

*Pension Scheme Regulation* [No. 27 of 2005 219  
(Amendment)

GOVERNMENT OF ZAMBIA

**ACT**

No. 27 of 2005

Date of assent: 23rd December, 2005

**An Act to amend the Pension Scheme Regulation Act.**

[23rd December, 2005

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Pension Scheme Regulation (Amendment) Act, 2005, and shall be read as one with the Pension Scheme Regulation Act, 1996, in this Act referred to as the principal Act.

Short title and commencement  
Act No. 28 of 1996

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. The principal Act is amended by the deletion of the long title and the substitution therefor of the following new long title:

Repeal and replacement of long title

An Act to establish the Pensions and Insurance Authority and define its functions and powers; to provide for the prudential regulation and supervision of pension schemes; and to provide for matters connected with or incidental to the foregoing.

3. Section *three* of the principal Act is amended —

Amendment of section 3

(a) by the insertion in the appropriate places of the following new definitions:

“ administrator ” means a company or institution registered under this Act whose business includes —

(a) undertaking, pursuant to a contract or other arrangement the management and day to day administration of the fund; or

(b) providing consultancy and secretarial services to the scheme funds;

“ Authority ” means the Pensions and Insurance Authority established by section *four*;

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“Board” means the Pensions and Insurance Authority Board constituted under section *six*;

“Chairperson” means the person appointed as Chairperson of the Board under section *six*;

“committee” means a committee of the Board established under paragraph 5 of the Schedule;

“custodian” means a company which is incorporated under the Companies Act and which holds a banking licence issued under the Banking and Financial Services Act and is registered under this Act;

“Fidelity Fund” means the Fidelity Fund established by section *one hundred and nine* of the Insurance Act;

“member” means a member of the Board or a committee of the Board;

“Registrar” means the person appointed as Registrar under section *seven*; and

“Registry Office” means the Registry Office for pension funds established as a Government department under the Ministry responsible for finance and national planning for the purposes of this Act; and

“single-employer trust” means a legal entity established by a single employer into which contributions, investment earnings, surpluses and other moneys are accumulated on behalf of members of a pension scheme established pursuant to this Act;

(b) in the definition of “multi-employer trust” by the insertion after the words “a pension scheme” of the words “or an entity which allows affiliation by any established pension scheme for the purposes of pooling resources for investments”;

(c) by the deletion of the definition of “manager” and the substitution thereof of the following new definition:

“manager” means a company or institution registered under this Act whose business includes:

(a) undertaking, pursuant to a contract or other arrangement the management of the funds and other assets of a scheme fund for purposes of investment; or

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(b) providing professional services on the investment of the scheme funds; or

(c) reporting or disseminating information concerning the assets available for investment of scheme funds.

(d) by the deletion of the definition of "pension scheme" and the substitution therefor of the following new definition:

"pension scheme" means any scheme or arrangement, other than a contract for life assurance, whether established by a written law for the time being in force or by any other instrument, under which persons are entitled to benefits in the form of payments, determined by age, length of service, amount of earnings or otherwise and payment primarily upon retirement, or upon death, termination of service, or upon the occurrence of such other event as may be specified in such written law or other instrument; and

(e) by the deletion of the definition of "trust" and the substitution therefor of the following:

"trust" means the legal entity, separate from the employer, in which the pension scheme funds are accumulated and includes a multi-employer trust or a single-employer trust;

4. The principal Act is amended by the repeal of Part II and the substitution therefor of the following new Part:

Repeal and replacement of Part II

PART II

THE PENSIONS AND INSURANCE AUTHORITY

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

Establishment of Authority

(2) The provisions of the Schedule shall apply to the Authority.

5. (1) The functions of the Authority shall be to—

Functions of Authority

(a) register and deregister pension schemes in accordance with this Act and in consultation with the minister responsible for labour and social security;

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- (b) register and deregister managers, administrators and custodians of pension schemes;
- (c) regulate and supervise the establishment and management of occupational pension schemes and insurance businesses;
- (d) protect the interests of members and sponsors of occupational pension schemes, and of shareholders and policy holders;
- (e) licence re-insurers, insurers, insurance brokers, insurance agents, loss adjustors, loss assessors, claims agents and insurance risk surveyors;
- (f) administer and manage the Fidelity Fund established pursuant to section *one hundred and nine* of the Insurance Act and settle claims against that Fund;
- (g) formulate and enforce standards in the conduct of the business of insurance with which a member of the insurance industry must comply;
- (h) monitor the solvency of insurers and ensure the observance of sound insurance principles and practices by the insurers in the conduct of insurance business;
- (i) monitor and periodically review premium rates and scope of cover of policies that provide insurance cover in satisfaction of a legal requirement;
- (j) in consultation with the Competition Commission, formulate and implement measures calculated to encourage healthy competition and eliminate unfair practices in the insurance and pensions industries;
- (k) advise the Minister and the Minister responsible for Labour and Social Security in policies relating to the pensions and insurance industries;
- (l) advise the Government on adequate insurance protection of national assets and properties;
- (m) implement policies relating to the insurance and pension industries;
- (n) promote the development of the insurance and pensions industries;
- (o) set and enforce standards for the conduct of the business of insurance and occupational pension schemes; and

