

Zambia

## Zambia National Provident Fund Act, 1966 Chapter 273

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# Zambia

## Zambia National Provident Fund Act, 1966

### Chapter 273

Commenced on 10 January 1966

*[This is the version of this document at 31 December 1996.]*

*[Acts No. 1 of 1966; 51 of 1967; 30 of 1968; 15 of 1969; 19 of 1973; 29 of 1975; 21 of 1979; 13 of 1994; 17 of 1994; Statutory Instrument 233 of 1966; 337 of 1967]*

**An Act to establish a National Provident Fund and to provide for its administration and for the payment of contributions into and benefit out of the Fund; and to provide for matters incidental thereto and connected therewith.**

## Part I

### Preliminary

#### 1. Short title

This Act may be cited as the Zambia National Provident Fund Act.

#### 2. Interpretation

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

"**annuitant**" means a person who is in receipt of an annuity;

"**annuity**" means a fixed sum of money payable by monthly instalments in arrear on such conditions as may be specified in the annuity agreement with the Director;

"**benefit**" means benefit payable under this Act;

"**Board**" means the Zambia National Provident Fund Board established under section five;

"**casual employee**" at any time means an employee other than a domestic servant engaged on a daily contract of service who at that time has been employed by his employer for a continuous period of less than one month:

Provided that the continuity of the employee's period of service shall not be deemed to have been broken by reason only that the employee was not employed on Sundays, public holidays or not more than five other days during the period of one month;

"**contributing employer**" means an employer who has become a contributing employer by virtue of the provisions of section ten, eleven or twelve;

"**contribution**" includes statutory contribution, domestic contribution, special contribution and supplementary contribution;

"**contribution period**" means, where wages are paid to an employee—

- (a) at intervals of more than a fortnight, the month during which wages are paid; or
- (b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which wages are paid; or
- (c) at intervals of a week or less, the week in which wages are paid;

"**dependant**" means one of the family of a Member who was wholly or in part dependent upon the earnings of that Member at the time of the Member's death or would, but for the illness of the Member, have been so dependent:

Provided that a person shall not be deemed to be in part dependent upon the earnings of another person unless he was dependent partially on assistance from that other person for the provision of the ordinary necessities of life suitable for persons of his station;

"**Director**" means the Director of the Fund appointed under section six;

"**domestic contribution**" means the contribution payable under section seventeen A;

"**domestic servant**" means an employee gainfully employed in domestic duties in or about his employer's dwelling house, other than for the purpose of the employer's trade or business;

"**eligible employee**" means an eligible employee in terms of section eleven, fourteen, seventeen A or twenty-four F

"**employee**" means any person who—

- (a) is employed in Zambia under any contract of service or of apprenticeship with an employer, whether the contract is expressed or implied, is oral or in writing, and whether employed by way of manual labour, clerical work or otherwise; or
- (b) is ordinarily resident in Zambia and is employed outside Zambia under any such contract of service with an employer in Zambia by whom he is paid;

"**employee's share**" means the amount so designated by statutory order of the Minister;

"**employer**" means, subject to the provisions of sub-section (2), the person with whom an employee has entered into a contract of service or of apprenticeship and who is responsible for the payment of the wages of the employee;

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

"**Investment Committee**" means the Zambia National Provident Fund Investment Committee;

"**Member**" means a person eligible for registration as a Member of the Fund or for whom the Director is required to maintain an account in the Fund

"**minor child**" means a person who has not yet attained the age of twenty-one years;

"**one of the family**" means—

- (a) when used in relation to a person not generally subject to customary law, the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, child, grandchild, brother, sister, half-brother or half-sister of such person; and
- (b) when used in relation to a person generally subject to customary law, any one of such persons as are recognised under customary law as comprising his family;

"**paid**" means paid in money or money's worth and, where it has reference to a date of payment, means the date on which the payment was made in cash or, as the case may be, the bill of exchange or promissory note was met;

"**Reserve Account**" means the Reserve Account of the Fund;

"**special contribution**" means the special contribution payable under section seventeen;

"**statutory contribution**", in relation to any employee, means the amount so designated by statutory order of the Minister;

"**supplementary contribution**" is the supplementary contribution payable under section nineteen;

- (2) Where a person enters into a contract whereby some other person is to provide employees for any lawful purpose of the first-mentioned person and it is not clear from the contract which of the two persons is the employer, then, unless the Board otherwise requires, the first-mentioned person shall be deemed, for the purpose of this Act, to be the employer of those employees.

