

## CHAPTER 222

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## CHAPTER 222

### THE NATIONAL SOCIAL SECURITY FUND ACT.

*Commencement:* 1 December, 1985.

**An Act to provide for the establishment of a National Social Security Fund and to provide for its membership, the payment of contributions to, and the payment of benefits out of, the fund and for other purposes connected therewith.**

*Interpretation.*

#### **1. Interpretation.**

In this Act, unless the context otherwise requires—

- (a) “age”, where actual age is not known, includes apparent age;
- (b) “appointed day” means the 1st December, 1985;
- (c) “benefit” means a benefit payable under this Act;
- (d) “board” means the board of directors established under section 3;
- (e) “contract of service” means any contract of service or apprenticeship or learnership whether written or oral and whether express or implied;
- (f) “contributing employer” means any employer who—
  - (i) belongs to a class or description of employers specified as contributing employers by an order made under section 7;
  - or
  - (ii) has registered voluntarily as a contributing employer under section 10;
- (g) “contribution” includes the standard contribution and the special contribution;
- (h) “eligible employee” has the meaning assigned to it by section 6;
- (i) “employee” means any person who—
  - (i) is employed in Uganda under a contract of service;
  - (ii) is ordinarily resident in Uganda and is employed outside Uganda (or partly in and partly outside Uganda) under a contract of service entered into with the employer who resides in a place of business in Uganda; or
  - (iii) is ordinarily resident in Uganda and is employed under a contract of service as master or 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 Uganda;
- (j) “employee’s share” in relation to contribution means such part of that contribution (if any) as the employer may lawfully deduct from the wage of the employee in respect of whom that contribution is payable;
  - (k) “employer” includes the Government, manager or a subcontractor who provides employees for the principal contractor; but where a person enters into a contract by which some other person is to provide employees for any lawful purpose of the first-mentioned person and it is not clear from the contract which of the two persons is the employer, the first-mentioned person shall be deemed, for the purposes of this Act, to be the employer;
  - (l) “excepted employment” means any one of the employments specified in the First Schedule to this Act;
  - (m) “excepted person” means a person in excepted employment;
  - (n) “exempt person” means any person in respect of whom a certificate of exemption has been issued pursuant to the Second Schedule to this Act;
  - (o) “financial year” means a period of twelve months starting on the 1st of July and ending on the 30th of June in any year;
  - (p) “functions” includes power and duties;
  - (q) “fund” means the National Social Security Fund established under section 2;
  - (r) “local authority” means an administration of a district, a municipal council or the National Water and Sewerage Corporation;
  - (s) “managing director” means the managing director of the National Social Security Fund, appointed under section 39;
  - (t) “member” means a person who is registered as a member of the fund pursuant to this Act;
  - (u) “Minister” means the Minister responsible for social security;
  - (v) “nonresident employee” means an employee not ordinarily resident in Uganda who is to be employed in Uganda for a continuous period of not more than three years or such longer period as is allowed in any particular case by the managing director; but where a nonresident employee employed by an employer in Uganda becomes at any time an employee ordinarily resident or becomes employed in Uganda in circumstances which qualify him or her to be an eligible employee under this Act, he

- or she shall not cease to be, in relation to that employer, a nonresident employee before the end of a month;
- (w) “reserve account” means the reserve account of the fund established pursuant to section 36;
  - (x) “special contribution” means the contribution payable under section 13;
  - (y) “standard contribution” means the contribution payable under section 11;
  - (z) “wages” means all emoluments which would be payable in cash to an employee under his or her contract of service if no deductions were made, whether in pursuance of any law requiring or permitting any deduction or otherwise.

*Establishment and management of the fund.*

**2. Establishment of the fund.**

(1) There is established a fund to be known as the National Social Security Fund, into which there shall be paid all contributions and all other payments made in accordance with this Act and out of which there shall be paid all benefits and other payments required by this Act.

(2) The fund shall be a body corporate having perpetual succession and a common seal, and may sue or be sued in its corporate name and may, in connection with its functions under this Act purchase, hold, manage and dispose of any property, enter into contracts and do or suffer all such other things as bodies corporate may lawfully do or suffer.

(3) The fund shall have a common seal, and the seal shall be authenticated by the signature of the chairperson and one other member of the board or of any other two members of the board authorised by resolution of the board either generally or specially to act in that behalf.

**3. Board of directors.**

(1) The governing body of the fund shall be a board of directors consisting of a chairperson, the managing director and not less than six nor more than eight other members.

(2) The chairperson and the other members of the board, other than the managing director, shall be appointed by the Minister for a period of

three years and upon such terms and conditions as may be specified in the instruments of appointment and shall be eligible for reappointment.

- (3) The Minister shall revoke the appointment of the director—
  - (a) if he or she is unable to perform the functions of his or her office;
  - (b) if he or she is insolvent or bankrupt; or
  - (c) if he or she is convicted of an offence involving fraud or dishonesty.

(4) A director may, by writing under his or her hand addressed to the Minister, resign his or her office.

#### **4. General functions and duties of the board.**

(1) The board shall operate and manage the fund and exercise such functions, powers and duties as are conferred upon it by this Act.

(2) In the performance of its functions and duties and in the exercise of its powers, the board may do all lawful things that are necessary or expedient to secure the due execution of the purposes of this Act.

(3) The board shall ensure that there is secure, profitable and effective financial management of the fund for the benefit of the workers in particular and the country at large.

(4) The board may delegate any of its powers to a committee or any person as it may deem necessary.

#### **5. Meetings of the board.**

(1) The chairperson shall preside at all meetings of the board, but in his or her absence any member appointed in that behalf by the members present shall preside.

(2) The board shall meet for the discharge of its functions at least once every three months at such time and place as the chairperson may appoint or upon the request of the majority of the board members.

(3) The quorum at any meeting of the board shall be five.

(4) Decisions of the board shall be taken by a simple majority of the members present and voting, with the person presiding having a casting vote.

(5) The board may invite any person who is not a member to participate in the deliberations of the board, but such person shall not be entitled to vote.