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(p) undertake such other activities as are conducive or incidental to the performance of its functions under the Act;

(2) Notwithstanding subsection (1), the Board may, by direction in writing and subject to such conditions as it considers fit, delegate to any member, committee or the Registrar any of its functions under this Act.

6. (1) There is hereby constituted the Pensions and Insurance Authority Board which shall, subject to the provisions of this Act, perform the functions of the Authority under this Act.

Constitution  
of Board

(2) The Board shall consist of the following part-time members appointed by the Minister:

- (a) a representative of the Ministry responsible for finance;
- (b) a representative of the Ministry responsible for labour and social security;
- (c) a representative of the Bank of Zambia;
- (d) a representative of the Zambia Association of Chambers of Commerce and Industry;
- (e) a representative of the Attorney-General;
- (f) a representative of the Zambia Institute of Certified Accountants;
- (g) a representative of the Zambia Federation of Employers;
- (h) a representative of a trade union representing workers in the insurance or pensions industry; and
- (i) one other person who shall have expertise in the administration of pension funds, insurance or actuarial matters.

(3) The members referred to in subsection (2) shall be nominated by their respective organisations or ministries.

(4) The Chairperson and the Vice-Chairperson shall be appointed by the minister from among the members of the board.

(5) A person shall not be appointed as a member of the Board if the person —

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence involving fraud or dishonesty; or

(c) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.

Registrar

7. (1) The board shall, with the approval of the Minister, in consultation with the Minister responsible for labour and social security appoint a Registrar who shall be the chief executive officer of the Authority and who shall, subject to the control and direction of the Board, be responsible for the implementation of the decisions of the Board and the day to day administration of the Authority.

(2) A person shall not be qualified for appointment as Registrar unless the Minister is satisfied that the person has qualifications and experience in actuarial analysis, business management, law or accounting.

(3) The Board shall, with the approval of the Minister, determine the terms and conditions of service of the Registrar.

(4) The Registrar shall attend meetings of the Board and may attend meetings of any committee of the Board and may address the meetings, but shall have no vote.

(5) The Registrar shall, subject to the direction of the Board—

(a) ensure that the pension fund is established in form of a single-employer trust or multi-employer trust separate from the employer's business;

(b) ensure that the pension scheme is laid down in pension plan rules covering the contribution formula, all the benefits, type of plan, options provided and deadlines for choosing, calculation of portability rights and member's rights for participation in the management of the pension fund;

(c) examine the certificate of incorporation of the trust;

(d) ensure that an auditor and an actuary are appointed in accordance with this Act;

(e) examine the annual accounts, the report of the manager of pension fund and the auditor's report;

(f) examine the actuarial evaluation and ensure it is done periodically according to this Act;

(g) ensure that re-insurance arrangements are entered into in accordance with the actuary's recommendation;

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- (h) ensure that, in the case of a multi-employer trust, a written affiliation agreement exists, which adequately protects the pension fund's rights, the members' rights and the portability of accrued rights;
  - (i) enforce any conditions imposed under this Act on a pension fund, trust or the manager, administrator or custodian of such a fund or trust;
  - (j) direct insurers and re-insurers on the standardisation of the contracts of compulsory insurance;
  - (k) direct an insurer or re-insurer where the Registrar is satisfied that the contract of insurance issued by the insurer or re-insurer is obscure or contains ambiguous terms or terms and conditions which are unfair or oppressive to the policy-holders, to clarify, simplify, amend or delete the wording, terms or conditions, as the case may be, in respect of future contracts; and
  - (l) exercise and perform such other powers and functions as may be conferred on the Registrar by or under this Act and the Insurance Act.
- (6) The Registrar, shall at all times—
- (a) protect the rights, benefits and other interest of the members in accordance with their corresponding pension scheme; and
  - (b) monitor the viability of a pension scheme and ensure that a pension scheme is operating on sound financial and actuarial principles.
5. (1) Section *eight* of the principal Act is amended—
- (a) in subsection (1) by the deletion of the words "or manage";
  - (b) by the insertion immediately after subsection (1) of the following new subsections:
    - (2) Every pension scheme, other than a scheme established by a written law, shall be established under an irrevocable trust.
    - (3) Subject to subsection (2) the rules of the scheme or fund shall make provision for—
      - (a) the manner of appointment or election of trustees and their term of office;