*[As amended by Act [No. 51 of 1967](#) and 19 of 1973 and 29 of 1975]*

### **3. National registration particulars**

For the purposes of this Act—

- (a) the date of birth of any person registered under the National Registration Act shall be determined by reference to his particulars recorded under that Act and, where no date of birth has been so recorded in respect of the said person, he shall, in the absence of evidence to the contrary, be deemed to have been born on the first day of the apparent month of birth so recorded, or on the 1st January in the apparent year of birth so recorded, as the case may be; and
- (b) a national registration card issued in accordance with the provisions of the National Registration Act shall, in the absence of evidence to the contrary, be accepted as proof of the correctness of the particulars recorded thereon.

*[Cap. 126]*

## **Part II**

### **Zambia National Provident Fund**

#### **4. Zambia National Provident Fund established**

- (1) There is hereby established the Zambia National Provident Fund into which shall be paid all contributions and other moneys required or permitted by or under this Act to be so paid.
- (2) There may from time to time be paid out of the Fund such benefits and other payments, including payments in respect of the expenses of administration, as are authorised by or under this Act.

#### **5. Establishment of the Board**

- (1) There is hereby established a Board to be called the Zambia National Provident Fund Board in which the Fund shall be vested and which shall, subject to the provisions of this Act, be responsible for administering the Fund and advising the Minister on any matters in connection therewith, and the provisions of the First Schedule shall have effect as respects the constitution of the Board and its proceedings.
- (2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating real or personal property, and of doing or performing such acts or things as bodies corporate may by law do or perform.
- (3) The Board may appoint, on such terms and conditions as it sees fit, such persons as are in its opinion necessary for the administration of the Fund.
- (4) The Board shall render annual reports to the Minister; and the Minister shall, as soon as may be after the receipt of any such report, lay a copy thereof before the National Assembly:

Provided that the first report to be rendered under this sub-section may cover such period ending not later than two years after the commencement of this Act as the Board, with the approval of the Minister, may determine.

*[As amended by Act [No. 19 of 1973](#)]*

## 5A. Guaranteeing of loans

The Board may guarantee loans made to employees of the Fund to assist them to acquire housing accommodation.

*[As amended by Act [No 21 of 1979](#)]*

## 6. The Director

- (1) There shall be a Director of the Fund who shall be appointed by the Minister on such terms and conditions of service as may be determined by the Board and whose remuneration shall be paid from the Fund.
- (2) The Director shall be the chief executive officer of the Fund and shall, subject to the provisions of this Act and to the general directions of the Board, be responsible for the direction of persons appointed by the Board under this Act and for the management of the Fund and in particular—
  - (a) for the assessment of contributions and payments under this Act, for their collection, and for their payment into the Fund;
  - (b) for the payment out of the Fund of benefits and claims under this Act and of the expenditure necessary for the administration of the Fund;
  - (c) for the investment of surplus funds from time to time; and
  - (d) for accounting for all moneys received, paid out or invested under this Act.
- (3) The Director may, in writing and subject to the general or special directions of the Board and such restrictions, reservations, exceptions and conditions as he may think fit, delegate to any person employed by the Board any of the powers or functions conferred upon him by or under this Act:

Provided that the Director may at any time in writing vary and revoke any delegation under this section and such delegation, while in force, shall not prevent the exercise by the Director of the powers delegated.

*[As amended by Act [No. 19 of 1973](#)]*

## 7. Deputy to the Director

- (1) The Board may at any time nominate as the deputy to the Director any person appointed by it for the administration of the Fund.
- (2) On the occurrence from any cause of a vacancy in the office of Director (whether by reason of death, resignation or otherwise) and in the case of illness, absence or temporary incapacity of the Director (from whatever cause arising), and so long as such vacancy, illness, absence or temporary incapacity continues, the deputy shall have and may exercise all the powers, duties and functions of the Director.

*[As amended by Act [No. 19 of 1973](#)]*

## 8. Arrangement with persons responsible for any savings, social security or pension scheme

The Director may, with the approval of the Board and the Minister, enter into arrangement with any person responsible for any savings, social security or pension scheme under which any of the functions of that person which are specified in the arrangement being functions in relation to the receipt and disbursement of contribution, assessment or payment due to or by that person may be carried out by the Director as the agent of that person.

