

paper land

24/6/2014



SF/NDI/COMP/500/152

3rd April, 2014

The Managing Trustee,
N.S.S.Fund,
P.O. Box 30599,
NAIROBI
(ATT: MANAGER, R & C)




RE: SENSITIZATION AT TEA PLANTERS HOTEL
NANDI HILLS

Employers in Nandi Hills were sensitized in the **NSSF ACT No.45 of 2013** on **2/4/2014** at Tea Planters Hotel.

In attendance were **59** employers and **16** staff totaling to **75**.

The workshop was very successful and those in attendance appreciated the good gesture.

Attached, find list of attendance and questionnaires for your records.


JOHN OBUGA
BRANCH MANAGER
NANDI HILLS

cc. Regional Manager

National Social Security Fund, Nandi Hills Branch P. O. Box 207 – 30301 Nandi Hills. Tel. 053 – 643186;
E – mail: returns.ndi@nssfkenya.co.ke



SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

	NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
10	PAUL KEINO	KOLENGO TEA SAID	DIRECTOR	0724525622	<i>[Signature]</i>
11	SIMON SAKO ROP	KOLENGO TEA SAID	Vice Chair	0708448779	<i>[Signature]</i>
12	JAMES OUKO	ATL-DIGUNA TINDERET	SECTION MANAGER	0733-992870	<i>[Signature]</i>
13	RUSE CHEPKETER	J'AMAL ENTERPRISES	SHOP ASSISTANT	013 847750	<i>[Signature]</i>
14	DONMAS FELIX	KOBUJOI INSTITUTE	ACCOUNTANT	0725412211	<i>[Signature]</i>
15	JULIUS MARITIM	LINKS AGENTULES	SHOP ASSISTANT	0729788771	<i>[Signature]</i>
16	APUL N. MUNDIJI	KALPAKACHO'S ELITE	MANAGER	0724-023949 07-04-023949	<i>[Signature]</i>
17	LYDIA JEPKEMEI	KOBUJOI MISSION HOSP	ACCOUNTANT	0710504190	<i>[Signature]</i>
18	Chebaibai Timothy Kebede	Tea planters inn ltd	Accountant	0736443611	<i>[Signature]</i>



SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

	NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
37	JOSEPH K. MARITIM	ILIBWARDI	MANAGER	0772531796 0721554015	
38	KIMUTAI DAVID	WASSA HILLS PRIMARY	HEADTEACHER	0723711679	
39	PATRICK K. LUVUAI	ILIBWARDI	SHOPSTELWARD	0707794258	
40	KENZERT KIPKANTAT	KARSABIT ACADEMY	H/TEACHER	0721309798	
41	KEPHA MECHA	KAPCHORUM TEA	ASSISTANT ACCOUNT	0724356053	
42	Solumun Juvyo	Keneloi Girls	Teacher	0705202377	
43	Samuel Marisia	Sumbi Chemical	Director	0725307649	
44	Simon Birgen	NYANAI WASSO	Accountant	0712699605	
45	JASON MUKI	EMADOK TEA FACTORY	Auditor	0725297670	



SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
55 DAVID K. TEJER	METERIA S.D.HTSP.	AG HAO	0729027895	
56 CHRISTINE JEVANG	KEMELOT BOARDING	ACCOUNTS CLERK	0715 503292	
57 EMILT CITEROHO NRODIT	DL KOISAGATI TEA	ACCOUNTANT	0726 110 892	
58 NENI JEPKEMBOL TUVETI	DK KOISAGATI ESTAT	PAYROLL CLERK	0711553385	
59 GIBRESIM WIEDE	K.P.A.-K.L.U	BRANCH SEC	0727848954	
60 ELIJAH KOTECI	GMK	FINANCE	0722601302	
61 SIMPLY WISATI	KOMUNIKASI GIBIS	BUSINESS	0704694435	
62 FRANCIS KOCKI	CRK	Dm	0711224895	
63 SAMUEL BOYLS SENSCHALL	SAMUEL BIRLEN	FROM MANAWALU	070725494	

NATIONAL SOCIAL SECURITY FUND - EMPLOYER SENSITIZATION AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS



SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
64	Wilson C. Koeck	Gen Mgr	0727017836	
65	Tom Omweng	manager	0724420000	
66	Hellen J. BATHAL	Bursar	0728651149	
67	Nancy Chumba	Subordinate	0701385489	
68	EMANCK OTIE NO	PRINCIPAL	0721-255248	
69	Ambrose Tindong	Director	0720791222	
70	Etano Junior	Accountant	0703829925	
71	Henry Chesumbai	Director	072370244	
72	DANIEL C. CHESAMB	PRINCIPAL	0722690498	

SENSITIZATION ON NSSF ACT NO. 45 of 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

	NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
73					
74	SARAHBA KUBIKI	KARUMOTHA DISTRICT	ACCOUNTANT	0720867440	<i>[Signature]</i>
75	FRANCIS K. THOMAS	MOSORICH TEA GROWERS ASSOCIATION	MANAGER	0702176098	<i>[Signature]</i>
76	RONO J. K.	Kaplemba Tea	Principal	0723679902	<i>[Signature]</i>
77	WAKITA AMIN	HENRY KESGOTSE	MANAGER	0765068444	<i>[Signature]</i>
78	CHRISTOPHER ROICH	NANDI F. SACCO	MANAGER	0720426872	<i>[Signature]</i>
79	ALFRED LUVANA	W.S.K. FARM	MANAGER	0721926797	<i>[Signature]</i>
80	DANIEL CHIRCHIR	NANDI FARMERS	ACCOUNTANT	0726459443	<i>[Signature]</i>
81	JOSHUA NGENY	KAPLEMOBI TEA GROWERS ASSOCIATION	PRINCIPAL	0721861404	<i>[Signature]</i>
	KIPSAHA DUMICHI MUGO	ATC TARGET SEC	REPRESENTING PARTNER	0723299944	<i>[Signature]</i>

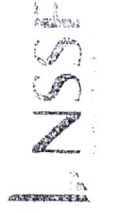


SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: TEA PLANTERS HOTEL

DATE: 2ND APRIL, 2014

	NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
82	Hanyline Chebet	Front Tea	Admin Asst.	info@emuhoket.ac.ke	
83	Nancy Ngasoy	Koliet health Centre	Accountant	Nancy Ngasoy	
84	Uluony Chrispo	Murder Hills District Hqs	Accountant	Chhony Chrispo	
85	Felice Tenui	Mogoch Tea Co.	H-Supervisor	Felice Tenui	
86	Aggrey K. Tgnui	Kemelsi Boys High Lab	Tech	16, 5085m	
87					
88					
89					
90					



SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: SUNSHINE HOTEL

DATE: 18TH MARCH 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
1 LINDA CHERUYOT	PURCHULE (K) LTD	ASST MGR HR & AD	0730400032	
2 SOPHIA KORID	JFK	ASSISTANT MA AG	072159845	
3 LUCILIA GESARE	Jiangxi Zhenyue	ASSISTANT A	0710591876	
4 BENJAMIN (S)	Jessamine Park	Manager	071302042	
5 ROBERT N. ANGLAT	ZARA	CIT	0722-864486	
6 SAMMY MUTAI	JFK	MANAGER	072275885	
7 ROBERT NGENO	Karibungu Uwi	ACCOUNTANT	07225-761755	
8 JOHN KIBESIKI	JFK	MANAGER	0722533554	
9 NICOLAUS TOROI	JFK	Manager	0722751684	

1 NSSF

SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: SUNSHINE HOTEL

DATE: 18TH MARCH 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
10	PETER KIGETI Peter Riwori	JAMES FINLAY (K) LTD	Box 223-2060 KCO	
11	JAMES - B - CHOSIT	James Finlay (K) Ltd	"	
12	Paul K. Nuntom	James Finlay (K) Account	"	
13	C. MBE	International Schools	1998 KCO	
14	Isaac Burteri	Sunshine Hotel	1910 KCO	
15	Lucy Towseth	Chapelken Academy	Asst Manager 674, KCO	
16	B.S.C. Kimeyo	OKBO Town Academy	674, KCO	
17	N.K. TAO	James Finlay (K) Ltd	072127053	
18		James Finlay (K) Ltd	072518973	



1 NSSF

SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: SUNSHINE HOTEL

DATE: 18TH MARCH 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
19	KIPKEMOI RENO	ETANO ACADEMY	0771857582	
20	Sammy Kiriri	Umlerwa Tea (K) Ltd	0721542044	
21	GARDSON I GUTA	THE STAR NEWSPAPER	0722664023	
22	Abonok. Patricia	Kabionga Tea Processing Manager	0725935144	
23	Buliam Padrell	St Leonards Hosp	0721233582	
24	JONATHAN C LANGAT	KABI TUNGUSE	0710869084	
25	BITUNGU KIRVI	KEPICHO ANGR	0722689355	
26	KIPKOECH KUMMET	UNIVERSITY OF KENYA	0922681314	
27	Beatrice Bii	Kapchebed Tea HR Office	0727029488	