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of section 8

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- (b) the functions, powers and duties of the trustees which shall include the general supervision and administration of the scheme or fund;
- (c) the number of trustees of whom one-half shall be appointed or elected by the members and the remainder shall be appointed by the sponsoring employer;
- (d) the methods of, and ground for, removal from office of trustees;
- (e) the election and appointment of a chairperson of the Board of trustees and the functions, powers and duties of such chairperson:
- Provided that the chief executive officer of the sponsoring company shall not be chairperson of the Board of trustees;
- (f) the quorum at any meeting of the Board of trustees shall be fifty per centum of the total number of trustees;
- (g) the procedure for convening any meeting;
- (h) the manager, administrator or custodian shall attend the meetings of the Board of trustees as *ex-officio* member and may address those meetings but shall have no vote.
- (4) A person shall not be appointed as trustee of any scheme fund if that person —
- (a) has been sentenced to imprisonment by a court of competent jurisdiction for fraud or dishonesty for a period of six months or more;
- (b) is adjudged bankrupt;
- (c) was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof;

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(d) is disqualified under any other written law, from holding office as such; or

(e) is considered by the Board to be, in any way, detrimental to the scheme.

(c) by the renumbering of subsection (2) as subsection (5).

6. Section *nine* of the principal Act is amended in subsection (2)—

Amendment  
of section 9

(a) by the deletion in paragraph (b) of the words “ established or managed ” and the substitution therefor of the words “ established, managed or administered ”;

(b) by the insertion in paragraph (d) of the words “ or administer ” after the word “ manage ”;

(c) by the deletion of the word “ and ” at the end of paragraph (f);

(d) by the deletion of the colon at the end of paragraph (g) and the substitution therefor of a semi colon; and

(e) by the insertion after paragraph (g) of the following new paragraph:

(h) the applicant has supplied such other information as the Registrar considers necessary in determining the application:

7. Section *ten* of the principal Act is amended—

Amendment  
of section 10

(a) by the numbering of the paragraph in that section as subsection (1);

(b) in subsection (1) by the deletion of the words “ establish or manage ” after the words “ authorising the applicant to ” and the substitution therefor of the words “ establish, manage or administer ”; and

(c) by the insertion after subsection (1) of the following new subsections:

(2) No scheme, other than a scheme established by a written law, shall be registered under this Act unless—

(a) it is proposed to be established under an irrevocable trust;

(b) the proposed scheme rules adequately protect the rights and interests of the sponsors and members thereof; and

(c) the trustees thereof satisfy the requirements for appointment specified in the Act.

Amendment  
of section 11

8. Section *eleven* of the principal Act is amended—

(a) by the insertion after the word “separate” of the words “single-employer trust or”; and

(b) by the deletion of the words “or alternatively be affiliated to such a trust” after the words “multi-employer trust”.

Amendment  
of section 13

9. Section *thirteen* of the principal Act is amended in subsection (3) by the deletion of the word “manager” wherever it appears and the substitution therefor of the word “trustee”.

Repeal and  
replacement  
of section 14

10. The principal Act is amended by the repeal of section *fourteen* and the substitution therefor of the following new section:

Duration of  
certificate

14. Subject to the other provisions of this Act, a certificate of registration issued in respect of a scheme shall be valid from the date of issue and shall remain in force until the scheme is deregistered or wound up in accordance with the scheme rules or the provisions of the written law, under which the scheme is established.

Insertion of  
new Part IIIA

11. The principal Act is amended by the insertion immediately after Part III of the following new Part:

### PART IIIA

#### REGULATION OF MANAGERS AND OTHERS

Management,  
etc of pension  
fund

17A (1) A person shall not act as a manager, administrator or custodian of a pension fund unless that person is registered as such and holds a valid certificate of registration issued under this Act.

(2) A person may apply to the Board for registration as a manager, administrator or custodian of a pension fund in the prescribed form.

(3) The Board shall within, sixty days of the date of receipt of an application for registration, consider the application.

(4) Where the Board is satisfied that the applicant has complied with the requirements for registration under this Act, the Board shall, on the payment of the prescribed fee, register the applicant and may refuse to register the applicant where the Board is not so satisfied.