*[As amended by Act [No. 19 of 1973](#)]*

## 9. Inspectors

- (1) The Board may from time to time appoint persons to be inspectors for the purposes of this Act.
- (2) The Board shall provide every inspector with a certificate of his appointment, and an inspector, if in the course of his duty so required by any person, shall produce the certificate to such person.
- (3) An inspector appointed under this Act shall for the purposes of this Act have power—
  - (a) at all reasonable times to enter any premises or place where he has reasonable cause to believe persons are being employed in respect of whom contributions are payable under this Act, and there to make any examination or inquiry which he considers necessary to satisfy himself that the provisions of this Act are being complied with, and in particular may interrogate, either alone or in the presence of witnesses, any employer or employee on any matter concerning the application of any of the provisions of this Act, and may question any other person from whom he considers useful information may be obtained so, however, that no one shall be required to answer any question tending to incriminate himself; and
  - (b) to require the production for examination of any book, register, account, receipt or other document relating to contributions or to liability to register or to contribute under this Act and may copy such document or make extracts therefrom.
- (4) An inspector shall, on the occasion of any inspection or visit, notify the employer or his representative of his presence unless the inspection or visit is made in relation to premises not used as a private dwelling-house and it is considered by the inspector that such notification may be prejudicial to the performance of his duties for the time being.

## Part III

### Contributing employers and eligible employees

## 10. Registration of employers

- (1) Subject to the provisions of this Act, every employer other than an employer of a domestic servant shall within one month register under this section in the prescribed manner.
- (2) The Minister may by Statutory Order exempt any category of employers from the requirements of sub-section (1).
- (3) In addition to any other categories of employers which may be exempted under sub-section (2), the Minister may exempt such categories by reference to the number of employees in the service of an employer.
- (4) The period of one month mentioned in sub-section (1) shall in every case begin upon the commencement of this Act or the date when the person concerned becomes an employer in respect of whom no exemption under sub-section (2) is in force, whichever is the later.
- (5) Upon the first day of the month following the month in which the period mentioned in sub-section (1) expires, the employer to whose registration that period relates shall be a contributing employer for the purposes of this Act:

Provided that the Minister may, for the purpose of the initial registration of any category of employers, by statutory order declare that that category of employers shall not be contributing employers until the expiry of such further period as the order may specify.

\*See S.I. Nos. 233 of 1966 and 337 of 1967.

## 11. Eligible employees by order of the President

- (1) The President may, by Order, direct that any holder of a parliamentary or ministerial office under the provisions of the Ministerial and Parliamentary Offices (Emoluments) Act, and of any office constituted by him under the provisions of the Constitution, not being an office in the public service, shall, for the purposes of this Act, be deemed to be an eligible employee.
- (2) The President shall, in such Order, designate the person who shall be liable to make contributions to the Fund in respect of the holders of offices listed in the Order, and such person shall be deemed to be an employer for the purposes of section ten.
- (3) Any order made by the President under the provisions of sub-section (1) shall state the date when the person appointed under the provisions of sub-section (2) becomes a contributing employer for the purposes of section ten.

*[Cap. 1]*

## 12. Religious organisations

- (1) A religious organisation which desires to make statutory contributions in respect of any minister of religion may apply to the Board in the prescribed manner to register under this section.
- (2) If the Board approves an application under sub-section (1), it shall cause the religious organisation to be registered as an employer for the purposes of this Act and shall notify the organisation of such registration.
- (3) A religious organisation registered under sub-section (2) shall notify the Director of the prescribed particulars of any minister of religion in respect of whom it wishes to make statutory contributions and shall become a contributing employer in relation to that minister of religion on the first day of the month following the month in which notification is made under this sub-section; and thereafter the minister of religion shall for the purposes of this Act be deemed to be an eligible employee.

*[As amended by Act [No. 19 of 1973](#)]*

## 13. Contributing employers to remain contributing employers

- (1) A contributing employer who ceases to be an employer of one or more eligible employees shall thereupon cease to be a contributing employer.
- (2) Save as in sub-section (1) provided, a contributing employer shall not cease to be a contributing employer.

## 14. Eligible employees

- (1) Any employee who does not belong to a category—
  - (a) set out in the Second Schedule; or
  - (b) described in any order made by the Minister under sub-section (2);shall be an eligible employee and eligible to receive to the credit of an account in his name in the Fund a statutory contribution made by his employer.
- (2) In addition to the categories set out in the Second Schedule, the Minister may by statutory order declare any category of employees not to be eligible employees.
- (3) The Minister may by statutory order declare any category of casual employees to be eligible employees and, while a casual employee belongs to that category, he shall be an eligible employee.

*[As amended by Act [No. 19 of 1973](#)]*

## 15. Registered employers to notify the director of all eligible employees

Any employer who registers or is registered under the provisions of section ten or eleven shall without delay notify the Director, in relation to every person who is or who subsequently becomes an eligible employee in his service, of such particulars as may be prescribed.