*Eligibility, membership and registration.*

**6. Eligible employee.**

(1) Any employee of or above the age of sixteen and below the age of fifty-five years except—

- (a) an employee employed in excepted employment;
- (b) a nonresident employee;
- (c) an employee not employed in Uganda,

who is declared by the Minister to be such employee and any farmer or artisan who is a member of a cooperative society shall, for the purposes of this Act, be deemed to be an eligible employee.

(2) Notwithstanding subsection (1), the Minister may, by statutory order, declare the following employees or classes of employees eligible employees—

- (a) any nonresident employees or any class of nonresident employees;
- (b) any employees not employed in Uganda or any class of employees not employed in Uganda,

and he or she may, in such order or in a subsequent order, modify the application of this Act to any or all such employees or class of employees mentioned in the order.

**7. Compulsory registration of employers and eligible employees.**

- (1) The Minister may, by statutory order—
  - (a) specify any class or description of eligible employees as persons who shall be registered as members of the fund; and
  - (b) specify any class or description of employers as persons who shall be registered as contributing employers.

(2) When the Minister has made an order under subsection (1), any person to whom the order applies shall register himself or herself in the

prescribed manner; and any employer of a class or description specified in the order as a contributing employer, whether that employer is registered or not, shall be subject to the same extent to those provisions of this Act which apply to a registered contributing employer.

(3) Where, in the order made under subsection (1), the Minister specifies any class or description of employers as contributing employers by reference to the number of employees, any employer affected by that order who is dissatisfied with the specification may in writing authorise the Government statistician to disclose to the Minister the number of employees, declared by that employer at the previous annual enumeration of employees and that disclosure shall be conclusive until the next enumeration.

(4) A registered employee shall produce evidence of his or her registration and membership to his or her employer, and, if he or she changes his or her name, give all such particulars to the fund.

(5) An employer of a class or description specified in an order made under subsection (1)(b) shall, whenever applying for a business licence, be required to produce a clearance certificate of up-to-date payments of due contributions issued by the managing director.

(6) For the purposes of subsection (5), business licence includes a practising certificate for any profession.

(7) No employer of a class or description specified in an order made under subsection (1)(b) shall leave or attempt to leave Uganda, whether temporarily or permanently, unless he or she is in possession of a clearance certificate issued by the managing director.

(8) A clearance certificate shall be valid for such period from the date of issue or for such number of journeys to a destination outside Uganda as may be specified in the certificate.

## **8. Excepted employment.**

(1) For the purposes of this Act, any employment specified in the First Schedule to this Act is an excepted employment.

(2) The Minister may, by statutory instrument, amend the First Schedule.

## **9. Cancellation of registration.**

Any person registered as a contributing employer who—

- (a) ceases to employ an eligible employee; or
- (b) throughout the two years immediately preceding his or her application under this section has employed less than the minimum number of employees required under this Act for compulsory registration,

may apply to the managing director, in the form approved by the Minister, for the cancellation of his or her registration; and the managing director shall, if he or she is satisfied with the information contained in the application, cancel the registration.

## **10. Voluntary membership.**

(1) Subject to subsection (2), any employer who is not required by an order made under section 7(1) may, subject to any prescribed terms and conditions, apply for voluntary registration as a contributing employer; and any eligible employee of such employer may thereafter apply for voluntary registration as a member of the fund.

(2) The Minister may, by statutory order, appoint a period during which registration under this section may be made.

(3) Any member of the fund in respect of whom the standard contribution has ceased to be payable under this Act may apply in the time and in the manner prescribed to make voluntary contributions to the fund which—

- (a) shall not be less than half of, nor more than, the average rate of standard contribution formerly payable by his or her employer; and
- (b) shall not be payable concurrently with the compulsory standard contribution.

(4) For the purpose of this section, “employee” includes a minister of religion; “employer” includes any person or body of persons or corporation from whom the minister of religion receives his or her stipend; “minister of religion” includes any clerk in holy orders, pastor, missionary, kahdi, immam, sheikh or other person acting in any similar capacity who is engaged in ministering to the spiritual needs of others.

*Contributions.*

**11. Payment of standard contribution by employers.**

(1) Subject to this section, on and after the appointed day, every contributing employer shall, for every month during which he or she pays wages to an eligible employee, pay to the fund, within fifteen days next following the last day of the month for which the relevant wages are paid, a standard contribution of 15 percent calculated on the total wages paid during that month to that employee.

(2) The Minister may direct that any payment or class of payments of a kind mentioned in the direction shall be treated as wages and may in such direction direct the manner of assessing liability in a case where abnormal or unusual pay practices may have an appreciable effect on the contribution due.

(3) If an eligible employee is employed successively or concurrently by two or more employers, each of such employers shall pay to the fund in respect of such employee a contribution corresponding to the wages he or she pays such eligible employee.

(4) When a member of the fund dies during a month, no standard contribution for the month in which he or she dies shall be paid on the wages of such member; but if the standard contribution is paid to the fund, whether or not at the time of such payment the employer knew of the death of the member of the fund, such contribution shall not be refundable but shall be regarded as properly paid and, accordingly, shall be credited to the deceased member's account and shall form part of the balance of his or her account.

(5) If after a contribution has been assessed on the wages of an eligible employee in any one month and paid to the fund a further payment is made during a subsequent month in respect of the same period of service, no reassessment in respect of the first month shall be made; but the further payment shall be included in the assessment of the contribution in respect of the month during which the further payment was made.

(6) Every employer shall furnish to the managing director on an approved form such particulars regarding each eligible employee in his or her service, his or her wages, the contribution due on such wages, the total wages

to such employees, and the total contributions and such other information as the managing director may require.

## **12. Employee's share of standard contribution.**

(1) A contributing employer may deduct from the monthly wage payment of his or her employee the employee's share of a standard contribution of 5 percent calculated on the total wages paid during that month to that employee, but if more than one wage payment is made during any month, the employer may provisionally deduct from all but the last wage payment part of the employee's share of a standard contribution.