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(5) Upon registration the Board shall issue the applicant with a certificate of registration in the prescribed form.

(6) Where the Board refuses to register an applicant as a manager, administrator or custodian, as the case may be, the Board shall, in writing, furnish the applicant concerned with the reasons for such refusal within fourteen days of making the decision.

(7) A certificate of registration issued under subsection (5) shall, unless earlier revoked, be valid from the date of issue to the thirty-first day of December next following the date of issue.

(8) A registered manager, administrator or custodian may apply for renewal of registration three months before the expiration of the certificate of registration upon payment of the prescribed renewal fee.

(9) Notwithstanding the provisions of subsection (7), where an application for the renewal of a certificate of registration has been made, such certificate shall continue in force until the application for renewal is determined.

(10) A registered manager, administrator or custodian shall not transact any business for which the manager, administrator or custodian is not registered under this Act.

17B. (1) A person shall not be registered as a manager unless the person —

- (a) is a limited liability company incorporated under the Companies Act whose liability is limited by shares and one of whose objects is to manage pension funds;
- (b) has such minimum paid up share capital as may be determined by the Board;
- (c) has the professional capacity to manage pension funds;
- (d) has never been involved in the management of the fund or any scheme which was deregistered due to any failure on the part of management; and
- (e) has shares of which not less than 51 percent are held by a Zambian citizen or by a partnership whose partners are Zambian citizens or by a body corporate whose shares are wholly owned by citizens of Zambia.

(2) A person shall not be registered as an administrator unless the person —

- (a) is a limited liability company incorporated under the Companies Act whose liability is limited by shares

Qualification  
of manager,  
administrator  
or custodian

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and one of whose objects is to undertake administrative or secretarial functions of a pension scheme or fund;

- (b) has such minimum paid up share capital as may be prescribed by the Board;
- (c) has the professional capacity to administer a pension scheme;
- (d) has never been involved in the administration of any scheme which was deregistered due to any failure on the part of the administrator; and
- (e) has shares of which not less than 51 percent are held by a Zambian citizen or by a partnership whose partners are Zambian citizens or by a body corporate whose shares are wholly owned by citizens of Zambia.

(3) A person shall not be registered as a custodian unless the person—

- (a) is a limited liability company incorporated under the Companies Act whose liability is limited by shares and one of whose objects is to perform the functions of the custodian within the meaning of this Act;
- (b) has professional and technical capacity and adequate operational systems to perform the functions of custodian;
- (c) has never been a custodian of any pension scheme or fund which was deregistered due to any fault, either fully or partially, of the custodian; and
- (d) has shares of which not less than 51 percent are held by a Zambian citizen or by a partnership whose partners are Zambian citizens or by a body corporate whose shares are wholly owned by citizens of Zambia.

(4) The Board may refuse to register a person as a manager, administrator or custodian under this Act on the ground that—

- (a) the person has not provided the Board with such information relating to the company or any person employed by or associated with the company or of any circumstance likely to affect its method of conducting business as may be prescribed by the Board;

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- (b) any director of the company has become mentally or physically incapable of performing the duties of a manager, administrator or custodian;
- (c) any director of the company is an undischarged bankrupt;
- (d) it appears to the Board that the company should not be registered because the company or any director, controller, secretary, employee or officer concerned in the management of the company has been convicted, whether in Zambia or elsewhere, of an offence involving fraud or dishonesty, or has been convicted of any offence under this Act;
- (e) it appears to the Board by reason of any other circumstances which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of the company; or
- (f) the Board has reason to believe that the company will not efficiently, honestly and fairly perform the duties required of it under this Act.

(5) A manager, administrator or custodian in operation on the date of the commencement of this Act shall comply with the requirements of shareholding by Zambian citizens within two years from the date of the commencement of this Act.

17C. (1) A registered manager, administrator or custodian shall maintain a principal office in Zambia and shall furnish the Registrar with the address of the office.

Principal  
office

(2) Where a registered manager, administrator or custodian changes the address of the principal office the manager, administrator or custodian shall notify the Registrar of the change of address within three months of making the change.

(3) A manager, administrator or custodian who contravenes subsections (1) and (2) shall be liable to pay to the Board a penalty of one thousand fee units for each day the contravention continues.

17D. (1) Every registered manager, administrator or custodian shall, with the approval of the Registrar, appoint a chief executive officer and shall, for the purpose of such approval, notify the Registrar of the following:

Appointment  
of chief  
executive  
officer

- (a) the full name and address of the officer;
- (b) the date and place of birth of the officer;
- (c) the officer's citizenship;

(d) the officer's academic and professional qualifications;  
and

(e) work experience and record of employment.