NATIONAL SOCIAL SECURITY FUND -- EMPLOYER SENSITIZATION AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

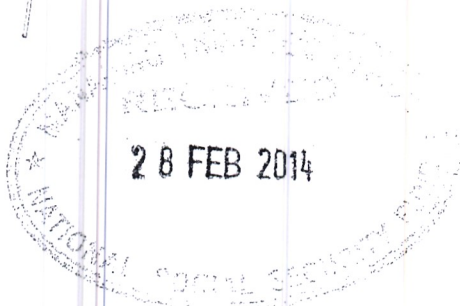


SENSITIZATION ON NSSF ACT NO. 45 OF 2013 AND STAKEHOLDER ENGAGEMENT ON THE REGULATIONS

VENUE: SUNSHINE HOTEL

DATE: 18TH MARCH 2014

NAME	ORGANIZATION	DESIGNATION	CONTACT INFORMATION	SIGNATURE
28	Richard Chemjot	Kapitei T.P	Manager 0720 715 848	<i>[Signature]</i>
29	SIMON CHEWIK	MURANGI SACC	MANAGER 0720 715 848	<i>[Signature]</i>
30	ANNES CHEUNG	TIRI CO. LTD	OFFICE ASSISTANT 0726 991 318	<i>[Signature]</i>
31	RONALD NYABWENGI	MWANGAZA HOTEL	MANAGER 0733 477 391	<i>[Signature]</i>
32	John Towery	KESDA 447 FCS	MANAGER - 0723 376 616	<i>[Signature]</i>
33	Chester Kimani	MWANGAZA HOTEL	ACCOUNTANT 0720 664 627	<i>[Signature]</i>
34	Geoffrey Kipng'et	Mwamba Sch	MANAGER 0726 775 291	<i>[Signature]</i>
35	Stanley K. Mutai	Sentemek Ltd	MANAGER 0722 594 002	<i>[Signature]</i>
36	Andrew Mwangi	Sentemek Ltd	ACCOUNTANT 0714 350 674	<i>[Signature]</i>



119

REPUBLIC OF KENYA

**MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES
OFFICE OF THE PRINCIPAL SECRETARY**

Tel: +254 (0) 02729800/2727980-4
FAX: + 254 (0) 2726222/2734417
Email: pslabour@labour.go.ke

Social Security House,
Block 'A' Eastern Wing
Bishops Road, Milimani
P.O. Box 40326-00100
NAIROBI

When replying please quote

Ref: MLSSS 45/1/VOL.II/34

25th February, 2014

Mr. Richard K. Langat
Ag. Chief Executive Officer/Managing Trustee
National Social Security Fund
NSSF Building, Block 'A'
NAIROBI

Ag. hm AI
Ag. hm CATER ✓

Dear *Richard,*

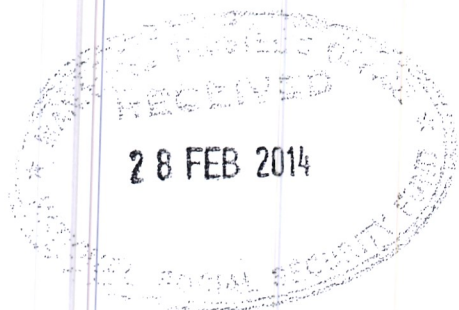
**RE: EXEMPTION OF NSSF FROM THE STAMP DUTY ACT CAP 480 AND
THE INCOME TAX ACT CAP 470 LAWS OF KENYA**

Reference is made to your letter Ref. No. SF/A/15/49 VOL. I (10) dated 14th February, 2014 on the above subject matter.

This is to inform you that action is being taken to facilitate the process of including NSSF in the Schedule of Exempting Institutions pursuant to the Stamp Duty Act and the Income Tax Act through the relevant office.

Yours *Sincerely,*
Ali N. Ismail
**ALI N. ISMAIL, OGW
PRINCIPAL SECRETARY**

c.c.
The Cabinet Secretary
Ministry of Labour, Social
Security and Services
NAIROBI



REPUBLIC OF KENYA

MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES
OFFICE OF THE PRINCIPAL SECRETARY

Tel: +254 (0) 02729800/2727980-4
FAX: + 254 (0) 2726222/2734417
Email: pslabour@labour.go.ke

Social Security House,
Block 'A' Eastern Wing
Bishops Road, Milimani
P.O. Box 40326-00100
NAIROBI

When replying please quote

Ref: MLSSS 45/1/VOL.II/35

25th February, 2014

Mr. J.K. Njiraini
The Commissioner General
Kenya Revenue Authority
Times Tower, Haile Selassie Avenue
P.O. Box 48240-00100 GPO
NAIROBI

Ag. Gen. Secy.
Ag. Gen. Secy.

Dear

**RE: EXEMPTION OF NSSF FROM THE STAMP DUTY ACT CAP 480 AND
THE INCOME TAX ACT CAP 470 LAWS OF KENYA**

As you are aware, the National Social Security Fund (NSSF) was exempted by the repealed NSSF Act Cap 258 from the Stamp Duty Act Cap 480 and Income Tax Act, Cap 470 Laws of Kenya.

Sections 65 and 66 of the current National Social Security Fund Act No. 45 of 2013 also provide for exemption of NSSF from the Stamp Duty Act Cap 480 and the Income Tax Act, Cap 48 Laws of Kenya.

It is my request that you include the National Security Fund in the relevant Exemption Schedules of the Stamp Duty Act and the Income Tax Act that exempt institutions from application of the Stamp Duty and Income Tax.

Your positive response will highly be appreciated.

Enclosed, please find the exemption provisions under the repealed and current National Social Security Fund Act for your ease of reference and further action.

Yours

ALI N. ISMAIL, OGW
PRINCIPAL SECRETARY

c.c.

Mr. Richard K. Langat
Ag. Chief Executive Officer/Managing Trustee
National Social Security Fund
NSSF Building, Block 'A'
NAIROBI



The Cabinet Secretary
Ministry of Labour, Social
Security and Services
NAIROBI

and protection thereof under this section to such employees.

(8) Where an—

- (a) employer transfers or second an employee to work in another country for a period of up to three years, it shall be the responsibility of that employer to continue remittance of his portion in respect with that employee as well as the portion of the employee' contribution as required by this Act; and
- (b) employee works beyond a period of three years in the foreign country, it shall be the responsibility of the employer who transferred him to that country to ensure that the employee's contributions are remitted in the country where that employee works and shall give written notice to the Fund setting out the details of the contributions being made in the foreign country and particulars of the continued stay of the employee in the foreign country.

* 65. Stamp Duty shall not be chargeable in respect of any receipt, contract, instrument or other document executed by or on behalf of the Fund, or in favour of the Fund or 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 refund 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.

Exemption from
Stamp Duty.
Cap 480

* 66. (1) The Fund shall not be liable to pay income tax on its income and no tax by whatever name called shall be payable in respect of any property vested in the Fund.

Exemption from
Income Tax. Cap
470

(2) Benefits payable by the Fund and benefits payable under Protected Rights for a contracted-out scheme shall—

- (a) be exempted from taxation; and
- (b) not be liable to attachment for debt under any process of law.

(3) Subject to section 30, contributions to the Fund shall not be assets for the benefit of creditors in the event of

34. Enforcement officers

(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.

[Act No. 5 of 1997, s. 13.]

 **35. Exemption from stamp duty**

No duty shall be chargeable under the Stamp Duty Act (Cap. 480) 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

23/3/14
22/3/14

A7

Ref: FKEHQ/ED2014/L026



28th March, 2014

Mr. Richard Langat
Ag. CEO/Managing Trustee,
National Social Security Fund,
Social Security House
P.O Box 30599,
NAIROBI

Ag. CEO/Managing Trustee



Dear Richard,

RE: COMMENTS ON THE DRAFT RULES AND REGULATIONS OF THE NSSF ACT

Kindly find attached comments on the Draft Rules and Regulations of the NSSF Act No. 45, 2013 from the members of the Federation of Kenya Employers (FKE) for consideration and adoption before the document finalized.

Yours sincerely,

Jacqueline Mugo

**JACQUELINE MUGO, OGW, MBS
EXECUTIVE DIRECTOR**

Headquarters:

Wajiri House, Argwings Kodhek Road- Milimani, Nairobi,
P. O Box 48311-00100 Nairobi, Kenya
Tel: 020-2721929/48/49/52, 2720242/62, 0733-333291, 0722-203487
Fax: 020-2721990, 2712299, 2720295 Email: fkehq@fke-kenya.org

Coast Branch Office:

P.O Box 8415-80100 Mombasa,
Tel: 041-2311112 Fax: 041-2226596
Email: fkemsa@fke-kenya.org

Western Kenya Branch Office:

P. O Box 1449-40100 Kisumu,
Tel: 057-2020620/0202333477 Fax: 057-2021458
Email: fkeksm@fke-kenya.org

Rift Valley Branch Office:

P.O Box 3216-20100, Nakuru,
Tel: 051-2216690, Fax: 051-2216746
Email: fkenkr@fke-kenya.org

FKE COMMENTS ON THE NSSF REGULATIONS.

- 1) Page 5 Regulation 12 – There needs to be flexibility on the notice period in terms of days. It will not always be possible to give 30 days' notice if the employer is an individual. (eg if the cause is incapacitation or death).
- 2) Page 5 Regulation 13 – the cross reference should be to regulation 12 & not regulation 9.
- 3) Page 11 Regulation 3 – if contributions are payable from 1 June 2014. There should be a clarification that first contributions therefore should be remitted from the end of June 2014. this implies the new rates are effective May 2014.
- 4) Page 11 Regulation 4 – Can the increments be based on the anniversary of the implementation of the Act ie in June of every year instead of January 2015 as indicated at Regulation 4.
- 6) Page 12 Regulation 15 – Penalties should not form part of the arrears for remission in the event that an employer has to pay arrears based on a CBA agreement's implementation date/s.
- 8) Page 28 Regulation 39(3) – the last paragraph contains a typing error; presumably sis months is in fact six months.
- 9) Page 36 Regulation 10(5) – this gives the Authority the right to decline someone who has opted out the right to cancel that right & revert to contributing to the NSSF. There should be qualifications and considerations given by an employer for proceeding in this manner. There should also be safeguards for quick action and no delays in the variation process.
- 10) Page 37 Regulation 12(1) – this implies that a Contracting out certificate is valid indefinitely whereas various other regulations imply that the Certificate will be issued for a specific period of time. The contradiction needs to be resolved.
- 11) Page 39 Regulation 14(2) – the requirement for the employer to make payments to the scheme other than the NSSF by the 10th day following the month end is discriminatory given that payments to NSSF are only required to be

made by the following month end. There should be harmonization of the dates for remittance to either a contracted out scheme or to NSSF.