(2) Where, during any month, the total sum provisionally deducted in accordance with subsection (1) is not equal to the employee's share of the standard contribution, the employer may, notwithstanding subsection (1), deduct from the last wage payment during that month the difference between the employee's share and the total sum already deducted; but if the total sum so deducted exceeds the employee's share, the employer shall refund the amount in excess to the employee forthwith.

(3) Where through inadvertence the employer fails to recover any sum due at the proper time, he or she may recover that sum as is due in not less than four equal installments and within six months of payment of wages unless the employee agrees in writing to the deduction being made over a shorter period or in fewer installments; but no such recovery shall be made where the failure to recover the sum was due to the employer's negligence; and no deduction shall be made for any other contribution or part of a contribution which is not authorised by this section, whether or not in pursuance of a contract or an agreement between an employee and the employer.

(4) If an eligible employee so agrees in writing, the employer may make deduction at an agreed rate from the employee's wage payment or payments in any month and shall adjust the wage payment during the month following that deduction so as to take account of the difference between the agreed deduction or deductions and the employee's share of the standard contribution due for the month; except that—

- (a) the employee may at any time withdraw his or her agreement by giving written notice to his or her employer which shall be effective from the second wage payment following the giving of the notice to the employer;

- (b) such an arrangement shall not delay the payment to the fund of the actual sum due, nor shall such an arrangement authorise any extra deduction from wages over the period of the employee's engagement;
- (c) the employer shall notify the managing director of the time when such an arrangement shall commence and the time when it shall cease;
- (d) the Minister may, at any time, direct that this subsection shall not apply to any employee or class of employees or any employer or class of employers.

(5) Where an employer deducts in whole or in part the employee's share of the standard contribution from the wages of his or her employee but does not pay it to the fund as part of the employee's share of the standard contribution, the employee's account shall be credited, subject to such conditions as the Minister may prescribe, with the amount so deducted from the general revenue of the fund.

(6) Every contributing employer who makes any deduction pursuant to this section before payment to the fund is due shall hold the employee's share so deducted or any part of it in trust for the fund.

(7) For the purpose 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 or her remuneration shall be calculated before deduction of his or her share of any standard contribution payable under this Act.

(8) The Minister may, subject to such conditions and limitations as he or she may impose by regulations, require all or any class of employers to make provisional deduction.

(9) The provisions of this section shall have effect notwithstanding the provisions of the Employment Act or any other enactment to the contrary.

### **13. Special contribution by contributing employers.**

(1) On and after the appointed day, every contributing employer shall, for each month during which he or she employs a person of the following class or description, whether that person is a member of the fund or not, that is to say—

- (a) a nonresident employee who is not an eligible employee;
- (b) an employee of or above the age of fifty-five years in respect of whom the Minister has specifically applied this section by statutory order;
- (c) an eligible employee,

pay into the reserve account in such manner as may be prescribed by the Minister, within fifteen days following the last day of the month for which wages are paid, a special contribution of 10 percent of the total wages payable to such persons calculated from fifty cents or more to the nearest multiple of a shilling which contribution shall not be payable on the same wages as standard contribution in respect of those persons.

(2) Every contributing employer shall render on an approved form such returns showing the number of—

- (a) nonresident employees;
- (b) employees of or above the age of fifty-five years,

their wages, the contribution payable for them and such other information as the managing director may require.

(3) The Minister may, by statutory order, vary the rate of special contribution and may, in that order, apply different rates of contribution to different classes of employers and employees.

#### **14. Penalty for delay of payment of contribution.**

(1) Subject to subsection (2), if a contributing employer fails to pay into the fund a standard or special contribution which he or she is liable to pay under this Act by the end of the month following the month for which the relevant wages are paid, there shall be added, until the whole sum including the penalty is paid into the fund—

- (a) a penalty to such contribution of a sum equal to 10 percent of the amount of that contribution; and
- (b) on and after the sixteenth day of each month, a penalty to the original amount of that contribution of a further sum equal to 10 percent,

calculated in all cases where there is a fraction of a shilling to one shilling, and any such penalty may be recovered in the same way as the contribution to which it is added, and when recovered, shall be paid into the reserve account.

- (2) The managing director may remit the whole or part of any penalty

under this section subject to such conditions as he or she may determine.

#### **15. Certificate of exemption.**

(1) The managing director may exempt any employer who applies to him or her in that behalf on an approved form from the payment of a standard or special contribution or both in respect of a person employed by him or her within the category specified in the Second Schedule to this Act by granting him or her a certificate of exemption which shall cease to be of any effect—

(a) on a date specified in the certificate or, if such date is extended by the managing director, on such later date as is specified in the extension; or

(b) as soon as it is revoked by the managing director, and on the expiration or revocation of the certificate, the provisions of this Act relating to contribution and registration shall again apply to him or her.

(2) The Minister may amend the Second Schedule to this Act.

#### **16. Supplementary payment.**

Any contributing employer may make an annual supplementary payment, or with the consent of the managing director, more than one supplementary payment in any one year in respect of his or her employee who, at the time of the payment, is a member of the fund and is permanently resident in Uganda or is deemed to be so permanently resident in Uganda under reciprocal arrangement with any other country; and the payment—

(a) shall be accompanied by such particulars as to membership and identity of the member as the managing director may require;

(b) shall be credited to the account of that member of the fund; and

(c) shall not include any fraction of a shilling.

#### **17. Payment in respect of certain Government employees.**

(1) The Treasury may make payments to the fund in respect of those Government employees specified by the Minister responsible for public service who are under fifty-five years of age.

(2) Any payment made under this section shall be credited to the account of the employee in respect of whom it is made, and if that employee is not a member of the fund, he or she shall forthwith be registered and admitted to membership even if the employee is no longer a Government

employee; but if the payment is made within three months of the day appointed for the registration of Government employees, that sum shall be treated as his or her balance on the first day of the first financial year of the fund and an interest of 2½ percent shall be added to it if the employee is still alive at the end of that financial year and no benefit has been paid out of the account, but no interest declared under section 35 shall be added to it in respect of that year.