*[As amended by Act [No. 19 of 1973](#)]*

## Part IV

### Contributions and payments to the Fund

#### 16. Statutory contributions

- (1) The Minister shall, after consultation with the Minister responsible for finance, by statutory order, prescribe the level of wages on which statutory contributions to the Fund shall be payable by a contributing employer.
- (2) Subject to the provisions of this Part, a contributing employer shall, for every contribution period after the date when he became a contributing employer, pay into the Fund the statutory contribution in respect of each eligible employee other than domestic servant employed by him during that period:

Provided that no contribution shall be paid under this section in respect of an employee who dies during the contribution period unless the employer deducts the employee's share of the contribution from the wages payable in respect of any part of such period to the estate of the deceased employee.

- (3) Every contribution due under this section shall be paid to the Fund within one month after the end of the month in which the last day of the relevant contribution period falls, and shall be credited to the account of the person in respect of whom it is paid.

*[As amended by Act [No. 19 of 1973](#)]*

#### 16A. Minister to prescribe statutory contribution

The Minister may after consultation with the Minister responsible for finance, by statutory instrument make regulations prescribing the statutory contribution which a contributing employer shall be required to pay into the Fund for every eligible employee employed by him during any contribution period:

Provided that such statutory contribution shall not exceed fifteen ngwee, and the employee's share of such contribution shall not exceed seven ngwee, for every complete kwacha of wages.

*[As amended by Act [No. 19 of 1973](#)]*

#### 17. Special contributions

- (1) Every contributing employer other than an employer of a domestic servant in a private dwelling house shall, for every month during which he employs one or more casual employees, pay into the Fund a special contribution, being fifteen ngwee for every complete two kwacha of the total wages paid to such casual employee or employees during the month:

Provided that no contribution shall be payable under this section in respect of any casual employee who belongs to a category of employees declared under sub-section (3) of section fourteen to be eligible employees.

- (2) Each special contribution under this section shall be paid to the Fund within one month after the end of the month to which it refers, and shall be credited in full to the Reserve Account, notwithstanding that any casual employee in respect of whose employment it is paid is a Member.

### 17A. Domestic contribution

- (1) Every employer of a domestic servant required to pay a domestic contribution under the provisions of this Act, shall, for every month during which he employs such domestic servant in his private dwelling house for a period exceeding thirteen days (including Sundays and Public Holidays) pay into the Fund such domestic contribution as may be prescribed by the Minister.
- (2) Every contribution due under this section shall be paid into the Fund within one month after the end of the month in which the last day of the relevant contribution period falls, and shall be credited to the account of the person in respect of whom it is paid.
- (3) A domestic contribution shall be deemed to have been paid into the Fund when a contribution stamp is purchased from a Post Office or such other place as the Director may designate and affixed to a contribution card in accordance with this section.
- (4) The Director shall make available, without charge, contribution cards and records of employment relating to domestic servants which shall be current for such period as he may think fit, and shall be, and shall remain, the property of the Board.
- (5) The Director may, with the approval of the Board and of the Minister enter into arrangements with the Minister responsible for the administration of the Postal Services Act under which domestic contribution stamps supplied by the Board shall be put on sale at Post Offices.

*[Cap. 470]*

- (6) The proceeds of the sale of domestic contribution stamps shall be paid into the Fund at such intervals and in such manner as may be arranged between the Postmaster-General and the Director.
- (7) Every domestic contribution represented by a contribution stamp on a contribution card received by the Director shall be credited to an account in the Fund maintained under the name and membership number of the employee in respect of whom it is paid, and if no such account exists, one shall be opened by the Director in accordance with the information stated on the contribution card.

*[As amended by Act [No. 19 of 1973](#)]*

### 18. Employee's share

- (1) The Minister shall by statutory order prescribe the employee's share of any statutory contribution.
- (2) A contributing employer who is liable to make or who has made a statutory contribution or domestic contribution in respect of an employee may deduct the employee's share of that contribution from the wages due from him to that employee in respect of the contribution period to which that statutory contribution or domestic contribution relates, but not otherwise.
- (3) Where an employer deducts the employee's share of a statutory contribution or domestic contribution from an employee's wages under this section in advance of the payment of that contribution to the Fund, the employer shall, until he makes such payment, hold that share in trust for the employee.
- (4) Where the Board is satisfied that the employer has deducted the employee's share of a statutory contribution or domestic contribution from an employee's wages but has failed to pay the statutory contribution or domestic contribution, or the employee's share thereof, to the Fund, the Board may, whether or not that contribution or share is recovered from the employer, direct that the amount

of the employee's share be credited to the employee's account in the Fund and the cost thereof be charged to the general revenue of the Fund.

