory or non-statutory) approved by the Minister in writing for the purposes of this Schedule as a scheme providing comparable benefits, being persons in the public service, local government authority or any corporation or body established for public purposes.

2. Persons in the service of any University or College who are entitled to receive benefits under any superannuation scheme approved by the Minister in writing for the purposes of this Schedule.

3. Persons entitled to exemption from contribution to social security schemes under any International Convention.

4. Members (other than civilian employees) of—

- (a) the armed forces;
- (b) the Kenya Police Force;
- (c) the Prison Services;
- (d) the National Youth Service.

5. Persons not ordinarily resident in Kenya who are employed in Kenya for periods not exceeding three years at any one time (or such longer periods as the Minister may allow in any particular case or class of case), being persons who are liable to contribute to or are or will be entitled to benefit from:—

- (a) the social security scheme of any country other than Kenya approved by the Minister in writing for the purposes of this Schedule; or
- (b) any scheme associated with their employment under which the benefits are comparable to the benefits provided by this Act, and approved by the Minister in writing for the purposes of this Schedule.

6. Persons undergoing full-time instruction in Schools, Colleges, University or similar educational institutions:

Provided that where bona fide students become employed during the periods of vacation, any payment in cash in the nature of allowances made at any time in respect of such employment shall not be construed as wages for the purposes of this Act.

THIRD SCHEDULE

(ss. 10 and 11)

6 of 1976, Sch.,
L.N. 224/1976,
L.N. 162/2001.

STANDARD CONTRIBUTIONS

1. For contribution periods of one month, one fortnight and one week contributions shall be paid in respect of each employee in accordance with the following scale—

<i>Wages payable in the contribution period</i>	<i>Employee's share deductible from wages by employer</i>		<i>Standard Contribution</i>	
	<i>Sh.</i>	<i>Sh. cts</i>	<i>Sh.</i>	<i>cts</i>
Up to 15		50	1	00
16 to 25	1	00	2	00
26 to 35	1	50	3	00
36 to 45	2	00	4	00
46 to 55	2	50	5	00
56 to 65	3	00	6	00
66 to 75	3	50	7	00
76 to 85	4	00	8	00
86 to 95	4	50	9	00
96 to 105	5	00	10	00

thereafter the employee's share to increase by 50 cents and the standard contribution to increase by Sh. 1 for each complete Sh. 10 of wages in excess of Sh. 96:

Provided that the maximum contribution payable in a contribution period shall be—

<i>Contribution period</i>	<i>Employee's share deductible from wages by employer</i>	<i>Standard contribution</i>
	KSh.	KSh.
One month	200	400
One fortnight	100	200
One week	50	100

L.N. 162/2001.

2. For daily paid employees the standard contribution for each employee shall be fifty cents, of which the employee's share deductible from wages by the employer shall be twenty-five cents.

15 of 1987, s. 19.

FOURTH SCHEDULE

TRANSITIONAL PROVISIONS

15 of 1987.

1. In this Schedule "appointed day" means the 1st January, 1988, when the National Social Security Fund (Amendment) Act, 1987 came into operation.*

2. (1) On the appointed day all the funds assets and other property movable and immovable which immediately before that day, were held for and on behalf of the Fund in the name of the Permanent Secretary to the Treasury shall, by virtue of this paragraph and without further assurance vest in the Board of Trustees.

(2) Every public officer having the power or duty to effect or amend any entry in a register relating to property or to issue or amend any certificate or other document effecting or evidencing title to property, shall, without payment of fee or other charge and upon request made by or on behalf of the Trustees do all such things as are by law necessary to give final effect to the transfer of the property mentioned in subparagraph (1).

3. On the appointed day, all rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the appointed day were vested in, imposed on or enforceable by or against the Government for and on behalf of the Fund shall by virtue of this paragraph, be transferred to, vested in, imposed on or enforceable by or against the Board of Trustees.