**18. Provisions for persons formerly in excepted employment.**

(1) The Minister may make regulations to apply to persons of any class or description who cease to be employed in excepted employment and, in particular, he or she may either omit persons emigrating permanently out of Uganda or may prescribe different provisions for different persons or classes of persons.

(2) Regulations made under this section may—

- (a) make provision for the former employer to secure registration of such person to provide any information required for registration;
- (b) require the former employer to pay to the fund within the prescribed time the aggregate amount of contribution which he or she would have paid less the employee's share had the employment not been excepted employment, but the regulations may, instead, permit or direct another method of calculating such amount;
- (c) provide for a penalty for an employer who fails to make payment within the prescribed time and the manner of the exercise by the managing director of his or her discretion for remitting in whole or in part any such penalties;
- (d) provide for voluntary payment by the person formerly in excepted employment not exceeding the amount payable by his or her former employer.

(3) Except for an additional penalty payment which shall be paid into the reserve account, any payment made under this section shall be credited in the fund to the account of the person formerly employed in excepted employment.

(4) For the purpose of this section, "former employer" in relation to any person means the employer who formerly employed him or her in excepted employment.

*Benefits.*

**19. Description of benefits.**

- (1) Benefits shall be of the following descriptions—
  - (a) age benefit;
  - (b) withdrawal benefit;
  - (c) invalidity benefit;
  - (d) emigration grant;
  - (e) survivor's benefit.

(2) Where a member of the fund qualifies under this section for more than one benefit, he or she shall, nevertheless, be paid only one benefit which is the most advantageous of the benefits he or she is entitled to.

(3) Subject to section 22(2), the amounts of the benefits described in subsection (1) shall be the balance of the member's account in the fund at the date of payment.

(4) A claimant for a benefit under this Act shall in support of his or her claim submit such evidence and documents as the managing director considers necessary or proper on the form approved by the Minister.

(5) When the date of birth of a member of the fund is in doubt, and if that date is not proved by any written record kept in that behalf for official purpose or by a religious organisation, then the managing director may, in his or her discretion, for the purpose of any claim under this Act, accept the date of birth declared at the time of registration of that member.

**20. Age benefit.**

(1) Subject to section 19, a member of the fund shall be entitled to age benefit—

- (a) if he or she attains the age of fifty years and has retired from regular employment; or
- (b) if he or she attains the age of fifty-five years.

(2) For the purposes of this section, a member of the fund may be treated as having retired from regular employment when he or she attains the age of fifty years—

- (a) if he or she is not in gainful occupation; or
- (b) if he or she engages or intends to engage in a gainful occupation only occasionally, inconsiderably or in circumstances not inconsistent with his or her retirement.

(3) A member of the fund who receives an age benefit is not entitled to receive a second age benefit—

- (a) until he or she attains the age of fifty-five years; or
- (b) until two years have elapsed from the day on which he or she received his or her first payment of first installment or other recurrent payment (if benefit is paid in that way),

but if any member receives two age benefits before he or she attains the age of fifty-five, he or she shall not receive a third age benefit until he or she attains the age of fifty-five years.

## **21. Withdrawal benefit.**

(1) Subject to section 19, a member of the fund shall be entitled to withdrawal benefit—

- (a) if he or she attains the age of fifty years; and
- (b) if he or she has not been employed under a contract of service for a period of one year immediately preceding his or her claim.

(2) Subject to section 19, any person who ceases to be a member of the fund by virtue of being employed in excepted employment shall, if contributions under this Act have been paid in respect of that member to the fund during four financial years, be entitled to the full balance of his or her account in the fund, but in any other case he or she shall be entitled to his or her own contribution only and the rest shall be paid into the reserve account.

## **22. Invalidity benefit.**

(1) Subject to section 19, a member of the fund shall be entitled to invalidity benefit—

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

(2) In this section, “permanent total incapacity” means such incapacity of a permanent nature as incapacitates a person for any employment which he or she was capable of undertaking before the accident, illness or other occurrence that was the cause of that incapacity.

### **23. Emigration grant.**

(1) Subject to section 19, a member of the fund who emigrates permanently from Uganda to a country with which no reciprocal arrangement under this Act has been made, if contributions under this Act have been paid in respect of that member to the fund during four financial years otherwise than by payment under section 18 or termination of excepted employment, shall be entitled to the full balance of his or her account in the fund; and in any other case, he or she shall be entitled to his or her own contribution, and the rest shall be paid into the reserve account in accordance with section 36.

(2) Notwithstanding subsection (1), when payment has been made in respect of any member of the fund in accordance with section 17(1) or 44(3), the full amount of that payment shall be included in the grant payable under this section.

### **24. Survivor’s benefit.**

(1) Subject to section 19 and to the other conditions contained in this section, the dependent relatives of a member of the fund shall be entitled upon his or her death to the survivor’s benefit which shall be payable in accordance with this section and the regulations made under this section, if any, in the following order—

- (a) where the dependent relatives of a deceased member include a wife, a husband, a son or daughter under eighteen years of age or a son or daughter of or above the age of eighteen years who is wholly or substantially dependent on the deceased, the benefit shall be paid to or for the benefit of any one of this class or all of them in preference to any other class of the deceased’s relatives;
- (b) where the dependent relatives of a deceased member do not include dependent relatives of the class mentioned in paragraph (a) but include a parent, a brother or a sister, the benefit shall be paid to or for the benefit of any one of this class or all of them; or
- (c) where the dependent relatives of a deceased member do not include dependent relatives of the classes mentioned in paragraph (a) or (b) but include a grandparent, a grandchild or any other

relatives prescribed by the Minister as belonging to a class of the deceased's relatives, the benefit shall be paid to or for the benefit of any one of this class or all of them,

and, when payment of the balance in the account of the fund has been made to any dependent relative of the deceased member or to any class of them in accordance with this section, no further claim shall lie against the fund or the managing director.