(2) The Registrar shall not approve the appointment of any person as a chief executive officer unless the Registrar is satisfied that the person—

(a) is resident in Zambia;

(b) has served in the pension fund or the financial sector or industry in a senior management position for a period of not less than—

(i) ten years in the case of a manager;

(ii) ten years in the case of a custodian; and

(iii) seven years in the case of an administrator;

(c) has power of attorney sufficient to allow the person to act for the registered manager, administrator or custodian in all matters necessary to secure the compliance of the manager, administrator or custodian with the provisions of this Act and regulations made under the Act; and

(d) is not disqualified by this Act from appointment, and is in all respects a fit and proper person to be the chief executive officer of the manager, administrator or custodian.

(3) A copy of the power of attorney referred to in paragraph (c) of subsection (2) shall be lodged with the Registrar immediately after any appointment of a chief executive officer.

(4) If it appears to the Registrar that the person appointed as chief executive officer of a manager, administrator or custodian is not a fit and proper person to hold office as such, the Registrar, after giving the person concerned an opportunity to be heard, may if the Registrar thinks fit, by notice in writing to the manager, administrator or custodian, direct the manager, administrator or custodian to revoke the appointment with effect from the time specified in the notice.

(5) A notice under subsection (4) shall specify the reasons for the Registrar's decision to revoke the appointment of the chief executive officer and shall require the manager, administrator or custodian to whom the notice is addressed to comply with the notice.

(6) The minister may, on the advice of the Board, by statutory instrument, extend the provisions of subsections (1) to (5) with

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necessary modification, to any office having duties of a kind prescribed in that statutory instrument in relation to the business of the manager, administrator or custodian.

(7) An officer or employee of a manager, administrator or custodian shall not be an officer or employee of another manager, administrator or custodian.

(8) Any person who contravenes subsection (7) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months or to both.

12. Section *eighteen* of the principal Act is amended—

Amendment  
of section 18

(a) in subsection (1) by the deletion of paragraph (d) and the substitution therefor of the following new paragraph:

(d) if it is a defined benefit scheme, during the first four years after registration, carry out an actuarial valuation every two years, thereafter at least every three years so as to review and determine the sound funding of the pension scheme;

(b) in paragraph (b) of subsection (3) by the insertion after the words "retirement pension" of the words "to be determined by the scheme actuary".

(c) by the insertion immediately after subsection (3) of the following new subsection:

(4) For the purposes of this section the Minister shall, on the recommendation of the Board, by statutory instrument, regulate the minimum interest rates to be applied when calculating the portable benefits.

13. Section *nineteen* of the principal Act is amended by the deletion of the words "manager in consultation with the".

Amendment  
of section 19

14. Section *twenty* of the principal Act is amended by the deletion of the words "A manager" and the substitution therefor of the words "The board of trustees".

Amendment  
of section 20

15. Section *twenty-one* of the principal Act is amended in subsection (5) by the insertion after the word "manager" of the words "or trustee".

Amendment  
of section 21

16. Section *twenty-two* of the principal Act is amended by the deletion of the words "A manager" and substitution thereof of the words "The board of trustees".

Amendment  
of section 22

Amendment  
of section 2317. Section *twenty-three* of the principal Act is amended—

(a) in subsection (1) by the deletion of the word “manager” and the substitution therefor of the word “trustees”;

(b) in subsection (6) by the deletion of the word “manager” and the substitution therefor of the word “trustees”; and

(c) by the insertion after subsection (6) of the following new subsection:

(7) Any person who contravenes subsection (6) shall be liable to pay a late submission penalty of one thousand fee units for each day the annual report is late.

Amendment  
of section 2418. Section *twenty-four* of the principal Act is amended in subsection (2) by the deletion of the word “manager” and the substitution therefor of the word “trustees”.Repeal and  
replacement  
of section 2519. The principal Act is amended by the repeal of section *twenty-five* and the substitution therefor of the following new section:Investment of  
funds

25. (1) The trustees may invest in such type of investment as may be approved by the Registrar.

(2) A pension fund shall not make unsecured loans to an affiliated employer:

Provided that any secured loan to an employer shall not exceed five per centum of the total assets of the pension fund.

(3) The Minister may, on the recommendation of the Board, by statutory instrument, issue investment guidelines relating to the limits for investment categories:

Provided that the Minister may, on the recommendation of the Board, by statutory order, permit a pension fund to invest and maintain outside Zambia for the benefit of members not more than thirty per centum of the net assets of the pension fund subject to agreement between the trustees and the fund managers.