*[As amended by Act [No. 19 of 1973](#)]*

## 19. Supplementary contributions by employers

- (1) Subject to the provisions of this section and in addition to any contributions payable by a contributing employer under the provisions of sections eleven, sixteen, seventeen and seventeen A, he may make monthly supplementary contributions to the Fund in respect of any part or the whole of any wages paid to an eligible employee for the purpose of providing his eligible employee with an improved benefit or purchasing an annuity at a selected age of fifty years, fifty-five years or sixty years:

Provided that the supplementary contribution is not less than five *per centum* of the employee's wages on which the supplementary contribution is assessed.

- (2) An employer making any contribution in accordance with the provisions of sub-section (1) shall furnish such information as to the identity of the employee in respect of whom the contribution is made as the Director may require.

*[Act [No. 51 of 1967](#) as amended by Act [No. 30 of 1968](#) and [19 of 1973](#)]*

## 20. Capital sum payment by employer

An employer, including an employer of a domestic servant, may at any time pay into the Fund a capital sum for the purpose of providing a benefit or purchasing an annuity for his employee or former employee eligible for membership of the Fund or a dependent of such employee or former employee, and if such person is not a Member of the Fund, the Director shall cause an account to be opened in the name of that person for the said purpose, and administer it in accordance with any conditions agreed to by the employer and the Director.

*[As amended by Act [No. 19 of 1973](#)]*

## 21. Member contributing on his own behalf

- (1) A Member who is not employed by an employer liable to make a statutory contribution or a domestic contribution in respect of him may apply in writing to the Director for authority to contribute to the Fund on his own behalf.
- (2) If the Director approves the application, the Member may make consecutive monthly payments to the Fund, each payment to be not less than his share of the contribution last paid by an employer in relation to him, and every such payment shall be credited to the amount of the Member making it.
- (3) Where a Member who is authorised to make payments under this section enters the employment of an employer who is liable to make a statutory contribution or a domestic contribution in respect of him, the Member shall inform the Director forthwith and cease to be so authorised.

*[As amended by Act [No. 19 of 1973](#)]*

## 22. Recovery of contributions from employers and penalty

- (1) Every contribution due to the Fund shall be a civil debt due to the Board.
- (2) If any contribution for which a contributing employer is liable is not paid within the time specified in sections sixteen and seventeen, a sum equal to five *per centum* of the amount unpaid shall be added to the contribution for each month or part of a month during which the contribution remains unpaid after the date by which payment was due, unless the Director is satisfied that the employer has not omitted to take all reasonable action to ensure payment within the time specified by this

Act, and any such additional amount shall be recoverable as a civil debt due to the Board as if it were a contribution:

Provided that the Board may, if it thinks fit, remit in whole or in part any penalty imposed by this sub-section.

- (3) If any domestic contribution for which an employer is liable is not paid within the time specified in section seventeenA, a penalty of fifteen ngwee shall be levied for each month for which the domestic contribution is payable but no stamp has been affixed to the contribution card; and such additional amount shall be recoverable as a civil debt due to the Board as if it were a contribution.

*[As amended by Act [No. 51 of 1967](#) and 19 of 1973]*

### **23. Members' accounts**

The Director shall establish and maintain for every eligible employee in respect of whom a contribution, other than a special contribution, has been made under this Act—

- (a) a main account to which shall be credited all contributions payable by an employer under the provisions of section eleven, sixteen or seventeen A and to which shall be charged any benefit granted or refund made in respect of that employee;
- (b) a savings account to which supplementary contributions, other than contributions for the purpose of purchasing an annuity, made by an employer under the provisions of section nineteen shall be credited and to which shall be charged any benefit granted or refund made in respect of that employee; and
- (c) an annuity purchase account for each age selected by his employer or former employer in terms of sub-section (1) of section nineteen to which shall be credited supplementary contributions identified for the purpose of purchasing an annuity:

Provided that, if it is not possible to purchase an annuity in terms of the regulations made by the Minister under section forty-four, the amount which would have been used to purchase an annuity shall be transferred to his main account.

*[As amended by Act [No. 19 of 1973](#)]*

### **24. Protection of Members' accounts**

The sum standing to the credit of a Member's account in the Fund shall, until paid out in accordance with the provisions of this Act, remain the property of the Board and shall not form part of the assets of a Member in the event of his bankruptcy or insolvency, or be liable to attachment in satisfaction of his debts; and any security, pledge or assignment given before or after the commencement of this Act which purports to include any such sum or part thereof shall to that extent be void.