(2) Where there are no dependent relatives of the deceased member of any classes mentioned in subsection (1), the person or persons who pay the reasonable funeral expenses of the deceased member shall be entitled to a refund, out of the balance in the member's account in the fund, of a sum not exceeding five thousand shillings or the amount of the reasonable expenses paid by that person or persons whichever is the lesser; and when that refund has been made—

- (a) no further claims by any person or persons for refund of funeral expenses under this subsection shall lie against the fund or the managing director; and
- (b) no claim by any dependent relative or relatives or any class of them shall lie against the fund or the managing director for any sum exceeding the balance remaining in the account of the deceased member.

(3) No benefit under this section shall be paid except to or for the benefit of a dependent relative who is alive on the date of that payment; and any benefit which is paid otherwise than in accordance with this section shall be recoverable as a sum due to the fund from the estate of that dependent relative or from the person to whom it was paid.

- (4) The Minister may prescribe—
- (a) persons as the relatives of the deceased member in addition to the dependent relatives of the deceased member described in subsection (1);
  - (b) the manner of apportionment of benefit or funeral expenses within the class of beneficiaries or persons claiming funeral expenses;
  - (c) application of benefit on behalf of dependent children of the deceased;
  - (d) any other additional conditions.

(5) In this section, unless the context otherwise requires—

- (a) “brother” includes a half-brother;
- (b) “daughter” includes a stepdaughter, an illegitimate daughter and a daughter adopted in any manner recognised as lawful by the laws of Uganda;
- (c) “dependent relatives” means—
  - (i) a wife or husband of the deceased member;
  - (ii) a son or daughter of the deceased member;
  - (iii) any other relative of the classes mentioned in subsections (1)(b) and (c) who, on the date of the deceased member’s death, was wholly or substantially dependent on the deceased member for the provision of the ordinary necessities of life suitable to a person of his or her status;
- (d) “grandchild” means a son or daughter of a son or daughter;
- (e) “grandparent” means a parent of a parent;
- (f) “parent” includes a stepparent, an adoptive parent and a parent of an illegitimate son or daughter;
- (g) “sister” includes half-sister;
- (h) “son” includes a stepson, an illegitimate son and a son adopted in any manner recognised as lawful by the laws of Uganda.

## **25. Regulations regarding benefits.**

The Minister may make regulations—

- (a) providing for and regulating the manner of making claims for benefits or payment of benefits under this Act;
- (b) requiring a member of the fund to undergo a medical examination to ascertain or confirm his or her age or degree of his or her disablement;
- (c) providing for the postponement of payment of benefit pending the results of an inquiry;
- (d) prescribing the conditions for application of money paid to one person on behalf of or for the benefit of a beneficiary;
- (e) providing for adjustment in the amount of benefit and the time and manner of payment of the benefit where workers compensation is also payable;
- (f) prescribing disqualifications of members for benefits or postponement of payment while the member is in legal custody;
- (g) providing for the manner of determining whether a person is wholly, mainly or substantially maintained by another person;
- (h) providing for conversion of benefit into installments, annuities or other forms of periodic payment;

- (i) making provision for enabling or requiring a person to be appointed to receive, administer or to exercise under this Act any right or power on behalf of a person who is unable for the time being to act for himself or herself.

**26. Determination of claims and questions.**

(1) Provisions may be made by regulations made under this section by statutory instrument for the determination of any claim for benefit and any question relating to membership of the fund; and those regulations may provide for—

- (a) the appointment of an officer or any person or tribunal for the determination of such claim or question arising under the regulations;
- (b) an appeal from the decision of that officer or any person or tribunal appointed under the regulations to any other person or tribunal;
- (c) the reference of any question of law to the High Court by a person or tribunal appointed under this subsection;
- (d) a second appeal to the High Court on a point of law.

(2) Any person or tribunal appointed under this section may summon any witness to give evidence or produce any documents for the purpose of determining any question before him or her or it under this Act, and any person who fails without lawful excuse to answer the summons commits an offence.

(3) The Chief Justice may, by statutory instrument, make rules of court to regulate the practice and procedure relating to—

- (a) the reference of any question of law to the High Court;
- (b) the time within which an appeal to the High Court shall lie from the decision of any person or tribunal appointed;
- (c) the making of orders as to costs in such reference or appeals.

**27. Correction of erroneous decision otherwise than by appeal.**

(1) Subject to subsection (2), any person or tribunal appointed under section 26 may—

- (a) on new facts being brought to his or her or its notice; or
- (b) if that person or tribunal is satisfied that the decision was given in ignorance of or was based on a mistake of fact,

review his or her or its decision.

(2) No decision shall be reviewed under this section while an appeal on a question of law arising in connection with the decision is pending against the decision of that person or tribunal.

*Finance.*

**28. Financial resources of the fund.**

The funds and resources of the fund shall consist of—

- (a) all sums from time to time received by or falling due to the fund in respect of contributions, income on investment, fees, fines, penalties and interest on dues;
- (b) any sums borrowed by the board in accordance with this Act;
- (c) any sums which may in any manner become payable to or vested in the fund under this Act or any other written law.

**29. Annual and supplementary budget.**

(1) The board shall, within such period before the end of each financial year as the Minister shall determine, make and submit to the Minister for approval estimates of its income and its capital recurrent and other expenditure likely to be incurred by the board for the next ensuing year.

(2) The board may, from time to time, make and submit to the Minister for his or her approval supplementary estimates to provide for unforeseen or urgently required expenditure on matters not provided in the estimates or necessary additional expenditure on matters provided for in the estimates.

(3) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the budget or may approve it subject to such amendment as he or she may deem fit.

- (4) The board may—
  - (a) with the sanction of the Minister, make a disbursement notwithstanding that the disbursement is not provided for in any budget;
  - (b) from the amount of expenditure provided for in any budget in respect of an item, transfer a sum not exceeding five hundred

- thousand shillings to any other item contained in the budget;
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

### **30. Investment.**

All monies in the fund, including the reserve account, which are not for the time being required to be applied for the purpose of the fund shall be invested in such investments as may be determined by the board in consultation with the Minister.