12) Page 39 Regulation 14 – it is unclear whether expenses of a scheme (RBA levy etc.) can be apportioned against Protected Rights or not. I would suggest expenses should be allowed to be apportioned up to a limit the same as administration expenses up to a limit are permitted under NSSF.

13) Page 41 Regulation 16(1)(b) – section xx needs to be specified.

14) Page 41 Regulation 18(1) – this implies that on Contracting Out an employee's total accumulated Tier II contributions from all previous employments as well as current will be transferred to the contracted out scheme.

15) Page 42 Regulation 18(2)(d) – it is unclear what interest rate should be applied up to the date of transfer. If this is during the year is a supplementary transfer made once the final rate has been declared by the scheme at the year end. It should be clear that the rate applicable at the date of transfer is the rate declared by the scheme for the year.

16) Page 44 Regulation 20(b) – this implies that the employer must submit to the scheme monthly the individual earnings of each employee on which the contribution has been calculated. This may increase the volumes of work and data to be shared between the employers and the fund. The mode of submission of this information should be precise.

17) There is no provision in either the Act or the draft Regulations for an ordinary (not voluntary) member to make voluntary contributions in excess of Tier II contributions. Presumably no further such contributions should be made once the Act comes into force.

There is a presumption that once a member opts to take early retirement or attains normal retirement age then no further NSSF contributions should be made for that member even if he is subsequently employed or on attaining normal retirement age remains in employment.

There needs to be further clarification and provision for those who have already attained retirement age but are still in employment or have taken up new assignments.

18. Members employed by one employer.

The Section is not clear whether the employee is supposed to contribute under each employer or not. It only mentions that each employer will remit their contributions.

Clarification is required for contributions that Holding Companies will make.

Registration of Employees

- The definition of a casual employee and the remittances of the casuals need to be expressly provided for.
- What percentage is to be deducted from the casuals.

Membership Card

After filling in the forms for registration how long will it take NSSF to forward the cards to the employer especially in regards to casual workers.

Deductions

MANDATORY REGISTRATION

- Clause 8.2 and everywhere else in the document – we should remove the need for a stamp if this is going to apply to jua kali sector and individuals employing one house help. What value will a stamp add in this case? or
- The fund could simply adopt the PIN number issued by KRA as the number they will use.
- Clause 23.1 - the Fund should prescribe how the information should be kept (or design the form on its website that can be

downloaded). Otherwise members may not be able to know whether the fund is keeping the right records.

REGULATIONS UNDER SECTION 47

- How does invalidity through injury at work relate with respect to the new (Work Injury Compensation Act (WICA))? Is it possible to make a double claim? There is need for clear provisions that will not jeopardize the functions of a particular Act from the other.
- Who has supremacy – County Medical boards or the ones under WICA? In the event of conflict of decisions who arbitrates?
- Clauses 35, 36, 37 etc places a lot of work on the Board to make decisions on individual cases. There should be a provision for the Board to appoint other subsidiary institutions to make recommendations for the board to consider. Typically this is done by administrators who can work to ascertain threshold beyond which the Board then intervenes. It would also be required for the administrator to give returns on decision made on behalf of the Board.
- The appointment to the tribunal that will arbitrate on matters should be consultative and inclusive of all the stakeholders.
- ANALYSIS OF REGULATIONS UNDER SECTION 20 & 32 OF THE NSSF ACT NO. 45 OF 2013
- Regulation 2> The interpretation part is hanging. The part should clearly spell out the terms
- Regulation 7> The employer to bear the burden of full mandatory contributions is untenable. The Act has not given such an indication hence should be reconsidered.
- Regulation 8> The issue of bouncing cheque should be charged at the normal bank rates. The fund has no business regulating the bank charges

- Regulation 11> The earlier payment of contributions should not be determined by the managing trustee. # the employer may opt to make earlier contributions
- Regulation 16> it should be clear what interest is to be earned and when to review the interest and by whom.

- REGULATIONS UNDER SECTION 32

- Regulation 3(b) is not clear what it is meant to mean and achieve. Needs total overhaul.

- ANALYSIS OF REGULATIONS UNDER SECTION 21

- The Regulations seem to have left out matters relating to those employers having gratuity provisions and how this will be addressed, since one cannot have a pension scheme and at the same time continue paying gratuity. This will turn out to be very expensive for employers.
- Regulation 4 (4) Has not set out the qualification and does not indicate whether the consideration is done suo moto or based on what conditions.
- Regulation 6 Has failed to provide for transition period and the exemption of penalties thereof.
- Regulation 7 (f) Does not indicate whether the date of contracting out can be applied retrospectively.
- Regulation 12 should be a fresh application and not a renewal.
- Regulation 13 needs qualification in terms of what are the aspects that will be considered to satisfy the fact that the employer has not shown the Authority that the contracted out scheme should continue or not.

- ANALYSIS OF REGULATIONS UNDER SECTION 47
- Rule 12 as it is, is open to abuse where it is left to the Managing Trustee to determine who is a proper person to receive benefits on behalf of a person of unsound mind.
- There should instead be a requirement for ascertainment of the proper person, say from the local administration. The person so identified should execute a deed binding him/her to administer such funds for the sole benefit of the beneficiary of an unsound mind.
- **Deduction with respect to Seasonal/ temporary/Casual Employees** --- not explicit in the Act as was the case in previous Act. Is it deductible from this category of employees? The agricultural sector has a number of employees falling in this category.
- **Pensionable Earnings** --- the Act excludes fluctuating emoluments. What are these fixed or fluctuating emoluments? How do we treat piece rated employees whose earnings fluctuate from month to month. Is it based on basic or gross? Or do we take what is agreed in the CBA as the basis of this?
- **Gratuity** – Provision of gratuity is not mentioned in the Act as previously proposed by stakeholders. We are likely to be compelled to pay both hence additional cost of employment. Upon commencement, the Act has given workers an increase of 6% which was not negotiated. Since this affect all sectors in the economy (particularly those with negotiated CBA). The Gratuity caluse needs to be ring fenced or there should be provisions made as to how it will be applicable together with the pension scheme.

JACQUELINE MUGO
EXECUTIVE DIRECTOR
FEDERATION OF KENYA EMPLOYERS

Our Ref: SF/A/15/40 VOL1(9)

Your Ref: TBA

14 February 2014

Mr. Ali Noor Ismail

Principal Secretary

Ministry of Labour, Social Security & Services

NSSF Building, 7th Floor, Bishop Road

NAIROBI

Dear 

**RE: JOINT MEETING BETWEEN NSSF AND RBA TO
DISCUSS THE NATIONAL SOCIAL SECURITY FUND
ACT NO. 45 OF 2013**

I refer to the above matter and the meeting held yesterday between NSSF and RBA to discuss the New NSSF Act.

It was noted at the meeting, that proviso 5 of the Fourth Schedule of the NSSF Act stipulates that “ *the Cabinet Secretary shall in consultation with the Authority, make regulations for the proper management of contracting-out ,including the manner of making applications to the Authority by Reference Schemes and for contracting-out by employers and the communication of approval or otherwise to such scheme or employer.*”

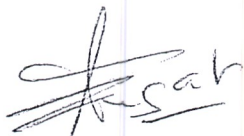
In view of the above, it was agreed that a Joint Committee be formed comprising MOL/NSSF/RBA to begin development of contracting- out regulations to allow

Employers remit Tier 11 Contributions to other registered schemes as envisaged by Section 21 & the Fourth Schedule of the NSSF Act.

The purpose of this letter is to request that you nominate a representative from your Ministry to be a Member of the Joint Committee who commence work immediately.

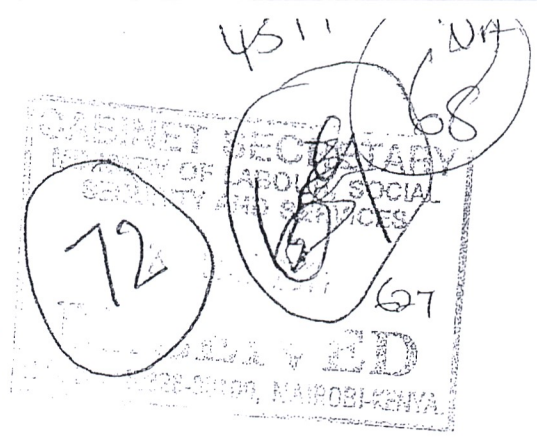
I shall be grateful to receive the name of your representative at your earliest convenience.

Yours Sincerely



RICHARD K. LANGAT
AG.CEO/MANAGING TRUSTEE

Sec Admin

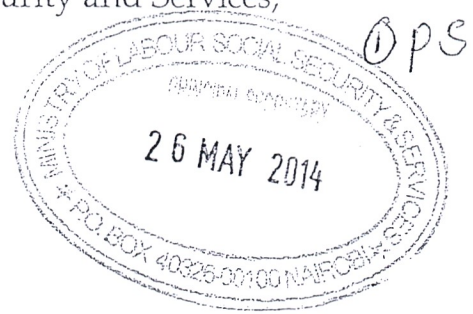


RBA/EXE/119

30th April 2014

CEG/NT
Pse draft
reply for CS.
7/28/5

Hon. Samwel Kazungu Kambi
Cabinet Secretary for Labour, Social Security and Services,
Social Security House,
P.O. Box 40326 - 00100
NAIROBI



Dear Sir

RE: THE NATIONAL SOCIAL SECURITY FUND
(CONTRACTING OUT BY EMPLOYERS) REGULATIONS,
2014

We make reference to the above subject and further to Clause 5 of the Fourth Schedule of the National Social Security Fund Act (Act No 45) Laws of Kenya, we hereby forward to you the draft Contracting Out by Employers Regulations for your further consideration and publication.

The process of drafting the regulations was consultative involving the major stakeholders in the labour movement, federation of employers, retirement benefits and social security sectors.

We look forward to early publication of the regulations to enable commencement of the Act on 31st May 2014.