Amendment  
of section 2620. Section *twenty-six* of the principal Act is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following:

(1) The trustees shall prepare quarterly returns in the prescribed form relating to the investment of pension funds, and shall furnish the returns to the Registrar within fourteen days after the end of each quarter; and

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(b) by the insertion after subsection (2) of the following new subsections:

(3) For purposes of subsection (1), the first quarter ends on thirty-first March, the second quarter ends on thirtieth June, the third quarter ends on thirtieth September and the fourth quarter ends on thirty-first December of each year.

(4) Any person who contravenes subsection (1) shall be liable to a late submission penalty of five hundred fee units for each day the quarterly return is late.

21. Section *twenty-seven* of the principal Act is amended— Amendment  
of section 27
- (a) by the deletion of the words “ a manager ” and the substitution therefor of the words “ any trustee ”;
  - (b) by the deletion of the colon after the word “ scheme ” and the substitution therefor of a full-stop; and
  - (c) by the deletion of the proviso.
22. Section *twenty-eight* of the principal Act is amended— Amendment  
of section 28
- (a) in subsection (1) by the deletion, of the words “ the manager ” and the substitution therefor of the words “ the trustees ”;
  - (b) in subsection (2) by the deletion, of the words “ A manager ” and the substitution therefor of the words “ The trustees ”.
  - (c) in subsection (3) by the deletion, of the words “ The manager ” and the substitution therefor of the words “ the trustees ”; and
  - (d) in subsection (5) by deletion, of the words “ A manager ” and the substitution therefor of the words “ The trustees ”.
23. Section *twenty-nine* of the principal Act is amended— Amendment  
of section 29
- (a) in paragraph (a) of subsection (2) by the deletion of the word “ manager ” and the substitution therefor of the word “ trustees ”;
  - (b) in paragraph (c) of subsection (2) by the deletion of the word “ manager ” and the substitution therefor of the word “ trustees ”;
  - (c) in subsection (3) by the deletion of the word “ manager ” and the substitution therefor of the word “ trustees ”, and

(d) in subsection (4) by the deletion of the word  
“manager” and the substitution therefor of the word  
“trustees”.

Insertion of  
new section  
29A

Imposition of  
levy

24. The principal Act is amended by the insertion immediately after section *twenty-nine* of the following new section:

29A. (1) The Board may, with the approval of the Minister, impose such levy—

(a) on the net assets of pension funds;

(b) on insurance premiums paid to insurers and re-insurers; on such base as the Board may determine.

(2) A levy imposed under this section shall be payable at such rate as the Minister may, on the recommendation of the Board, by statutory instrument, prescribe.

(3) The statutory instrument made under subsection (2) shall specify the time at which any amount payable by way of the levy under this section shall become due.

(4) All moneys received in respect of the levy shall be paid to the Authority and if not paid on or before the date stated in the Registrar's regulatory statement as provided under section *thirty-eight* the amount due and any sum payable under this section shall be a civil debt recoverable summarily by the Authority.

Amendment  
of section 30

25. Section *thirty* of the principal Act is amended by deletion of the words “A manager” and the substitution therefor of the words “The trustees, administrator or manager”.

Insertion of  
new section  
30A

Penalty for  
late  
remittance of  
pension  
contributions

26. The principal Act is amended by the insertion immediately before section *thirty* of the following new section:

30A. From the date of the commencement of this Act, any employer who does not remit pension contributions to a pension fund within thirty days after the end of the month to which the contributions relate shall be liable to pay interest on the contributions at the Bank of Zambia rate and a penalty of one thousand penalty units for each day the remittance of the contributions is late.

Amendment  
of section 32

27. Section *thirty-two* of the principal Act is amended by the insertion after the word “manager” of a comma and the words “administrator or trustees”.

Amendment  
of section 33

28. Section *thirty-three* of the principal Act is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following subsection:

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(1) The Board, on the recommendation of the Registrar may deregister a pension scheme if—

(a) it appears to the Board that the manager has contravened or failed to comply with any provision of, or requirement under, this Act or regulations made under this Act or the pension plan rules; or

(b) it is wound-up in accordance with such regulations as the Minister may, on the recommendation of the Board, prescribe;

(b) in subsection (2)—

(i) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”; and

(ii) by the deletion of the word “he” after the words “so far as” and the substitution therefor of the words “the Board”;

(c) in subsection (3) by the deletion of the word “Registrar” wherever it appears and the substitution therefor of the word “Board”;

(d) in subsection (6) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”

(e) in subsection (7) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”.