### **31. Power to borrow.**

The board may, subject to prior approval of the Minister, borrow money by way of loan or overdraft for the purpose of its obligations or discharging any of its functions under this Act, upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as the board deems fit.

### **32. Accounts and audit.**

(1) The board shall cause to be provided and kept proper books of account and records with respect to—

- (a) the receipt and expenditure of monies by, and other financial transactions of, the fund;
- (b) the assets and liabilities of the fund,

and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the fund and all its assets and liabilities.

(2) Not later than six months after the close of every financial year the accounts, including the balance sheet of the fund relating to that financial year, shall be audited by the Auditor General or an auditor appointed by him or her.

(3) As soon as the accounts of the fund have been audited, and in any case not later than six months after the audit, the board shall submit to the Minister a copy of the audited statement of account together with a copy of

the audited report on the statement of account made by the auditors.

### **33. Annual report.**

(1) The board shall not later than six months after the end of the each financial year make and submit to the Minister a report showing the performance of the fund during that financial year.

(2) The Minister shall, as soon as possible after receiving the report referred to in subsection (1) and a copy of the audited accounts of the fund, cause the annual statement of account and the annual report of the board to be published in such manner as the Minister may direct.

### **34. Member's account.**

(1) There shall be opened and maintained for each member of the fund an account in the fund to which shall be credited all standard, voluntary and supplementary contributions and interest on the contributions and from which there shall be paid any benefits and refunds to or in respect of the member and all prescribed fees chargeable for issuing evidence of membership and registration.

(2) The member's account in the fund shall be closed and his or her membership shall cease on the happening of any of the following events—

- (a) when an emigration grant is paid;
- (b) when he or she ceases to be a member by reason of—
  - (i) attaining the age of sixty years;
  - (ii) attaining the age of fifty-five years and there is no balance in his or her account;
- (c) when he or she dies,

and if, on the closing of the member's account by virtue of this subsection, any sum of money is standing to the credit of his or her account in the fund, that sum shall vest in the Minister forthwith who shall dispose of it in accordance with subsection (3), and thereafter no claim on the account in respect of that member shall be entertained.

(3) Any sum standing to the credit of the account of a member which has vested in the Minister by virtue of subsection (2), whether—

- (a) after payment of an emigration grant;
- (b) when the member attains the age of sixty years unless at the time the member attains the age of sixty years there is a claim

pending; or

(c) when the member dies and the whole amount in his or her account is not paid as survivor's benefit or as a refund of funeral expenses within six years of the date of his or her death, shall be paid into the reserve account.

(4) Subject to this Act, any assignment of or charge on the account of a member of the fund or any benefit payable out of this account or any agreement to assign or charge any such account or benefit shall be void.

(5) When a member of the fund is adjudged bankrupt and a receiving order is made for the protection of the estate of that member of the fund, any contribution for him or her to the fund under this Act shall not vest in the official receiver, but his or her share shall continue to be deducted in full from his or her wages by his or her employer; and no sum of money in his or her account or benefit paid out of that account shall pass to any trustee or other person acting on behalf of his or her creditors.

### **35. Interest on account.**

(1) Subject to this section, interest at the rate declared by the Minister calculated on the balance standing to the credit of the account of the member of the fund on the first day of the financial year shall be added to the account of every member of the fund for each financial year throughout which it has been open if no benefit has been paid out.

(2) As soon as may be after the end of each financial year, and in any event not later than the 1st October following, the Minister shall after consultation with the board declare the rate of interest for that financial year which shall be the rate applicable to every account in respect of which no benefit has been paid during the period between the end of that financial year and the date of the declaration of the rate of interest.

(3) In any case where payment has been made out of an account during the period between the end of that financial year and the date of the declaration of the rate of interest, the rate applicable to that account shall be 2½ percent or, if the Minister before the end of that financial year declares a higher rate of interest for the purpose of this subsection, that higher rate of interest.

(4) When a member dies during the financial year—

- (a) the rate of interest applicable in respect of the immediately preceding financial year shall be the rate applicable on the day of his or her death; or
  - (b) if any payment during the current financial year has been made out of his or her account, the rate of interest applicable shall be the rate applicable on the day of that payment.
- (5) If the amount of interest calculated under this section is—
- (a) less than fifteen cents, ten cents shall be added;
  - (b) any other amount, the nearest multiple of ten cents shall be added.
- (6) Before declaring any interim or final rate of interest higher than 2½ percent for any financial year under this section, the Minister shall consult with the board.
- (7) A declaration of the rate of interest by the Minister under this section shall take effect on the day it is made and shall thereafter be published in the Gazette as soon as it may be.

**36. Reserve account.**

- (1) There shall be established a reserve account of the fund to which shall be deposited—
- (a) any fines and penalties required by this Act to be paid into the fund;
  - (b) any special contribution and any contribution which cannot be allocated to the account of any member of the fund;
  - (c) any income from investments such as the Minister, after consultation with the board, may determine; and
  - (d) any other income authorised by this Act.
- (2) No money shall be drawn out of or otherwise appropriated from the reserve account other than money paid into the reserve account by mistake or in excess of the amount due on the contribution except for purposes of this Act approved by the Minister.
- (3) Any sums of money determined to be income of the reserve account shall be treated as income forming part of the general income of the fund.

**37. Exemption from stamp duty.**

No stamp duty shall be chargeable under the Stamps Act in respect of any instrument executed by any person on behalf of or in 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 that duty.

**38. Exemption from income tax.**

Any benefit paid under this Act shall be exempt from income tax.

*Administration.*

**39. Managing director.**

(1) There shall be a managing director of the fund who shall be appointed by the Minister for such period and on such terms and conditions as the Minister may deem fit.

(2) The managing director shall be the chief executive officer of the fund and shall, subject to this Act and to the general control of the board on matters of policy, be responsible for the general management, administration and organisation of the fund and, in particular—

- (a) for the assessment of contributions and payments under this Act, for their collection and for their payment into the fund;
- (b) for the payment out of the fund of benefits and claims under this Act and of the expenditure necessary for the administration of the fund;
- (c) for the investment of surplus funds from time to time; and
- (d) for accounting of all monies received, paid out or invested under this Act.