Yours faithfully,

DR. EDWARD O. ODUNDO, PhD., MBS
CHIEF EXECUTIVE OFFICER



18

REPUBLIC OF KENYA

**MINISTRY OF LABOUR, SOCIAL
SECURITY AND SERVICES**

Tel: +254 (0) 2729800
Fax: +254 (0) 2726222
Email: principalsecretary@labour.go.ke
When replying, please quote

Social Security House,
Block 'A' Eastern Wing,
Bishops Road,
P.O. Box 40326-00100,
NAIROBI.

Ref: MLSSS 45/1

21st February, 2014

Ag. Managing Trustee,
National Social Security Fund,
P.O. Box 30599 – 00100,
NAIROBI.

**RE: JOINT COMMITTEE OF MINISTRY OF LABOUR, SOCIAL SECURITY
AND SERVICES, NATIONAL SOCIAL SECURITY FUND AND
RETIREMENT BENEFITS AUTHORITY TO DEVELOP REGULATIONS
ON REMMITTANCE OF CONTRIBUTIONS**

Reference is made to your letter dated 14th February, 2014.

Ms. Rose M. N. Wasike is nominated to represent the Ministry in the above mentioned Committee.

Ali N. Ismail, OGW,
PRINCIPAL SECRETARY.

C. C. Cabinet Secretary
Ministry of Labour, Social Security and Services
P.O. Box 40326 00100,
NAIROBI.



FEDERATION OF
KENYA EMPLOYERS

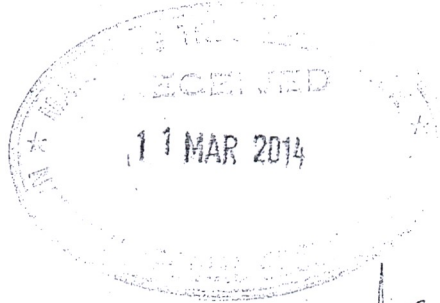
The Voice of Employers

26

FKEHQ/ED2014/L021

11th March, 2014

Mr. Richard Langat
Ag. CEO/Managing Trustee
NSSF
P.O. Box 30599 - 00100
NAIRCB



Ag. Gen. Sec

Dear Mr. Langat,

RE: DEVELOPMENT OF REGULATIONS FOR THE NSSF ACT

We acknowledge receipt of your letter referenced SF/A/15/40 VOL (15) dated 15th February, 2014 regarding the above subject.

The Federation of Kenya Employers is pleased to nominate Mr. Dickens Ouma to work together with the Ministry of Labour, Social Security & Services, the Central Organization of Trade Unions (COTU), State Counsel from the Attorney General's Office, the NSSF team and other stakeholders in drafting regulations for registration, contributions, benefits contracting out by employers (among others) for publication by the Cabinet Secretary, Labour, Social Security & Services and approval by the Delegated Legislation Committee of Parliament.

Please find below his contact details:

Mr. Dickens Ouma
Legal Officer
Federation of Kenya Employers
P.O. Box 48311 - 00100
NAIROBI
Email: douma@fke-kenya.org
Cell phone: 0721542741

Yours sincerely,

JACQUELINE MUGO, OGW, MBS
EXECUTIVE DIRECTOR

CC: Mr. Dickens Ouma
Legal Officer

Headquarters:

Waajiri House, Argwings Koodhek Road- Milimani, Nairobi,
P. O Box 48311-00100 Nairobi, Kenya
Tel: 020-2721929/48/49/52, 2720242/62, 0733-333291, 0722-203487
Fax: 020-2721999, 2712299, 2720295 Email: fkehq@fke-kenya.org

Coast Branch Office:

P.O Box 84115-80100 Mombasa,
Tel: 041-2311112 Fax: 041-2226596
Email: fkemsa@fke-kenya.org

Western Kenya Branch Office:

P. O Box 1449-40100 Kisumu,
Tel: 057-2020620/0202333477 Fax: 057-2021458
Email: fkekms@fke-kenya.org

Rift Valley Branch Office:

P.O Box 3216-20100, Nakuru,
Tel: 051-2216690, Fax: 051-2216746
Email: fkenkr@fke-kenya.org

Ag General



REPUBLIC OF KENYA

**OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE**

25

13th March, 2014

635/2/3

The Ag. Chief Executive Officer/
Managing Trustee,
National Social Security Fund,
P.O. BOX 30599-00100,
NAIROBI.



Dear Sir,

**RE: DEVELOPMENT OF REGULATIONS UNDER THE
NATIONAL SOCIAL SECURITY FUND ACT, 2013 – (NO.45
OF 2013)**

.....
Your letter on the above matter, ref.SF/15/40 VOL.1(16) dated 28th
February, 2014, addressed to the Hon. Attorney-General refers.

As requested, **Mr. Tom Abuga, Parliamentary Counsel**, who was
responsible for the National Social Security Fund Bill, will assist the
Committee. However, please note that our Department is usually not an
active participant in legislative policy formulation exercises. Accordingly,
Mr. Abuga will provide legislative drafting assistance once policy
deliberations on the proposed Regulations are concluded and the
appropriate instructions forwarded for our action.

Yours faithfully,

M. N. Nzioka (Mrs)
Chief Parliamentary Counsel

FOR: ATTORNEY-GENERAL

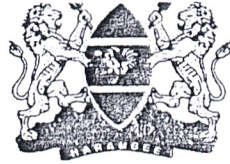
c.c. Mr. Tom Abuga,
Parliamentary Counsel,
Legislative Drafting Department. (Please note and
deal as appropriate.)

SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112 - 00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555 / 0732529995
E-MAIL: info.statelawoffice@kenya.go.ke. WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILESELASSIE AVENUE
P.O. Box 56057-00200, Nairobi- Kenya TEL: Nairobi 2224029 / 2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001 : 2008 Certified





**MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES
OFFICE OF THE CABINET SECRETARY**

Telegrams: "LABOUR", Nairobi
Tel: +254(0)2729800
Fax: +254(0)2722202
Email: cabinetsecretary@labour.goke

Social Security House
Block 'A' Eastern Wing
Bishops Road, Milimani
P.O. Box 40326-00100
Nairobi

PUBLIC NOTICE

The National Social Security Fund Act No. 45 of 2013 was assented by the President of the Republic of Kenya on 24 December 2013 and came into force on 10 January 2014.

The Act establishes a National Social Security Fund to provide Social Security for Workers and Self Employed Persons and their dependants.

Pursuant thereto, the Regulations for the said NSSF Act have been posted and can be accessed by visiting www.nssf.or.ke

The Public is hereby invited to make comments on the same and send feedback not later than 9 May 2014. Your feedback can be emailed to nssfact2013@nssfkenya.co.ke.



HON. SAMWEL KAZUNGU KAMBI
CABINET SECRETARY

Dated 30th April 2014

The Managing Trustee
National Social Security Fund
Social Security House
P.O Box 30599
Nairobi

9th May, 2014.

① Ag Gm SSF
Ag Gm CA/CS

update me in this

12/5/14

② Ag Com/CA/CS
What's your view on this



29/5/14

TRADE UNIONS POSITION ON THE PUBLISHED NSSF ACT NO. 45 REGULATIONS 2014

An analysis of the published regulations reveals certain shortcomings that need to be addressed urgently:

1. Mandatory Membership & Contribution

It is our position that employers and employees should not be forced to be members of the fund and compulsorily forced to contribute to the fund. The forced membership and contribution to the fund by employers and employees go against the constitutional provision encapsulated in terms of article 36 therefore deemed unconstitutional.

Our view is that both the Act and the Regulations have not complied with the provision of article 24 of the constitution in that it has failed to provide the ambit of the limitation of the right.

It is further our view that employers and employees be allowed in the enjoyment of their fundamental rights to choose the type of retirement scheme they intend to join without necessarily being members of the fund in the 1st instance.

2. Enhanced Contribution

It is our submission that given the state of the economy wherein employers and employees are struggling to make ends meet, the 6% contribution by both the employers and the employees be staggered for a period of 5 years to enable the employers and the employees adjust their finances once the economy which is on a slump picks up. This has always been the position of the stakeholders and a view that we wish to reiterate herein.

3. Interest on contribution

Regulation 16 provides that all contributions will earn interest per annum but does not state the rate of interest such contributions shall earn.

It is our submission that such rate of interest be stated.

4. Establishment of Infrastructure


We are opposed to the implementation of the regulations before the fund managers are recruited. Further the fund has not put in place the envisaged reforms that the stakeholders agreed upon to be undertaken before the rules were promulgated. It is our view that the fund being a transformational instrument in the management of pensions of workers should be transparent and accountable to the employers and the employees.

It is our further submission that the most representative federations of workers and employers being COTU and FKE should have a veto power on the Board.

The unions mentioned hereunder Annexure 'A' are further opposed to the implementation of the regulations as presently drafted on the basis that the fund has not carried out civic education on the new NSSF Act 45 of 2013.

Thank you.

Yours faithfully,



Wafua Wa Musamia

For & On Behalf of the 12 Trade Unions.

ANNEXTURE 'A'

COTU AFFILIATES

1. Tailors and Textiles Workers Union
2. Kenya Quarry and Mine Workers Union
3. Kenya Petroleum Oil Workers Union
4. Kenya Shipping, Clearing and Warehouses Workers Union
5. Kenya Union of Commercial Food and Allied Workers
6. Kenya Aviation Workers Union
7. Kenya Shoe and Leather Workers Union
8. Amalgamated Union of Kenya Metal Workers Union
9. Kenya Union of Hair and Beauty and Salon Workers' Union
10. Kenya Electrical, trade and allied Workers union
11. Kenya Plantation and Agricultural Workers Union
12. Kenya Engineering Workers Union

Agricultural Employers' Association

64

CABINET SECRETARY
MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES
14 MAY 2014
RECEIVED
P. O. Box 40326 - 00100, NAIROBI - KENYA
AEA/NRU/BILLS/15/14

Affiliated to the Federation of Kenya Employers (F.K.E)
Safeguarding Employers' interests.



MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES
205
14 MAY 2014
RECEIVED
P. O. Box 15936 - 00100, NAIROBI

Nakuru Press Bld
Printing House Road
P O Box 17783 - 20100
Nakuru

8th May 2014

Cabinet Secretary
Ministry of Labour & Social Security, Services
P O Box 40326
Nairobi - 00100

Handwritten notes:
copy to
M.E. - P.O. Box
205/14
LC

Handwritten signature:
By Gm CMLCS

Dear Sir,

RE: MEMORANDUM HIGHLIGHTING KEY CONCERNS ON DRAFT ON THE NEW NSSF ACT

Further to the Public Notice carried in the Local Dairies inviting the Public to make comments on draft regulations, we wish to forward the attached memorandum raising our key concern which we request NSSF to consider for inclusion.

Yours faithfully

Wesley K Siele
EXECUTIVE OFFICER

MANAGING TRUSTEE'S OFFICE
RECEIVED
27 MAY 2014
NATIONAL SOCIAL SECURITY FUND

C.c. *Executive Director Federation of Kenya Employers P O Box 48311 Nairobi - 00100*
Managing Trustee National Social Security Fund P O Box 30599 Nairobi - 00100

WKS/an

MEMORANDUM SUBMITTED BY THE AGRICULTURAL EMPLOYERS' ASSOCIATION HIGHLIGHTING KEY CONCERNS TO THE CABINET SECRETARY, MIN OF LABOUR, SOCIAL SECURITY & SERVICES ON THE DRAFT REGULATIONS ON THE NEW NSSF ACT 2013

We wish to raise the following key concerns to NSSF with a view of getting them included and /or addressed in the regulations for effective implementation of the new NSSF Act 2013.

1. Implementation date of the Act - (1st June 2014).

Whilst appreciating the efforts that have gone into the preparation of the draft regulations, the realisation of the implementation date of the new Act will only be possible if the draft regulations are fully adopted and gazetted to effectively operationalize the Act. Failure to which there will be serious hiccups and chaos in industry with differing and divergent implementation approaches that will only worsen the situation.

2. Regulations under Section 26

Part 1

Interpretation

Define

"pensionable earnings" – as defined vide Treasury Circular No. 18/2010 to mean "basic salary excluding housing, transport and any other allowances and fluctuating emoluments" - *explanation* - This is a clear definition that is applicable in the National Government and in the pension industry and ought to be applicable uniformly

"Fluctuating emoluments"

"fluctuating emoluments" for the purposes of these regulations means employee earnings not paid on a fixed basis, but additional to basic wage or salary and includes benefits in kind, acting allowance, special duty allowance, leave allowance, uniform allowance, equipment allowance ~~delete~~ - (*but does not include*) bonuses, commissions, overtime, shift pay, house allowance and service charge - *explanation* – allowances in employment situations are intended to meet certain specific employment related expenses rather than being reward for services rendered and ought not be included for purposes of calculating retirement savings eg. House allowance is payable to an employee who isn't housed so that he / she can use the same to pay off the house rent and if such is subjected to "retirement savings" then it will be disadvantageous to the employee who is housed free by the employer though he / she earns the same basic salary

as the other employee who resides outside employer premises, similarly, bonuses are payable on attainment of agreed periodic performance targets and if one employee performs better than the other and the bonus is subjected to "retirement savings" then there is no level playing ground. Further, overtime is also paid in compensation of putting extra hours of work and an employee who puts in more hours than his / her colleague and its "saved for retirement" places the other employee in a disadvantageous situation.

All such allowances that fluctuate every month ought not to be subjected to "retirement savings"

Paragraph 22 – Employers paying Gratuity.

Where a contract of service provides for gratuity, the employer shall deduct and remit contributions in accordance with provisions of the Act. Provided that an employer (*replace may with shall*) deduct its portion of contribution from the gratuity amount payable to the employee *or adopt the paragraph below;*

"Upon the commencement of The National Social Security Fund Act 2013, the provision for gratuity in employment contracts shall cease to exist. However, employees who will have qualified for gratuity at the effective date of the new Act will be paid in accordance to the employment contracts in force at the time the contributions ceased at the basic rate the employee was earning at the time of cessation of the gratuity provisions. This shall be payable when the employee so entitled either retires or opts to resign from the company' *explanation -* This way it will resolve potential cash flow issues if such gratuity balances are moved to tier 2 contributions in the NSSF pension scheme. The other reality is that, the higher level of contributions to NSSF immediately removes the need for a Gratuity provisions. From the point of view of the employee, unfunded gratuity schemes have associated risk to employees since bankruptcy renders them null and void. Employees would be better off with a migrated gratuity into NSSF.

3. Regulations under Section 47

Part II – Pension claim application

Information and documents to accompany specific claims

Paragraph 9.

A claim for a survivor's pension shall be accompanied by an original death certificate, a copy of deceased identity document. Evidence of the claimant's own identity and relationship to the deceased member and information about other relatives of the deceased, confirmation from county administration (*should this be County Commissioners Administration which is in the National*

Government as opposed to County Administration which falls in the County Governors docket?)

Paragraph 28.

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) *(need clarity as to the kind of medical evidence that will be required)* as may be obtainable.

Other;

Tax Harmonization.

- All tax incentives should apply to the new NSSF act and all payments; in, out and accruing, whether with NSSF or any other scheme to be tax free.
- All Tax implications to be harmonized urgently with the Income Tax Act.
- The current Income Tax Act limits monthly tax allowable contribution to Provident/ Pension Schemes to a total of KES 20,000/=. This should be reviewed and at least harmonized with the UEL as it is phased in.

The association would further appreciate an opportunity to verbally present it's comments at the convenience of the legal committee that is vested with the honours' task of developing the regulations.

Dated 7TH May 2014

21 May 2014

Our Ref: V:\K278\Letters_and_Reports\1403\skrrkl.docx

The Managing Trustee
National Social Security Fund (NSSF)
P o Box 30599 – 00100
NAIROBI



For the Attention of Mr Richard K Langat

Dear Sirs

NSSF Act, 2013 – Draft Regulations

We refer to the draft Regulations prepared under the NSSF Act, 2013 ('the Act') which were published for stakeholder exposure on 2 May 2014. We also refer to the undersigned's subsequent telephone conversations with the NSSF Board Secretary.

We understand that stakeholders' comments have been received and are being considered by the Committee preparing and reviewing the Regulations. We would be pleased to assist with the review.

We have also drawn the attention of the Board Secretary to the following:

Definition of Fluctuating Emoluments

The draft *National Social Security Fund (Member Contributions) Regulations, 2014* Regulations define fluctuating emoluments to include:

- Benefits in kind;
- Acting allowance;
- Special duty allowance;
- Leave allowance;
- Uniform allowance;
- Equipment allowance.

and to **not** include:

- Bonuses;
- Commissions;
- Overtime;
- Shift pay;
- House allowance;
- Service Charge

This definition is somewhat at variance to what we would have expected – indeed our view is that the majority of items in the first set of bullet points above should form part of fixed emoluments whilst the items in the second set of bullet points above should form part of fluctuating emoluments. We would recommend that the following items be included as fluctuating emoluments in place of the items included above:

ALEXANDER FORBES

Fluctuating emoluments should include:

- Bonuses;
- Commissions;
- Overtime;
- Shift pay;
- Service charge

Any other emolument not listed above would be considered to be pensionable earnings.

We note that there may be an argument for excluding commissions and service charge from fluctuating emoluments for certain types of employment. For example sales staff and hospitality staff, where a large component of earnings can be commissions and service charge, respectively.

Transfer of Tier II Credits

With reference to Section 18(1)(d) of *The National Social Security Fund (Contracting Out By Employers) Regulations, 2014* we would recommend that any transfer payment from NSSF to a contracted out scheme should include interest to the date of transfer. This is in the best interest of members. It seems unfairly punitive to allow transfers out of NSSF to not include any interest.

Contracting – Out Regulations

We have previously mentioned to the Committee the concerns in relation to the impact of the delay in finalising the Contracting-out Regulations. To our understanding, the policy intent (to which we had provided input to) was for employers and employees who have existing schemes to be able to opt out immediately so that there is no double/additional cost implication on them. We must recommend that consideration be given to a more flexible transition so that unintended financial implications on employers and workers are avoided / mitigated.

End of Service Gratuity Arrangements

We note that the draft Regulations provide that an employer's statutory contributions may be offset against gratuity arrangements. In practice, this may be difficult to achieve immediately as there is a need to negotiate any amendments to existing gratuity arrangements with employees and unions where applicable. Again we recommend that further consideration to the most effective means of achieving compliance.

Yours faithfully



Sundeep K Raichura
Group Chief Executive

cc: Mr Austin Ouko
Board Secretary ✓



LAWS OF KENYA

THE CONSTITUTION OF KENYA

Revised Edition 2010
Published by the National Council for Law Reporting
with the Authority of the Attorney General

- (a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- (b) to have obligations relating to the environment fulfilled under Article 70.

43. (1) Every person has the right—

Economic and social rights.

- (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
- (b) to accessible and adequate housing, and to reasonable standards of sanitation;
- (c) to be free from hunger, and to have adequate food of acceptable quality;
- (d) to clean and safe water in adequate quantities;
- (e) to social security; and
- (f) to education.

(2) A person shall not be denied emergency medical treatment.

(3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

44. (1) Every person has the right to use the language, and to participate in the cultural life, of the person's choice.

Language and culture.