## **Part V**

### **Domestic Servants**

#### **24A. Registration of domestic servants**

- (1) Subject to the provisions of this Act, every domestic servant employed in a private dwelling house in a municipality or a township and eligible for membership of the Fund shall within one month be registered with the Fund under this section in the prescribed manner, and every employer of a domestic servant shall ensure that any person gainfully employed by him on domestic duties in his private dwelling house has registered with the Fund and obtained a membership card or a provisional registration card as evidence of his registration as a Member of the Fund.

- (2) Every employer of a domestic servant required to register under the provisions of sub-section (1) shall maintain such records as may be prescribed.

*[As amended by Act [No. 19 of 1973](#)]*

#### **24B. Membership card**

Every domestic servant to whom the provisions of section twenty-four A apply shall, within one month of his commencing employment or the coming into force of this section, register with the Fund.

*[As amended by Act [No. 19 of 1973](#)]*

#### **24C. Payment of domestic contribution**

- (1) An employer of a domestic servant shall, for every contribution period during which he employs a domestic servant, pay to the Fund the domestic contribution required by section seventeen A and any statutory order of the Minister.
- (2) Every contribution due under this section shall be paid by purchasing from a Post Office or such other place as the Director may designate a contribution stamp of such value as the Minister may by statutory order determine, and affixing such stamp to the domestic servant's contribution card.
- (3) Every contribution due under this section shall be deemed to have been paid to the Fund when the employer has affixed the contribution stamp to the contribution card.

*[As amended by Act [No. 19 of 1973](#)]*

#### **24D. Employee's share**

An employer of a domestic servant who is liable to make, or who has made, a domestic contribution in respect of such servant, may deduct the employee's share of that contribution from the wages due from him to that domestic servant in respect of the contribution period to which that contribution relates, but not otherwise.

*[As amended by Act [No. 19 of 1973](#)]*

#### **24E. Employee's share of domestic contribution**

The Minister shall by statutory order prescribe the employee's share of a domestic contribution.

*[As amended by Act [No. 19 of 1973](#)]*

#### **24F. Voluntary registration of employee**

Notwithstanding anything contained in this Act, the employer of a domestic servant employed in a dwelling house situated in an area other than a township or a municipality may apply to the Director for his domestic servant to be a Member of the Fund and to pay the domestic contributions in respect of him, and the Director shall thereupon cause an account to be opened in the name of such employee and thereupon the domestic servant shall be deemed to be an eligible employee.

*[As amended by Act [No. 19 of 1973](#)]*

## Part VI

### Benefit

#### 25. Amount of benefit

Benefit payable under this Part shall in amount be the sum standing to the credit of the Member concerned in the Fund, including accrued interest, at the date of payment.

#### 26. Actuarial reports on fund and method of payment of benefit

- (1) The Minister shall, not later than five years after the commencement of this Act and at least once during the course of each five years thereafter, cause an actuary to review the operation of this Act and to make a report. The Minister shall lay before the National Assembly a copy of every such report, together with his observations on any recommendations contained therein.
- (2) The Board may, at any time, cause an actuary to make a report to the Board on the extent to which and the conditions under which benefit, other than benefit payable on emigration, may be converted into and paid in the form of an annuity. The Board may thereupon submit to the Minister a copy of any such report, together with its observations on any recommendations contained therein and, if the Minister is satisfied that it is expedient to do so, he may, by statutory instrument, make regulations to enable the Director to convert a Member's benefit into an annuity if the Member irrevocably exercises an option to acquire an immediate or deferred annuity in lieu of benefit to which he may be entitled.
- (3) Benefit from a main account shall be paid in one amount or in instalments at the discretion of the Board in any particular case or class of case or may, by agreement with the Director, be converted into an annuity.
- (4) Subject to the provisions of sub-section (5), benefit from a savings account may be claimed by a Member on leaving his employer's service and by agreement with the Director, may be paid in one amount or by instalments, or may be converted into an annuity:  
  
Provided that a Member need not, on such claim, withdraw or utilise his total credit in the Fund but may, by agreement with the Director, withdraw or utilise a proportion of such credit.
- (5) The Minister may, by regulations, at any time approve one payment of a benefit not exceeding forty *per centum* of any capital sum paid into the Fund by an employer on behalf of his employee or former employee under the provisions of section twenty, where such capital sum represents such person's accrued credits in the employer's private pension or provident scheme.