4. On and after the appointed day, all actions, suits or legal proceedings pending by or against the Government for and on behalf of the Fund shall be carried on or prosecuted by or against the Board of Trustees and no such action, suit or legal proceedings shall abate or be prejudicially affected by reason of the enactment of the National Social Security Fund (Amendment) Act, 1987.

5. On and after the appointed day, the Director of the Fund and other officers, inspectors and servants of the Fund in office on the appointed day shall be deemed to be the managing trustee, officers, inspectors and servants of the Fund appointed by the Board of Trustees under section 33 of the Act and their terms and conditions of service in the public service as on the appointed day shall be deemed *mutatis*

*L.N. 311/1987.

mutandis to be the terms and conditions of service determined by the Board of Trustees under that section.

6. The annual estimates for the Fund for the financial year in which the appointed day occurs shall be deemed to be the annual estimates of the Board of Trustees for the remainder of such financial year:

Provided that such estimates may be varied by the Board of Trustees in such manner as the Minister may approve.

[Subsidiary]

SUBSIDIARY LEGISLATION

Days appointed under section 1 (2)

- L.N. 308/1965, L.N. 17/1966, L.N. 92/1966, L.N. 127/1966, L.N. 332/1966, L.N. 47/1967, L.N. 41/1968. The whole of the Act, except sections 10 and 13 thereof, came into force on the 23rd November, 1965.
- Sections 10 and 13 of the Act came into force, in respect of the employees specified in the first column hereunder, on the days specified in the second column hereunder.
 - The Government, the Organization and private employers of five hundred or more employees 1st July, 1966.
 - Private employers of one hundred to four hundred and ninety-nine employees.....1st September, 1966
 - Private employers of fifty to ninety-nine employees1st November, 1966.
 - Local authorities and private employers of ten to forty-nine employees1st April, 1967.
 - Employers of five to nine employees1st April, 1968.

Orders under section 5 (1)

L.N. 8/1975, L.N. 84/2007.

THE NATIONAL SOCIAL SECURITY FUND (REGISTRATION) ORDER

1. This Order may be cited as the National Social Security Fund (Registration) Order.
2. In this Order, unless the context otherwise requires—
 - “employer” means any public body, any person or individual employing one or more employees.
3. All employees of or over the age of sixteen years, except the members of the crew of any ship, and all employers are hereby declared to be registrable respectively as members of the Fund and as contributing employers, with effect from 17th January, 1975:

L.N. 309/1965. Provided that this paragraph shall not apply in respect of any male employee nor to any employer who has been registered on or before 16th January, 1975, in pursuance of the National Social Security Fund (Registration) Order, 1965 (now revoked).

- L.N. 84/2007. 4. All casual workers or self-employed individuals of or above the age

[Subsidiary]

of sixteen years, and all employers of casual workers, may voluntarily elect to register as members of the Fund and as contributing individuals or employers, with effect from 1st January, 2008.

Regulation under sections 5 (3) and 8

THE NATIONAL SOCIAL SECURITY FUND (REGISTRATION) REGULATIONS

L.N. 310/1965.

1. These Regulations may be cited as the National Social Security Fund (Registration) Regulations. Citation.
2. In these Regulations—
 “appropriate form” means such form, or form of like character, as may be approved by the managing trustee. Interpretation.
 “contributing member” means a member of the Fund in respect of whom standard contributions are payable.
3. Every contributing employer shall register with the Fund by completing and forwarding the appropriate form to the Fund within twenty-one days of first becoming liable to register. Registration of contributing employers.
4. The managing trustee shall allot a registration number to every contributing employer registered under regulation 3. Registration number.
5. Every contributing employer registered under regulation 3 shall complete and forward to the Fund without delay the appropriate form or forms in respect of each of his employees who is registrable as a member of the Fund and who has not previously been registered. Returns as to employees.
6. The managing trustee shall allot a membership number to each employee registered under regulation 5. Membership number.
7. (1) The managing trustee shall forward to a contributing employer a membership card for each member of the Fund who is registered whilst in his employ. Membership cards.
 (2) Every contributing employer to whom such membership card is sent shall forthwith hand it or cause it to be handed to the employee concerned, or, if the employee is no longer in his employ, he shall return it to the Fund without delay.
 (3) All membership cards shall remain the property of the Fund.
8. Every contributing employer shall keep a written record of the Fund membership number of each of his employees who is a contributing member. Record of employees.