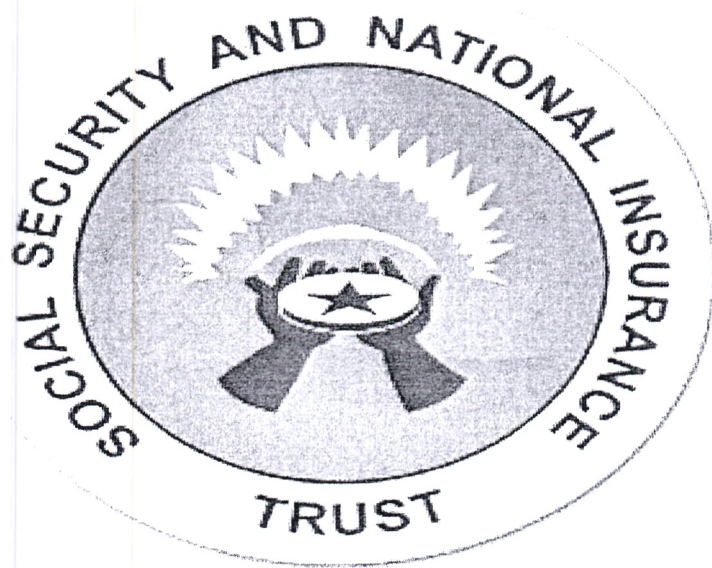
(2) A person belonging to a cultural or linguistic community has the right, with other members of that community—

- (a) to enjoy the person's culture and use the person's language;
or
- (b) to form, join and maintain cultural and linguistic associations and other organs of civil society.

(3) A person shall not compel another person to perform, observe or undergo any cultural practice or rite.

45. (1) The family is the natural and fundamental unit of society and the necessary basis of social order, and shall enjoy the recognition

Family.



SSNIT -GHANA

BASIC NATIONAL SOCIAL SECURITY REGULATIONS, 2011
ARRANGEMENT OF REGULATIONS

Regulation

Registration

1. Registration of employer
2. Employer and self-employed persons registration number
3. Employer to notify Director-General in certain cases
4. Registration of a worker
5. Certificate of membership
6. Workers to complete forms
7. Workers to produce certificate of membership
8. Cessation of employment
9. Liquidation of an establishment
10. Change of name

Contributions

11. Payment of contributions
12. Employer's obligation under the Act and Regulations
13. Manner of payment of contributions
14. Payment of contributions to be accompanied by appropriate form
15. Contribution returns
16. Official receipts required for payment
17. Earlier payment of contribution in certain cases
18. Refund of contributions and other payments not due
19. Priority for payment of contributions
20. Record of salary
21. Preservation of records
22. Employer's record of contributions
23. Member's record of contributions
24. Member's statement of accounts

- 49. Workers to furnish information to employer
- 50. Return of incomplete or inadequate document
- 51. Forms
- 52. Payments to be made on due date

General

- 53. Social security clearance certificate
- 54. Competency to nominate
- 55. Date of birth may be estimated where necessary
- 56. Resolution of disputes
- 57. Interpretation
- 58. Transitional provisions
- 59. Revocation

IN exercise of the powers conferred on the Minister responsible for Pensions by section 93 of the National Pensions Act, 2008 (Act 766), on the advice of the Authority and on the recommendation of the Board of Trustees, these Regulations are made this..... day of.....2011.

Registration

Registration of Employer

1. (1) An employer shall in accordance with the Act register the employer's establishment with the Trust within thirty days of commencement of operations.

(2) An establishment which consists of several branches, departments, sections, sub-offices, depots, stores, whether situated in the same place or in different places shall for purposes of the Act be considered as one and the same establishment and the Act shall apply to all the workers the establishment.

Employers and self-employed persons registration number

2. (1) An employer or self-employed person shall complete the appropriate registration form and submit it to the Director-General.

(2) The Director-General shall on receipt of the forms issue a social security employer registration number to the employer or self-employed person and notify that employer or self-employed person of the number.

Employer to notify Director- General

3. An employer or self-employed person who changes a business name, address and location shall furnish the Director-General with the new business name, address and location within ten days after the occurrence of the change.

Registration of a worker

4. (1) An employer shall within one month after employing a new worker complete and forward the appropriate worker registration form in respect of the worker to the Director-General unless the worker produces evidence of previous registration under the scheme.

(2) A self-employed person may register by completing the appropriate registration form that the Director-General may require.

(3) A worker who completes a worker registration form to join the scheme shall attach to the registration form evidence of date of birth in the form of a birth certificate, baptismal certificate or any other recognised official document.

(4) The Director-General may issue a reference number to a person who has applied to be registered as a member of the scheme.

(5) A reference number shall serve as an interim Social Security Number until an actual Social Security Number is issued to the applicant.

Certificate of membership

5. (1) The Director-General shall direct that the relevant information on the Registration form be reproduced on to a prescribed form which shall be forwarded to the employer or self-employed person for endorsement.

(2) The original and duplicate certificate of membership shall be completed, signed and thumb-printed by the worker.

(3) The original certificate shall be detached and delivered by the Trust to the worker.

(4) The duplicate certificate shall not be detached and shall be kept by the Trust

Worker to complete forms

6. (1) An employer shall require a worker to complete any other appropriate forms determined by the Director-General.

(2) A worker who is unable to complete the forms shall authorise the employer or agent to complete the forms on behalf of the worker.

Worker to produce certificate of membership

7. (1) A worker who is already a member of the Scheme shall produce a certificate of membership to a new employer.

(2) Where the certificate is lost the worker shall produce any other evidence of membership and the registration number.

Cessation of employment or temporary suspension of operations

8. (1) An employer shall notify the Director-General that a worker has ceased to be employed by the employer within thirty days of the cessation of employment.

(2) An establishment which temporarily suspends operations shall notify the Director-General within thirty days after the establishment has ceased to operate.

Liquidation of an establishment

9. (1) Following liquidation of an establishment, an employer shall submit the following information to the Registrar-General:

- (a) the names of the workers in establishment,
- (b) the social security numbers of workers,
- (c) the salary of workers, and
- (d) deductions of contributions.

(2) The employer shall notify the Director-General within ten days after submitting the information specified under sub-regulation (1) to the Registrar-General.

(3) For the purposes of this regulation an establishment is considered to be in liquidation where a resolution for the winding-up of the company has been passed or where a Court has made an order for the winding up of the company.

Change of name

10. (1) A member or contributor to the scheme who desires a change of name with the scheme shall provide the following:

- (a) evidence of proof of the old name on the Trust's records;
- (b) one or more documents of national identification with a photograph as proof of the old name;
- (c) official documents in the form of *Gazette* publication, publication in the national dailies, marriage or divorce certificate or any other official document showing the new name or identity.

(2) The Trust shall verify the genuineness of the documents or information and conduct necessary investigations before effecting the change of name.

Contributions

Payment of contributions

11. (1) An employer or self employed person shall pay into the Fund of the Scheme the contributions specified under section 63 of the Act within fourteen days after the end of the month to which the contribution relates.

(2) A self-employed person or a voluntary contributor who opts to join the Scheme or continue to contribute after ceasing to be employed shall pay the contribution specified under section 58 (2) of the Act within fourteen days after the period that the self-employed person or voluntary contributor agreed with the Trust to pay the contribution.

(3) The penalty provided under section 64 of the Act shall apply to a self-employed person or a voluntary contributor who fails to pay a contribution within a specified period.

(4) The Trust shall not accept arrears of contribution which is over twelve months from a self employed person or a voluntary contributor.

(5) The minimum contribution is thirteen and half per centum of the approved national minimum wage and an employer is responsible for payment of the difference between a contribution remitted to the Trust which is below the monthly equivalent of the approved national minimum wage.

(6) The Trust, shall in consultation with the Authority periodically determine and publish the maximum salary figure as a ceiling beyond which a contribution shall not be based, paid or accepted.

(7) A contributor who

(a) is above the maximum age of joining the basic national social security scheme, and

(b) makes mandatory contributions under section 63(8) and (9) of the Act

shall on retirement utilise seventy five percent of accrued benefits to purchase an annuity for life guaranteed for fifteen years and payable monthly from a Life Insurance Company licenced by the National Insurance Commission.

(8) The Authority shall in consultation with the National Insurance Commission ensure that a Life Insurance Company which provides annuity is capable of meeting its liabilities.

Employer's obligation under the Act and Regulations

12. (1) An employer or self-employed person shall abide by obligations under the Act and these Regulations in respect of payment of contributions and submission of contribution reports.

(2) Despite sub-regulation (1) or a provision in any other law a person who assumes responsibility as an employer of an establishment is responsible for

- (a) the payment of contributions;
- (b) the payment of moneys due to the Scheme; or
- (c) the submission of document to the Director-General, in respect of which the previous employer was in default.

(3) For the purpose of this regulation employer includes a company in liquidation under the Companies Act, 1963 (Act 179) or the Bodies Corporate (Official Liquidation) Act, 1963 (Act 180).

Manner of payment of contributions

13. A person shall pay contributions and other moneys due to the Trust

- (a) at the nearest Regional, District, Branch or Agency office of the Trust;
- (b) by money order, postal order or crossed cheque bearing the words "A/C Payee Only";
- (c) by a draft drawn on any Bank in Ghana made payable to the Trust and delivered, or mailed to the Head Office of the Trust or the nearest office of the Trust or at an approved point; or
- (d) in any other manner that the Director-General may from time to time determine.

Payment of contributions to be accompanied by appropriate form

14. (1) Payment of contributions to the Scheme shall be accompanied with a contribution report in accordance with section 63 (6) of the Act.

(2) An employer shall, at the last working day of the month, submit to the Trust the contribution report in respect of that month, whether the contribution is paid to the Trust or not.

(3) An employer or self-employed person may make one consolidated payment for an establishment, if the employer or self-employed person prepares separate contribution reports in respect of each unit and distinctly indicate amounts in respect of each unit.

Contribution returns

15. (1) An employer or self-employed person shall furnish the Director-General with a list of contributors at the end of the contribution period or at a period determined by the Director-General.