**40. Deputy managing director.**

There shall be a deputy managing director appointed by the Minister on such terms and conditions of service as the Minister thinks fit.

**41. Secretary to the fund.**

- (1) The fund shall have a secretary who shall be appointed by the

Minister and the board on such terms and conditions as the Minister may determine.

(2) In addition to any other functions conferred upon him or her by the Minister and the board, the secretary shall have the custody of the seal of the fund and be responsible for—

- (a) taking minutes of the meetings of the board and any of its committees and subcommittees;
- (b) keeping the records of all transactions of the fund;
- (c) the provision of legal advice on all its activities to the fund.

#### **42. Staff.**

The board may, subject to such directions as the Minister may give in that behalf, appoint on such terms and conditions as it may think fit, such other officers, inspectors and employees as may be deemed necessary for the administration of the fund.

#### **43. Inspectors.**

(1) An inspector appointed for the purpose of the administration of the fund under this Act may in execution of his or her duties enter, at all reasonable times, any premises or place of trade or business where he or she has reasonable cause to believe that persons are being employed in respect of whom contributions are payable under this Act and may—

- (a) make any examination or inquiry to satisfy himself or herself that the provisions of this Act are being complied with;
- (b) question any employer, employee or any other person on any matter concerning the application of or compliance with any of the provisions of this Act; or
- (c) require the production for examination of any book, register, account, receipt or other document relating to contributions or to liability to register or contribute under this Act, and may make a copy of or an extract from any such document.

(2) Every inspector shall be furnished with a certificate of his or her appointment signed by or under the authority of the Minister, and, if so required, on applying for admission to any premises or place for the purposes of this Act, shall produce the certificate to the occupier or the person holding a responsible position of management at such premises or place.

(3) The Minister may appoint any public officer to be an inspector for the purposes of this Act and may, subject to such conditions and limitations as he or she may specify in the appointment, confer on that public officer all or any of the functions of an inspector under this Act.

(4) Any person who—

- (a) obstructs an inspector in the exercise of his or her powers under this Act;
- (b) refuses or neglects to answer any question; or
- (c) refuses to furnish any information or to produce any documents when required to do so,

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding six months or to both.

*Legal proceedings.*

**44. Offences and penalties.**

(1) Any person who—

- (a) knowingly makes any false statement or false representation;
- (b) for the purpose of obtaining any benefit or in order to evade payment of the contribution, whether for himself or herself or for some other person, produces or causes or knowingly allows to be produced any document or gives or causes to be given any information which he or she knows to be false in a material particular;
- (c) misrepresents or fails without lawful excuse to disclose any material fact;
- (d) fails without lawful excuse to register or to furnish particulars required by or under this Act to be furnished;
- (e) makes an unauthorised deduction from a wage payment to an employee;
- (f) fails to pay at or within the time prescribed under or by this Act or the regulations any contributions or payment which he or she is liable under this Act to pay;
- (g) contravenes in any way any provision of this Act as a result of which there is a loss to the fund or the member's account cannot be credited with all the contributions or interest due,

commits an offence and is liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding six months or to both.

(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 or she as well as the body corporate shall be deemed to be guilty of that offence and is liable to be proceeded against and punished accordingly.

(3) The court by or before which any person is convicted of an offence under this Act relating to contribution may, without prejudice to any civil remedy and in addition to any other punishment that the court may impose, order that person to pay to the fund the amount of any contribution and any other sum together with any interest or penalty thereon, and any sum so ordered shall be recoverable as a fine and paid into the fund.

#### **45. General punishment.**

Any person who contravenes any provision of this Act for which no penalty is prescribed is liable on conviction to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

#### **46. Institution and conduct of cases.**

All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by any inspector or other public officer of the fund in a magistrate's court.

#### **47. Jurisdiction of magistrates.**

Subject to the Magistrates Courts Act, a magistrate of any grade has jurisdiction to hear any cause or matter in all cases arising under this Act regarding any question of liability of an employer to register as a contributing employer or any question of his or her liability to pay contribution to the fund.

#### **48. Recovery of sums due to the fund.**

(1) All sums due to the fund shall be recoverable as debts due to the fund and, without prejudice to any other remedy, may be recovered summarily as a civil debt.

(2) Any sums recovered under this section representing standard contribution shall be credited to the account of the member of the fund to whom they relate; and where there is more than one account in respect of which those contributions are due and the sums recovered are less than the sums due to such member's accounts, the sums recovered shall be divided, disregarding any fraction of a shilling, as far as possible in proportion to the amounts due to the account of each such member.

#### **49. Evidence.**

In any proceedings connected with any matter under this Act, a copy of any entry in the account of the fund or any extract from the entry, if it is supported by a certificate purporting to be signed by the managing director or his or her deputy, shall be received in evidence as prima facie evidence of the truth of its contents.

#### *Miscellaneous.*

#### **50. Existing schemes.**

- (1) Where an employer—
  - (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 herself or in association with any other persons, operating or contributing to any existing scheme under which that member of the fund is a beneficiary for the provision of any benefits of similar descriptions to the benefits provided by this Act,

that employer may, notwithstanding the rules or other provisions of the scheme—

- (c) reduce any contribution payable under the scheme by that member of the fund for any period by an amount payable in respect of that member of the fund under this Act by way of standard contribution for the same period;
  - (d) reduce the contribution to the existing scheme by that employer by an amount payable in respect of that member by way of standard contribution for the same period.

(2) Where payment of all contributions to an existing scheme in respect of any employee is extinguished by a reduction made under

subsection (1), the membership of that employee in that scheme shall not, nevertheless, be affected by reason only of no contribution being paid to that scheme on his or her behalf so long as that employee remains in that employment to which the scheme relates and has not received his or her benefit under that scheme.