(f) in subsection (8) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”; and

(g) in subsection (9) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”.

29. Section *thirty-four* of the principal Act is amended—

(a) in subsection (1)—

(i) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”; and

(ii) by the deletion of the word “his” and the substitution therefor of the word “its”; and

(b) in subsection (2) by the deletion of the word “Registrar” and the substitution therefor of the word “Board”

30. Section *thirty-five* of the principal Act is amended by the deletion of the word “Registrar” and the substitution therefor of the word “Board”.

31. Section *thirty-six* of the principal Act is amended by the deletion of the word “Registrar” wherever it appears and the substitution therefor of the word “Board”.

Amendment  
of section 34.

Amendment  
of section 35

Amendment  
of section 36

- Amendment of section 37
32. Section *thirty-seven* of the principal Act is amended—
- (a) by the deletion of subsection (1) and the substitution therefor of the following new subsection:
- (1) Any person aggrieved by the Board's—
- (i) refusal to register a pension scheme;
- (ii) refusal to register such person as a manager, administrator or custodian, as the case may be or to renew a certificate of registration on its expiry; or
- (iii) decision to de-register a pension scheme;
- may appeal to the Minister within thirty days after receiving notification of the Board's refusal or decision.
- (b) in subsection (3) by the deletion of the word "Registrar" and the substitution therefor of the word "Board"; and
- (c) in subsection (4) by the deletion of the word "Registrar" and the substitution therefor of the word "Board".
- Amendment of section 42
33. Section ~~forty-two~~ of the principal Act is amended—
- (a) by the insertion after subsection (3) of the following new subsection:
- (4) Where an offence under this Act committed by a manager, administrator or custodian is proved to have been committed with the consent or connivance of any director or officer, such director or officer shall be deemed to have committed the same offence and shall, on conviction, be liable to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.; and
- (b) by the renumbering of subsection (3) as subsection (4).
- Insertion of new section 42A
- Inspector to furnish report
34. The principal Act is amended by the insertion immediately after section *forty-two* of the following new section:
- 42A. Each inspector shall furnish the Board with such reports and other information relating to an inspection as the Board may direct.
- Insertion of new sections 44A to 44E
- References to Registrar
35. The principal Act is amended by the insertion immediately after section *forty-four* of the following new sections:
- 44A. On or after the appointed date, reference in any written law or any other legal document to the Registrar of Pensions and

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Insurance shall be read and construed as references to the Registrar appointed under section *seven* of this Act.

44B. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Authority by virtue of this Act and without further assurance—

Vesting of  
assets of  
Registry  
Office

- (a) the affairs of the Registry Office and
- (b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Registry Office.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of this Act in respect of the Registry Office, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if—

- (a) the Authority had been a party thereto;
- (b) for any reference to the Government there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Authority; and
- (c) for any reference to any officer of the Registry Office not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Authority as the Authority shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the Registry Office shall be construed in accordance with subsection (2) as far as applicable.

44C. (1) Where under this Act, any property, rights, liabilities and obligations of the Government through the Registry Office are deemed transferred to the Authority in respect of which

Registration  
of property to  
be transferred  
by  
Government

transfer a written law provides for registration, the Authority shall make an application in writing to the appropriate authority for registration of the transfer.

(2) The registration authority referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned, and no registration fees, stamp duty or other duties shall be payable in respect thereof.

Legal  
proceedings

44D. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Authority by virtue of this Act, the Authority and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Authority.

(2) Any legal proceedings or application of any authority pending immediately before the commencement of this Act by or against the Government in respect of the Registry Office may be continued by or against the Authority.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the Registry Office may be instituted by or against the Authority.

Staff of  
Registry  
Office

44E. (1) On or after the appointed date, the Board shall on such terms and conditions as it may, with the approval of the Minister, determine appoint as officers of the Authority such public officers from the Registry Office as may be necessary for the performance of the functions of the Authority.

(2) Where an officer from the Public Service is appointed to the service of the Authority—

(a) the terms and conditions of service with the Authority shall not be less favourable than those the officer enjoyed in the Public Service; and

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act.

(3) On or after the appointed date public officers from the Registry Office who are not engaged by the Authority under subsection (2) shall be retained by the Government and shall—

- (a) be redeployed in the service of the Government; or
- (b) be retired under section *thirty-nine* of the Public Service Pensions Act.

36. The principal Act is amended by the insertion after Part VI of the new Schedule set out in the Appendix to this Act.

Act No. 35  
of 1996  
Insertion of  
new  
Schedule

APPENDIX  
(Section 32)  
FIRST SCHEDULE  
(Section 4)  
PART I

ADMINISTRATION OF AUTHORITY

1. (1) The seal of the Authority shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of  
Authority

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years.