(2) The list of contributors shall include the following

- (a) the name and social security number of each worker;
- (b) the worker's salary;
- (c) the contribution deducted from the salary;
- (d) the employer's contribution in respect of that worker: and
- (e) the total contributions due to the Fund during that period.

(3) A contribution return shall be accompanied with a contribution report in the form and manner prescribed by the Director-General.

Official receipts required for payment

16. A person shall not use any receipt, other than a receipt with an official number, date, stamp and endorsed for the payment of contributions and other payments.

Early payment of contribution in certain cases

17. The Director-General may require an employer to pay the contributions of a worker earlier than the date specified under these Regulations to enable the Trust pay a benefit due or for any other justifiable reason or purpose.

Refund of contributions and other payments not due

18. (1) Where the Director-General is satisfied that an amount which was not due has been paid to the Scheme, the Director-General may, subject to the provisions of these Regulations refund the amount to the person entitled to it.

(2) A refund shall not be made where the member of the Scheme or the person's dependants have already been paid the amount as benefit.

(3) The Director-General may

- (a) withhold the whole or a part of the excess payment and offset it against an amount due to the Scheme from the person who received the excess payment; or
- (b) require a person who made an excess payment to apply in writing for refund of the excess payment and to furnish the Director-General with information necessary to determine the circumstances under which excess payment was made and the amount involved.

Priority for payment of contribution

19. (1) The Trust may exercise a power conferred in accordance with section 87 of the Act by filing an application with a supporting affidavit and accompanying evidence of an employer's indebtedness to the Trust in the same proceeding in which the employer is made a judgment debtor.

(2) The Trust shall proceed with an application as soon as it comes to the notice of the Trust that the employer is declared a judgment debtor.

(3) For the purpose of this regulation, 'employer' includes a company in liquidation under the Companies Act, 1963 (Act 179) or the Bodies Corporate (Official Liquidation) Act, 1963, (Act 180).

(4) Where in criminal proceedings the Court in exercise of its powers under section 84 (2) and (3) orders the recovery of a contribution together with a penalty and contribution report, the Trust may enforce the order by an execution process as if the order was an order of a court in civil proceedings.

Record of salary

20. An employer or self-employed person shall keep records of salaries indicating

- (a) the name of the worker,
- (b) the worker's Social Security number,
- (c) the pay of the worker as defined in the Act,
- (d) the deduction of the contribution to the Fund; and
- (e) any other relevant information.

Preservation of records

21. An employer or self-employed person shall preserve salary records for not less than twelve years after the end of the period to which the salary relates.

Employer's record of contributions

22. The Trust shall maintain for each employer a record showing contributions paid by the employer and contributions due from the employer.

Member's record of contributions

23. The Trust shall maintain in respect of each member a record of contributions made by and on behalf of the member.

Member's statement of accounts

24. (1) The Director-General shall provide every member of the scheme with an annual statement of accounts to a current address provided by the member.

(2) The Trust may supply additional statement of account to a member in respect of the member's accounts upon proof of identity and payment of a fee by the member.

Benefits

Application for benefits

25. An application for a benefit under the Act shall be made on the appropriate form and delivered to the Director-General.

Superannuation pension or old age pension

26. (1) An application for superannuation pension shall be made on the form determined by the Director-General.

(2) A member may be paid full or reduced pension.

(3) A member shall be paid a full pension if the member retires on attaining the compulsory retirement age of sixty years and has contributed to the basic national social security scheme for a period of not less than fifteen years in the aggregate or one hundred and eighty months in aggregate.

(4) A member shall be paid a reduced pension if the member voluntarily retires at the age of fifty-five years or more but below sixty years and has contributed to the Social Security Fund for an aggregate period of not less than one hundred and eighty months.

(5) An application for pension shall be made three months prior to the date of retirement.

(6) An applicant's claim for retirement benefit shall be supported by a certificate issued by the employer except that the Director-General may dispense with the certificate and accept any other evidence in support of the application.

(7) Where a pensioner who receives superannuation benefit dies prior to attaining the age of seventy-five, a lump sum payment of the present value of the member's un-expired pension up till the age of seventy-five years shall be paid to the member's nominated dependants.

Assessment of date of birth

27. (1) The date of birth, or any information on a member entered in the records of the Trust shall be considered to be accurate unless the Director-General reasonably believes that the information is not accurate.

(2) Where the Director-General reasonably believes that the date of birth of a member has not been correctly stated the Director-General may

- (a) ask to be furnished with further evidence of date of birth;
- (b) assess the information given; and
- (c) substitute what the Director-General considers to be the correct age.

Invalidity pension

28. (1) A person shall apply for invalidity pension by completing the appropriate form.

(2) The form shall be endorsed by a recognised medical officer and forwarded to the Director-General.

(3) The applicant shall supply a passport photograph and the appropriate thumb prints shall be taken on the appropriate form.

(4) The Director-General shall forward the application to a Medical Board for certification.

(5) A Medical Board shall include a representative of the Trust.

(6) Upon certification by the Medical Board the member shall be paid an invalidity pension.

(7) An invalid who rejoins the Scheme as a contributor after the invalid has been certified by a Medical Board to have fully recovered shall not lose the previous contributions.

(8) A person shall not apply for invalidity pension if the injury that caused the invalidity occurred after the person had attained the age of sixty.

(9) Where an invalid dies before attaining the age of seventy-five years, a lump sum payment of the present value of the person's unexpired pension up to the age of seventy-five years shall be paid to the person's nominated dependants.

Survivor's lump sum benefit

29. (1) An application for survivors lump sum benefit shall be made on an appropriate form determined by the Director-General.

(2) The applicant shall attach to the application,

(a) a certificate or other evidence of death of the member, and

(b) letters of administration except where the applicant has been nominated as a dependant for payment of a benefit.

(3) The Director-General may require an affidavit or statutory declaration or any other evidence establishing the applicant's identity and relationship to the deceased where the need arises.

Survivor's lump sum payable to a child

30. (1) Where a child is nominated with a higher portion of the survivors benefit, the Trust shall distribute the survivor's lump sum based on the higher and more beneficial portion in favour of the child.

(2) In other cases the Trust shall ensure that a child's portion of survivor's lump sum payment is distributed or paid to ensure the protection of the best interest of the child.

(3) Where a member has satisfied the minimum contribution period of one hundred and eighty months or more prior to the death of the member the survivor's lump sum shall be computed on the present value of the member's pension for a period of fifteen years using the ninety-one days treasury bill rate or other rates that may be determined by the Trust in consultation with the Authority.

(4) The treasury bill rate referred to in sections 72 and 78 (1) and (2) of the Act shall be the prevailing ninety-one days rate or any other rate determined by the Trust in consultation with the Authority.

Director-General to authorise payment

31. (1) Despite anything in these Regulations, the Director-General may pay a benefit to a person or persons that the Director-General considers entitled to the benefit after making an enquiry that the Director-General considers necessary.

(2) A claim from any other person shall not be made against the Trust in respect of a payment made under sub-regulation (1).

Statutory declaration or affidavit in support of an application for payment of survivors benefit

32. An application for payment of survivors' benefit, shall be accompanied with

- (a) a statutory declaration or an affidavit and a passport size photograph of the applicant duly endorsed by the official before whom the statutory declaration or affidavit was made; or
- (b) a valid national identification with a photograph in the form of a passport, driving licence, national identification card or a national health insurance card.

Applicant to submit statutory declaration

33. The Director-General may require a person who has made an application for pension to submit a statutory declaration or affidavit to the effect that the statement made by that person in the application or in support of any evidence adduced by that person is true.

Director- General may authorise certain officers to make enquiry

34. The Director-General may request

- (a) an officer of the Ministry responsible for Social Welfare; or
- (b) an officer of the Trust

to make an enquiry in relation to an application for benefit, or to make use of Government records, local authority records or other records as evidence for purposes of these Regulations.

Payment of benefit or refund of contributions

35. The Director-General shall pay benefits or refund contributions duly authorised in cash, cheque, money order or any other means that the Director-General may determine.

Acknowledgement of receipt of benefit

36. A person who receives a lump sum benefit payment from the Fund shall acknowledge receipt of the benefit by giving to the Director-General a receipt in a form approved by the Trust.

Payment through the post or bank

37. (1) The liability of the Trust in respect of payments made to a pensioner or beneficiary through a bank account designated by the pensioner or beneficiary, or posting of a registered letter containing an instrument of payment to an address stated on an application form is equivalent to the delivery of the instrument to the person to whom the letter was addressed.

(2) Where a person does not acknowledge receipt of payment the Director-General may on receipt of a duly executed indemnity to the Trust issue a duplicate acknowledgement of payment.

Minors and persons of unsound mind or other disability

38. (1) Where a member or the members survivors, entitled to pension or refund under the Act or these Regulations is

- (a) a minor;
- (b) of unsound mind; or
- (c) suffering from a disability that renders the person unfit to manage the person's own affairs,

anything required to be done by that person may be done on the person's behalf by a person appointed by an order of a High Court or any other court of competent jurisdiction.

(2) An amount payable to that person may be paid to the other person appointed to administer that person's affairs in accordance with the order of the court.

(3) Where a person is not appointed under sub-regulation (1) the Director-General may pay a benefit to a person determined by the Director-General as entitled to the payment and who will use the money for the maintenance and benefit of the minor or disabled person.

Inflation of salary

39. (1) Where the Director-General suspects that a member of the scheme has inflated the member's salary with intent to defraud the scheme, the Director General shall cause an investigation to be conducted in respect of

- (a) the ability of the member to influence the level of the members salary;
- (b) the age of the member;
- (c) the oral examination of persons;
- (d) relevant documents, books of accounts, financial and bank statements;
- (e) information or documents from a public or private institution for the purpose of the investigation; and
- (f) any other information necessary to carry-out the investigation.

(2) Where the investigation reveals that the salary was genuinely earned, the Director-General shall proceed to compute and pay the appropriate benefit to the member.