[Subsidiary]

Duplicate membership cards.

9. (1) If the membership card of a member of the Fund is lost or destroyed, the member concerned shall apply to the managing trustee for the issue to him of a duplicate membership card in place thereof.

(2) The managing trustee may issue such duplicate after obtaining from the member or his contributing employer such information as may be required for the completion of the duplicate and may make a charge of Sh. 2/50 therefor.

(3) Every duplicate membership card shall, before issue, be endorsed with the word "Duplicate" and bear the date of issue.

Notification of changes.

10. (1) Each contributing employer shall without delay notify the Fund of any change of his address.

(2) Every contributing employer shall notify the Fund when any contributing member first enters, or ceases to be in, his employ and shall furnish such further information as the managing trustee may require for the purpose of tracing such member.

Production of membership card to employer.

11. Each member of the Fund shall immediately on commencing work for a new contributing employer produce his membership card to such employer for inspection.

Cancellation of employer's registration.

12. The registration of a contributing employer under regulation 3 shall be cancelled upon his making application on the appropriate form when he—

(a) ceases to have any contributing member in his employ; or

(b) has throughout the two previous years employed fewer than the number of employees prescribed for compulsory registration in his case.

Regulations under section 16

L.N. 176/1975.

THE NATIONAL SOCIAL SECURITY FUND (FORMER EXEMPT PERSONS) REGULATIONS

1. These Regulations may be cited as the National Social Security Fund (Former Exempt Persons) Regulations.

2. In these Regulations the expression "pension benefits" does not include any pensions or gratuity payable to a non-pensionable officer under the Pensions Act.

Cap. 189.

3. Where any person who is qualified to receive any pension benefits under any scheme to which the Pensions Act applies and a person qualified to receive benefits under any other scheme approved by the Minister in writing as a scheme providing comparable benefits, and where a person in the service of any University or University College who is qualified to receive benefits under any superannuation scheme approved by the Minister in writing, ceases to be

[Subsidiary]

employed before becoming entitled to any pension benefits in respect of that employment and thereby ceases to be an exempt person, the former employer of such person shall—

- (a) secure the registration of such a person as a member of the Fund by completing and forwarding the appropriate registration form to the Fund within twenty-one days from the day when his employee's employment ceases; and
- (b) pay to the Fund, in respect of such a person a sum equal to the aggregate of the sums that he would have paid to the Fund in respect of such person if he had paid to the Fund throughout the period for which such a person was employed and was an exempt person, the standard contributions less the employee's share thereof.

4. Regulation 3 (b) shall not apply where cessation of employment is caused by death or permanent incapacity covered under, the Workmen's Compensation Act. Cap. 236.

5. Where a person who became an exempt person by virtue of being a member (other than a civilian employee) of the armed forces, the Kenya Police Force, the Prison Services, and the National Youth Service, ceases to be employed by any of these Services before becoming entitled to any pension benefits in respect of that employment and thereby ceases to be an exempt person, regulations 3 and 4 shall apply to him.

6. Where a pensionable officer who has served for less than ten years retires with a service gratuity under the Pensions Act, payment to the Fund may be made by recovering that amount from the service gratuity payable to such officer under the Pensions Act. Cap. 189.

7. The sum paid under these Regulations shall be credited to the account of the person in respect of whom such sum is paid as a member of the Fund.