*[Act No. 51 of 1967 as amended by Act No. 15 of 1969 and 19 of 1973]*

#### 27. Benefit payable on age qualification

- (1) The Minister may, by statutory order, make regulations prescribing the ages at which a Member is eligible to claim retirement benefit and age benefit:  
  
Provided that the Minister may prescribe different ages for different classes of Members.
- (2) A retirement benefit may be claimed by a Member on satisfying the Director that he has attained the age prescribed by the Minister under the provisions of sub-section (1) and that he intends to be self-employed or to retire from regular paid employment under a contract of service.
- (3) An age benefit may be claimed by a Member, whether or not he has retired from employment under a contract of service, on satisfying the Director that he has attained the age prescribed by the Minister under the provisions of sub-section (1).

- (4) A person who has received benefit under this section shall not be entitled to a further payment of benefit there-under until the expiry of a period of two years from the date on which benefit on the grounds of age was last paid or, in the case where the benefit is paid in instalments, from the date when the first such instalment was paid.

*[As amended by Act [No. 19 of 1973](#)]*

## **28. Benefit payable on death**

- (1) Subject to the provisions of this section, benefit in relation to a Member shall be payable on that Member's death.
- (2) A Member may at any time, by notice in writing delivered to the Director, nominate any members of his family to receive such proportions of the benefit payable on his death as he may specify.
- (3) A nomination made under sub-section (2) or the marriage of a Member shall be deemed to revoke any prior nomination made by the Member under that sub-section.
- (4) On the death of a Member, the benefit in relation to that Member shall not be a part of the estate of that Member but shall be paid to any person nominated by the Member under sub-section (2):

Provided that where such person is found to have died or cannot, with the exercise of due diligence, be found within a period of three months from the date when the death of the Member is notified to the Director, the nomination shall be deemed to have ceased to be effective immediately prior to the death of the Member.

- (5) Where, on the death of a Member, there exists or remains no effective nomination under sub-section (2), the Director shall, after such inquiry and upon such evidence as he may think fit—
- (a) pay the benefit to any widow or widower of the Member with whom at the time of the Member's death the Member was cohabiting; or
- (b) if no person satisfies the conditions of paragraph (a), pay the benefit in such proportions as he may think fit to any persons who were dependants of the Member:
- Provided that where any such dependant is a minor child, payment may be made to his guardian for use on his behalf; or
- (c) in any other case, hold the benefit in trust for any persons subsequently found to be eligible under this sub-section to receive it.
- (6) Benefit which is held in trust in accordance with paragraph (c) of sub-section (5) and which remains unpaid on the expiry of a period of five years from the Member's death shall be paid into the Reserve Account.
- (7) No action or claim shall lie against the Director or the Fund in respect of any benefit paid in accordance with the provisions of sub-section (5).

*[As amended by Act [No. 19 of 1973](#)]*

## **29. Benefit payable on disability**

Benefit shall be payable to a Member who is subject to mental or physical disability to an extent which, in the opinion of the Director, renders him unfit for employment of a regular nature.

*[As amended by Act [No. 19 of 1973](#)]*

## **30. Benefit payable on emigration**

Benefit shall be payable to a Member who satisfies the Director that he is about to emigrate or has already emigrated from Zambia and has no present intention of returning to Zambia:

Provided that no benefit shall be payable under this section in the case where the emigration is to a country with which there is in force a reciprocal agreement made in pursuance of section forty-five.

### 30A. Benefit payable for home ownership

- (1) The Minister may, by statutory order, prescribe the extent to which a benefit shall be payable from a Member's account where he proves to the satisfaction of the Director that he intends to acquire or build a dwelling house for his own occupation in a township or municipality.
- (2) A benefit paid under the provisions of sub-section (1) shall be payable at the Member's direction as follows:
  - (a) to the Zambia National Building Society;
  - (b) to the township council or municipal council in whose area the dwelling house is situated or is to be erected;
  - (c) to the vendor of the dwelling house; or
  - (d) to a contractor engaged to build a dwelling house.
- (3) The benefit payable under this section shall be such proportion of the Member's credit in the Fund as the Minister shall, by statutory order, prescribe, excluding the twenty-four contributions last credited to his account by a contributing employer.
- (4) A benefit under the provisions of this section may be claimed once only, unless the Member has repaid in full to the Fund any earlier benefit paid on his behalf under the provisions of this section, and accordingly, notwithstanding any other provisions in this Act, the Director is authorised to receive a repayment of any benefit claimed under this section.