(3) Where the investigation confirms inflation of the salary figures or other irregularity in the salary figures the Director-General shall reject the salary figures and determine the acceptable or true salary figures and pay to the member the right pension or benefit.

(4) In determining the right pension the Director-General shall first determine the appropriate best three years average salary.

(5) The basic salary for a current year shall be obtained by increasing the previous year's annual salary by indexation rate plus five percent or any other rate that may be determined by the Trust in consultation with the Authority.

(6) The best three years average salary shall then be determined to obtain the level of pension or the twenty-five per centum lump sum where applicable.

(7) Any excess contribution shall be refunded to the contributor at the ninety-one days treasury bill rate or any other rate determined by the Trust in consultation with the Authority.

(8) In this regulation "defraud" includes a willful act, omission or concealment, surprise, trick, cunning, dissembling and an unfair means on the part of an employer or member of the scheme to take undue advantage of, deprive or cheat the scheme.

Investment, finance and accounts

Investment of funds

40. The funds of the scheme shall be invested in accordance with sections 67, 68 and 69 of the Act.

Investment Policy

41. The Trust shall, subject to Guidelines issued by the Authority have an investment policy document which shall be reviewed at least once every two years.

Actuarial valuation report

42. The Board of Trustees shall obtain external actuarial valuation report of the Fund in accordance with section 53 of the Act.

Administrative expenses

43. Subject to the provisions of Sections 55 (1) and 56 of the Act the maximum limits for administrative expenses of the Trust shall be prescribed in Guidelines that may be issued from time to time by the Authority

Administrative charges for complementary schemes and National Health Insurance Authority

44. (1) The Trust shall charge administrative fees for support services to any other complementary scheme.

(2) The fee shall be based on the following

- (a) where the service is non monetary the actual cost and any incidental cost involved shall be determined by the Trust and recovered from the beneficiary of the service;
- (b) where the service is a monetary one the Trust shall charge appropriate fees determined and published in Notices and Guidelines issued by the Authority.

(3) The administrative expenses involved in the provision of the service of collection and transfer of the two and a half percentum of the total contributions to National Health Insurance Scheme shall be charged to that Scheme on a rate not below one per centum and not exceeding five per centum of the amount transferred.

(4) The rates shall be reviewed as and when necessary by the Trust in consultation with the Authority.

(5) Monetary computations under these Regulations or the Act, for the purposes of

- (a) contributions to be paid or recovered;
- (b) a fee, interest or penalty; or
- (c) for any other purpose,

shall be converted to the nearest fifty pesewas where the fraction of pesewa is less than fifty pesewas but shall be converted to the nearest cedi where the fraction of the pesewa is more than fifty pesewas.

Electronic recording, filing and transfer of documents

Electronic information

45. (1) The Trust may
- (a) record,
 - (b) file,
 - (c) maintain,
 - (d) transfer, or
 - (e) receive

in electronic form records of members or any information required under the Act or these Regulations in respect of the Scheme.

(2) For the purposes of the Act, where a person has notified the Director-General in writing of an electronic address for service of documents including a facsimile number or electronic-mail address, a document to be served on the person by the Director-General is considered served if sent to that address.

(3) For the purposes of sub-regulation (1) a document is considered sent to an electronic address if the sender receives

- (a) in the case of a message sent to a facsimile number, confirmation from the sending facsimile machine that the transmission is sent or okay; and
- (b) in case of a message sent through an electronic mail address confirmation from the sender that the message has been sent.

(4) The Director-General shall ensure that a system of electronic recording, filing or transfer of documents includes a criterion for authorizing persons to file the documents in an electronic form and ensure security and authentication of documents filed, recorded or transferred.

Signature and thumb-print on document

46. (1) A document used in connection with the Scheme which requires the signature of a member of the Scheme may be signed with the member's written signature but shall be authenticated by a clear impression of the members right thumb or any other thumbprint as the Director- General may direct.

(2) The thumb impression and the signature shall be witnessed and counter-signed by the employer or an authorised representative of the employer or by a self-employed person or by an authorized representative of that person.

(3) Where it is not possible for a member to provide the right thumb impression that member may provide a clear impression of the member's left thumb print.

(4) Where for any reason it is not possible for a member to provide a thumb print the Director General may accept any other mark or identification that the Director-General considers appropriate.

Change of nomination

47. (1) A member who wishes to make a change in respect of persons previously nominated to receive a survivors benefit in the event of the members' death or any change in the extent or survivors shares shall complete the appropriate form obtained from the Trust.

(2) Despite sub-regulation (1) a member shall update the nomination at least once every five years.

(3) An employer shall make available nomination forms specified under sub-regulation (1) to an employee to enable the employee to make a change in respect of nominations.

(4) The employer shall forward the completed form to the Director General and obtain and hand over to the member the Director-General's acknowledgement of the form.

Duplicate certificate of membership

48. (1) The Director General may after conducting investigations that the Director-General considers necessary and on payment of a fee issue a duplicate certificate of membership to a member who has lost the original certificate of membership

(2) The Duplicate certificate shall be endorsed with the word "DUPLICATE"

Workers to furnish information to employer

49. A worker shall furnish an employer information and documents necessary for the completion of returns prescribed by these Regulations and required to be made by the employer.

Return of incomplete or inadequate document

50. (1) Where the Director General or a representative of the Director-General has cause to believe that a document required under these Regulations is incomplete, inaccurate or is not clear enough to identify the person concerned, the Director-General or the representative of the Director-General may return the document to the sender.

(2) The sender shall within ten days after receipt of the document complete and forward to the Director-General a fresh document in place of the original or return the original document corrected and authenticated as required by the Director-General.

Forms

51. (1) The Director-General shall specify the forms required under these Regulations and make the forms available to the public at the offices of the Trust or at any other locations or by any other means determined by the Director-General.

(2) A form or document used in connection with the Scheme shall not be considered as invalid because of the inclusion of additional matter or of variation in the wording by the Director-General.

(3) A form specified in the Schedule may be altered or amended by the Director-General to suit a particular case and is valid for purposes of the Act or these Regulations.

Payments to be made on due date

52. (1) An employer or self-employed person shall make payments to the Scheme on the due dates even if the employer or self-employed person does not receive forms on time.

(2) An employer or self-employed person who contravenes sub-regulation (2) is liable to the penalty specified under the Act.

General

Social Security Clearance Certificate

53. (1) A person shall not

- (a) grant or permit an authorisation in respect of the procurement of goods, works and services in which public funds are involved to an employer unless the employer applying for the permit or authorization produces to the authority or person a valid and relevant Social Security Clearance Certificate; or
- (b) effect the registration of a document conferring title to land to an employer unless the employer produces to that person a valid and relevant Social Security Clearance Certificate.

(2) A statutory body or organization in which Government has interest shall not sell or grant a lease in respect of a building to an employer unless the employer produces to the statutory body or organization a valid and relevant Social Security Clearance Certificate.

(3) A person responsible for the award of a contract for the execution of works or for the performance of a service in which public funds are vested shall not award or pay for the contract to an employer or self employed person unless the employer or self-employed person to whom the contract is awarded or payment is to be made produces to the authority or person a Social Security Clearance Certificate

- (4) For purposes of this regulation

“A Social Security Clearance Certificate” means a certificate issued by the Director-General, certifying that all Social Security contributions and penalty levied for delayed payment due from an employer or self- employed person have been paid and that all relevant information has been supplied or that an employer or self employed person has made arrangements satisfactory to the Director-General for the payment of contributions and for the supply of relevant information.

(5) The certificate is valid for a period of three months or a further period as the Director General may determine but may be revoked by the Director-General if the employer or self employed person fails to fulfill obligations under the Act or Regulations made under the Act.

(6) The Director-General shall issue a certificate to an employer or person who is exempted under the Social Security Scheme.

Competency to nominate

54. A member who is fifteen years is competent to nominate beneficiaries who shall be paid the members' benefit in the event of the death of that member.

Date of birth may be estimated where necessary

55. (1) Where a member is unable to specify the members date of birth. the employer and the Director-General shall assess the age of the member from the appearance or any other known facts and shall record a date of birth on the appropriate form.

(2) A date of birth determined under sub-regulation (1) shall, for purposes of these Regulations, be treated as the actual date of birth of the member unless the Director-General, amends the records where the need arises.

Resolution of disputes

56. A member of the Scheme who is dissatisfied with a decision of the Director-General under these Regulation may after exhausting available internal processes appeal to the Authority in writing for a review of the decision.

Interpretation

57. In these Regulations unless the context otherwise requires

“Act” means the National Pensions Act, 2008 (Act 766);

“Authority” means the National Pensions Regulatory Authority established under the Act;

“Board of Trustees” means the Board of Trustees of the Trust established under the Act;

“establishment” includes branches, sub-offices, depots;

“Fund” means the Social Security Fund;

“invalid” means a member of the Scheme who is declared by a Medical Board to be incapable of doing any gainful work;

“Minister” means the Minister responsible for pensions;

“National Insurance Commission” means the National Insurance Commission established under the Insurance Act, 2006 (Act 724);

“Scheme” means the basic national social security scheme;

"Trust" means the Social Security and National Insurance Trust established under the Act; and

"unit" means branches, sub offices, or depots.

Transitional provisions

58. An employer, worker or self-employed person who immediately before the commencement of these Regulations was registered as an employer, worker or self employed person under the Social Security Act, 1991 (PNDCL 247) or the Social Security Regulations 1973 (L.I.818) shall be considered as registered under the basic national social security scheme established under the Act.

Revocation

59. (1) The Social Security Regulations 1973 (L.I. 818) are hereby revoked.

(2) Despite the revocation any notices, orders, directions, appointments or any other act lawfully made or done under the revoked enactment and in force immediately before the commencement of these Regulations shall be considered to have been made or done under these Regulations and shall continue to have effect until reviewed, cancelled or terminated.

MINISTER RESPONSIBLE FOR PENSION

Date:

SCHEDULE