Regulations under section 18

THE NATIONAL SOCIAL SECURITY FUND (RETURN OF CONTRIBUTIONS AND REMISSION OF PENALTIES) REGULATIONS

L.N. 188/1966.

1. These Regulations may be cited as the National Social Security Fund (Return of Contributions and Remission of Penalties) Regulations.

2. (1) Where a person has paid any contributions to the Fund in error, the managing trustee shall subject to paragraphs (2) and (3), return such contributions to that person and shall adjust the account of the member in respect of whom such contributions were paid accordingly.

(2) In calculating the amount of any repayment to be made under this regulation, the managing trustee may—

[Subsidiary]

(a) deduct the amount of any contributions due at the date of repayment, and any amount so deducted shall be credited to the account of the member in respect of whom it is deducted;

(b) deduct the amount of any penalty due under section 14 of the Act.

(3) Standard contributions paid in error by an employer in respect of an employee and not deducted from his wages may be repaid to the employer, but if so deducted may be repaid to the employee, or, with his consent in writing, to his employer.

3. A person desiring to apply for the return of any contribution paid in error shall, within one year from the date on which that contribution was paid, make the application in such form and in such manner as the managing trustee may from time to time determine.

4. Where any contributing employer has, within three months from the date on which he is liable under the Act to commence payment of contributions, paid within that period of three months the whole of any contributions due and payable at the date on which such payment is made, the managing trustee may remit the whole of any penalty incurred under section 14 of the Act in respect of the period in relation to which the payment is made.

Regulation under section 19 (1) (f)

L.N. 157/2001.

THE NATIONAL SOCIAL SECURITY FUND (HOSPITAL IN-PATIENT BENEFITS) (REVOCATION) REGULATIONS, 2001

1. These Regulations may be cited as the National Social Security Fund (Hospital In-patient Benefits) (Revocation) Regulation, 2001.

2. The National Social Security Fund (Hospital In-patient Benefits) Regulations, are revoked.

Regulations under sections 25 and 46

L.N. 184/1966.

THE NATIONAL SOCIAL SECURITY FUND (CLAIMS AND PAYMENTS) (BENEFITS) REGULATIONS

1. These Regulations may be cited as the National Social Security Fund (Claims and Payments) (Benefits) Regulations.

2. (1) A claim for the payment of any benefit shall be made in writing in the approved form to the managing trustee or any person authorized in that behalf by him, and there shall be submitted with such form the membership card of the member to whose account in the Fund the claim relates:

Provided that the managing trustee may dispense with the production of

[Subsidiary]

the membership card where he is satisfied that it is reasonable so to do.

(2) In this regulation—

“approved form” means such forms as the managing trustee may, from time to time, approve for the purposes of making application for the payment of benefits under these Regulations;

“membership card” means a membership card issued under the National Social Security Fund (Registration) Regulations.

Supra.

3. The managing trustee may, when considering any claim for the payment of a benefit, treat such claim as a claim appropriate to a description of benefit other than that claimed.

4. (1) Every person who makes a claim for the payment of a benefit shall, for the purpose of determining his claim—

(a) furnish such certificates, documents, information and evidence as may be required by the managing trustee including where appropriate—

(i) a statutory declaration as to the truth of any statement of fact made by the claimant in his claim or in any evidence submitted by him;

(ii) an examination of the member or of his dependants by a qualified medical practitioner;

(iii) in claims for age benefit, production of evidence in support of the claimant’s statement that he has retired, or is about to retire, from regular employment;

(iv) in claims for survivor’s benefit, a certificate or other evidence of the death of the member concerned, evidence of the claimant’s own identity and relationship to the deceased member and information about other relatives of the deceased; and

(b) if reasonably so required, attend at such office or place as the managing trustee may direct.

(2) In this regulation, “qualified medical practitioner” means any person registered as a medical practitioner under the Medical Practitioners and Dentists Act and any person who if he were in Kenya would be eligible for registration as a medical practitioner under that Act.