Tenure of  
office and  
vacancy

(2) The office of the member shall become vacant—

- (a) upon the member's death;
- (b) if the member is absent without reasonable excuse from three consecutive meetings of the Board of which the member has had notice;

- (c) on ceasing to be a representative of the organisation which nominated the member;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member of the Board;
- (e) if the member is declared bankrupt;
- (f) if the member is convicted of an offence involving fraud or dishonesty; or
- (g) if the member is convicted of an offence against any other written law and is sentenced to a term of imprisonment of not less than six months without the option of a fine.

(3) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed three months.

Filling of  
casual  
vacancy

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

office but that member shall hold office only for the unexpired part of the term.

Proceedings  
of  
Board

4. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Five members of the Board shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Board—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; or
- (c) in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a

casting vote in addition to the deliberative vote.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

5. (1) The Board may, for the purpose of performing its functions under this Act, constitute such committees as it considers necessary and may delegate to any committee such of its functions as it considers fit.

Committees  
of Board

(2) The Board may appoint as members of a committee, persons who are, or are not, members of the Board, except that at least one member of a committee shall be a member of the Board.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.

6. The members of the Board or any committee shall be paid such allowance as the Board may, with the approval of the Minister, determine.

Allowances  
of members

7. (1) If a member or person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or person or the member or person's spouse is directly or indirectly interested in a private capacity, the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Disclosure of  
interest

(2) A declaration of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

8. (1) A person shall not without the consent in writing given by, or on behalf of, the Board, publish or disclose to any person other than in the course of duties, the contents of any document, communication, or information which relates to, and which has come to the person's knowledge in the course of the person's duties under this Act.

Prohibition  
of publication  
or disclosure

(2) Any person who knowingly contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction,

to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

Deputy  
Registrars,  
Secretary and  
other staff

9. (1) The Board shall appoint—

(a) a Deputy Registrar who shall be responsible for insurance; and

(b) a Deputy Registrar who shall be responsible for pensions.

(2) A person shall not be appointed as Deputy Registrar unless the person has qualifications and experience in actuarial analysis, business management, law or accounting.

(3) The Deputy Registrar referred to in sub-paragraph (2) shall—

(a) assist the Registrar in the performance of the Registrar's duties under this Act; and

(b) discharge the functions of the Registrar if the Registrar is absent or is for any reason unable to discharge the functions of the Registrar's office.

(4) The Board shall appoint a Secretary and such other staff of the Authority as it considers necessary for the performance of its functions under this Act.

(5) The Board shall, with the approval of the Minister, determine the terms and conditions of service of the Deputy Registrars, Secretary and staff of the Authority.

## PART II

### FINANCIAL PROVISIONS

Funds of  
Authority

10. (1) The funds of the Authority shall consist of such money as may—

(a) be appropriated by Parliament for the purposes of the Authority;

(b) be paid to the Authority by way of loans, grants or donations;

(c) be paid to the Authority from a levy which may be imposed on the net assets of pension funds or insurance premiums paid to insurers and re-insurers; and

(d) vest in or accrue to the Authority.

(2) The Authority may—

(a) accept moneys by way of grants or donations from any source in Zambia; and

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Authority—

(a) the salaries, allowances, loans, gratuities and pensions of staff of the Authority and other payments for the recruitment and retention of staff;

(b) such reasonable travelling and subsistence allowances for members or members of any committee of the Board when engaged on the business of the Board at such rates as the Board may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Board in the performance of the Authority's functions.

11. The Board may, with the approval of the Minister, invest in such manner as it considers necessary any of the Authority's funds which it does not immediately require for the performance of the Authority's functions.

Investment  
of funds

12. The financial year of the Authority shall be the period of twelve months ending on 31<sup>st</sup> December in each year.

Financial year

13. (1) The Board shall cause to be kept proper books of the accounts and other records relating to the Authority's accounts.

Accounts

(2) The accounts of the Authority shall be audited annually by independent auditors appointed by the Board subject to the approval of the Minister.

(3) The Auditor's fees shall be paid by the Authority.

14. (1) As soon as is practicable, but not later than one hundred and eighty days after the end of the financial year, the Board shall submit to the Minister a report concerning its activities during such financial year.

Annual report

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure;

(c) an audited statement of income and expenditure of the Fidelity Fund; and

(d) such other information as the Minister may require

(4) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay it before the National Assembly.

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*Pension Scheme Regulation  
(Amendment)*

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