(3) Where any authority administering or operating an existing pension scheme, provident scheme or occupational gratuity scheme to which neither the employer nor his or her employee contributes at a rate exceeding half the standard contribution, if the employee is permanently resident in Uganda, or is deemed to be so permanently resident in Uganda, the authority may, upon production of a certified copy of its resolution or other documentary evidence and with the approval of the labour commissioner, pay into the fund such sums representing the benefits of that employee under the existing scheme; and that payment—

- (a) shall operate as a discharge against the authority from all liability under that scheme;
- (b) shall, if the employee has an account with the fund, be credited to the employee's account in the fund; but if the employee has no account in the fund, he or she shall, notwithstanding that he or she is not an eligible employee, be registered and on opening an account for him or her, the payment shall be credited to that account; and
- (c) shall include—
  - (i) contributions made by an employee to the private scheme and any interest, bonus or other accruals thereto;
  - (ii) contributions made by an employer and any interest, bonus or other accruals thereto (in the calculation of any interest, bonus or other accruals thereto any rule which provides for a minimum period of employment, membership or contribution before entitlement shall be disregarded);
  - (iii) where the employer contributes to the private scheme or adds to the benefit payable under it only when the rules of the scheme have been satisfied, an appropriate proportion of his or her contributions or additions calculated by reference to the extent to which any conditions in the rules of the scheme have been met by the employee;
  - (iv) where neither employer nor employee contributes to the scheme or separate account for the purpose of the private scheme and the benefits are paid from the general revenue of the employer, the amount due under the rules of the

- scheme;
- (v) such further amount within the discretion of the authority operating the private scheme as may be paid without reducing unduly the benefits of any residual members.

(4) Subject to this Act, no money shall be transferred from an existing scheme to the fund as provided under subsection (3) unless the majority of the members of that scheme agree to the dissolution of the scheme.

(5) In this section, “existing scheme” means a scheme which is in existence on the day appointed for the coming into force of section 11 in relation to the employer who is operating or contributing to the scheme.

## **51. Reciprocal agreements.**

(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 Uganda to any such arrangement 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 for—

- (a) securing that acts, omissions and events having any effect for the purpose of the law of the country in respect of which the agreement is made shall have the like effect for the purposes of this Act, but not so as to confer a right to double benefit;
- (b) determining, in cases where rights accrue both under this Act and under the law of the said country, which of those rights shall be available to the person concerned;
- (c) making any provision of this Act or of any regulations under it relating to administration and enforcement applicable for the purpose of the law of the said country; and
- (d) making any necessary financial adjustments by payments into or out of the fund.

## **52. Regulations.**

(1) The Minister may, without prejudice to any other power conferred

by this Act, make regulations for better carrying into effect the principles and provisions of this Act, and without prejudice to the generality of the foregoing provisions, regulations may be made under this section—

- (a) prescribing the particulars, information or evidence to be furnished or adduced in respect of any question or matter arising 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 and the procedure to be followed;
- (c) regulating the manner of payment of contributions or the refund of contributions paid in error or in excess of the statutory contribution;
- (d) prescribing the records to be kept and the returns to be made by employers;
- (e) providing for public searches of all or any records required to be kept, the issue of certificates and certified copies of any records and prescribing the fees payable for searches, certificates and certified copies of records;
- (f) prescribing fees to be charged for second or subsequent registration and for the issue of membership cards;
- (g) providing for the registration of contributing employers and eligible employees of any employer or class of employers or employees, or class of employees and the terms and conditions attached to that registration;
- (h) requiring employers and employees to be registered;
- (i) prescribing voluntary payments by any member of the fund for whom standard contributions have ceased to be payable and the manner of calculating those payments;
- (j) requiring any employer or any class of employers to make provisional deductions;
- (k) prescribing anything required to be prescribed under this Act.

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

### **53. Forms.**

Where under this Act any claim, notice, application, declaration or any other

matter is required to be made or given, that claim, notice, application, declaration or any other matter may be made or given on a form approved by the Minister, but the managing director may, in any particular case accept any claim, notice, application, declaration or any other matter notwithstanding that it is not made or given on a form approved by the Minister.

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## SCHEDULES

### *First Schedule.*

ss. 1, 8.

#### **Excepted employment.**

1. Persons entitled to exemption from contribution to social security schemes under any international convention to which Uganda is a member.
2. Employment by a university or college by virtue of which the employee is entitled to receive benefits under any superannuation scheme approved by the Minister in writing.
3. Employment as a member of the Uganda Police Force.
4. Employment as a member in the Uganda Prisons Service.
5. Employment as a soldier in the Uganda Peoples' Defence Forces.
6. Employment by virtue of which employees are eligible for pension benefits under the Pensions Act.
7. Employment by virtue of which employees in the public service, local authority, any corporation or body established for public purposes are eligible for pensions under any statutory or nonstatutory scheme approved by the Minister.
8. Any employment referred to in paragraphs 3 to 7 of this Schedule under probationary service conditions.
9. In the case of a person undergoing full-time education in a university or a Government-administered school or college, employment solely during the vacation period of that university, school or college.
10. Employment of a person under the age of eighteen who—
  - (a) is an apprentice under a written binding contract of apprenticeship or is undergoing full-time education in a university, school or college; and
  - (b) receives for any month less than three-quarters of legal monthly minimum wage for full-time employees in the area where he or

she is employed (or if no such minimum has been prescribed, less than three-quarters of the legal monthly minimum wage for full-time employees on agricultural estates).

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*Second Schedule.*

s. 15.

**Certificate of exemption.**

The persons in respect of whom the managing director may grant a certificate of exemption to an employer are—

1. Persons not ordinarily resident in Uganda who are liable to contribute to or are or will be entitled to benefit from the social security scheme of another country, if that scheme is approved by the Minister for this purpose.
2. Persons not ordinarily resident in Uganda who are liable to contribute to or are or will be entitled to benefit from any scheme associated with their employment under which benefits comparable to the benefits under this Act are provided, if that scheme is approved by the Minister for this purpose.

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**History:** Act 8/1985.

**Cross References**

Employment Act, Cap. 219.  
Magistrates Courts Act, Cap. 16.  
Pensions Act, Cap. 286.  
Stamps Act, Cap. 342.

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