Cap. 253.

5. If, in the opinion of the managing trustee any claim is incomplete or defective at the date of its receipt by him, he may refer the claim to the claimant and if the form is returned duly completed or rectified within two weeks from the date on which it is so referred, the managing trustee may treat the claim as if it had been duly made in the first instance.

[Subsidiary]

6. In the absence of evidence to the contrary the date of birth of a member of the Fund entered in the records of the Fund shall be conclusive and where no date of birth is recorded for a member or his dependants or is disputed the managing trustee may require such further evidence of age (including medical evidence) as may be obtainable.

7. (1) Subject to paragraph (2), if a person fails to make a claim for any benefit within five years of the date upon which the member's account in respect of which the claim is made is vested in the Minister under section 9 (3) of the Act, he shall be disqualified from receiving any benefit.

(2) If a person fails to make a claim for survivor's benefit within four weeks of the date upon which the first claim in respect of that benefit is received by the managing trustee, he shall, unless the managing trustee otherwise directs, be disqualified from receiving that benefit or any part thereof.

8. (1) Any sum payable by way of benefit shall, unless the managing trustee otherwise directs, be paid in cash, by cheque or other suitable document of payment.

(2) When any cheque or other document of payment has been sent by ordinary or registered post, delivery thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which a letter would be delivered in the ordinary course of the post:

Provided that where the managing trustee is satisfied that a cheque or other document of payment has been lost or destroyed he may on receipt of a duly executed indemnity issue a duplicate of such cheque or other document of payment.

9. Where there is more than one person having under the Act an equal claim to survivor's benefit such benefit shall be apportioned equally among such persons, unless in a particular case the managing trustee is satisfied that a different apportionment would be appropriate.

10. (1) Where survivor's benefit or invalidity benefit is payable by reason of the death or invalidity of a member in circumstances giving rise to a claim under the Workmen's Compensation Act the managing trustee may pay the benefit at such time and by such number of monthly instalments as he deems to be in the best interest of the beneficiary.

(2) Subject to the foregoing provision any benefit, other than emigration grant, may with the approval of the managing trustee be paid by way of monthly instalments of not less than the monthly wage of the member at the time of payment of the last standard contribution under the Act.

11. The receipt of a member of the Fund or his legal representative or of a person authorized to receive the benefit on his behalf shall be a full and sufficient discharge to the Fund for the sum specified therein.

12 . Where the managing trustee is satisfied that a beneficiary is of

unsound mind or for any reason is unfit to manage his own affairs he may pay the benefit, or any part thereof, due to that beneficiary to any other person who, in the opinion of the managing trustee, is a proper person to receive the sum on the beneficiary's behalf and will apply the sum for the maintenance and benefit of the said beneficiary; and any receipt given by such person shall be a good and sufficient discharge to the Fund for the sum so paid.

[Subsidiary]

13. Any person undergoing imprisonment or detention in legal custody shall be disqualified from receiving any benefit for so long as he is in prison or so detained.

14. Where any sum has been authorized to be paid out of the Fund by way of benefit to any person and such person has not obtained payment within one year after the date of authorization, such sum shall be credited to the original account of the member and the right to the payment of such sum shall be extinguished:

Provided that in any case where there is good cause for the failure to obtain payment the said period shall be extended by such further period as the managing trustee may, in his discretion, determine.

**THE NATIONAL SOCIAL SECURITY FUND
(COMMENCEMENT OF CONTRIBUTIONS) ORDER, 2009**

L.N. 159/2009.

1. This Order may be cited as the National Social Security Fund (Commencement of Contributions) Order, 2009.

2. Sections 10 and 13 of the Act shall come into operation in respect of the employers specified in the first column of the Schedule with effect from the date specified in relation thereto in the second column.

Column 1

Column 2

Employers of one to four employees

1st November, 2009.