*[As amended by Act No. 19 of 1973]*

## Part VII

### Financial

#### 31. Accounts and Audit

- (1) The Board shall cause to be kept proper books of account, and other books and records in relation thereto, in which shall be recorded all the financial transactions of the Fund.
- (2) The financial year of the Board shall be from the 1st April in any one year to the 31st March in the following year.
- (3) The accounts of the Fund shall be audited by such person as the Board, with the approval of the Minister, may appoint.
- (4) Such auditor as the Minister responsible for finance may appoint shall at all times have the right to inspect the accounts of the Fund on behalf of that Minister.
- (5) The Minister shall, as soon as possible after the completion and auditing of the balance sheet and statements of the transactions of the Fund under this Act, lay copies thereof before the National Assembly.

*[As amended by Act No. 51 of 1967]*

### 32. Investment Committee

- (1) There shall be for the purposes of this Act a committee to be known as the Zambia National Provident Fund Investment Committee, which shall consist of four members appointed by the Minister.
- (2) The membership of the Investment Committee shall comprise—
  - (a) one member nominated by the President;
  - (b) one member nominated by the Minister responsible for finance;
  - (c) three members nominated by the Minister responsible for labour, one of whom being a public officer, one representing employers' associations and one representing employees' associations;
  - (d) one member nominated by the Board of Directors of the Bank of Zambia; and
  - (e) the Director.
- (3) Subject to the provisions of this Act, the Investment Committee may appoint a Chairman from among its members and may regulate the procedure at its meetings.
- (4) The Investment Committee shall meet at such times as the Chairman may appoint.
- (5) The Investment Committee shall have power to give general or special directions from time to time on the investment of moneys in the Fund which are surplus to current needs; and the Director shall give the Investment Committee any information required for the proper discharge of its function.

*[As amended by Acts No. 19 of 1973 and 29 of 1975]*

### 33. Investment of moneys

Investment of moneys in the Fund not otherwise required shall be made by the Director in accordance with the directions of the Investment Committee.

*[As amended by Act No. 19 of 1973]*

### 34. Reserve Account

- (1) There shall be a Reserve Account of the Zambia National Provident Fund into which shall be paid—
  - (a) all fines and penalties authorised by or under this Act; and
  - (b) any other monies authorised to be so paid under this Act.
- (2) Income from the investment of monies in the Reserve Account shall be dealt with as general income of the Fund.
- (3) There shall be paid to the Reserve Account any part of the general income of the Fund for any financial year remaining after any allocation for that year in accordance with the provisions of section thirty-five to individual accounts and any allocation special reserves created by the Board to provide for—
  - (a) payments to be made to Members claiming benefit where the Board is satisfied that deductions were made from the wages of a Member but not paid over to the Fund by an employer who was liable to pay the statutory or domestic contribution;
  - (b) payments to be made to a Member claiming benefit where the Board is satisfied that a benefit has not been received by the Member due to misappropriation, theft or personation of such Member;
  - (c) the equalisation of interest credits to Members;

- (d) grants to be paid to female Members of the Fund on confinement;
  - (e) grants to be paid towards the funeral expenses of deceased Members;
  - (f) such additional benefits for the Members as may be approved by the Minister; and
  - (g) any contingencies deemed expedient by the Board.
- (4) The Board may, subject to the general or special directions of the Minister, authorise the expenditure of moneys in the Reserve Account for the promotion, establishment and support of any organisation or scheme the objects of which consist of or include the maintenance of aged and indigent persons.

*[As amended by Act [No. 19 of 1973](#)]*

### **35. Interest on accounts**

- (1) Subject to the provisions of this section, the Board shall, before the commencement of a financial year, fix the rate of interest to be paid on the accounts of Members during the financial year.
- (2) In determining the rate of interest the Board shall have regard to the estimated net income of the Fund for the financial year after allowing for such expenses of administration and appropriations to the Reserve Account as shall have properly been made under this Act.
- (3) The interest due to any Member shall be calculated on the balance standing to the credit of his account at the end of the month prior to payment of a benefit.

*[As amended by Act [No. 19 of 1973](#)]*

### **36. Refund of excess contributions**

Moneys paid to the Fund in excess of the amount for which an employer is liable in respect of an employee may be refunded to the employer, or to the employee, or to both, as the case may be, in such manner as the Director may approve in each case.

## **Part VIII**

### **Legal**

### **37. Criminal Proceedings**

- (1) Any person who—
  - (a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation;
  - (b) for the purpose of obtaining any payment or other benefit under the Act for himself or some other person—
    - (i) knowingly makes a false statement or representation; or
    - (ii) knowingly produces or furnishes or causes to be produced or furnished any document or information which is false in any material particular;
  - (c) being required to register under section ten, fails to do so within the period specified therein;
  - (d) fails to ensure that any person gainfully employed by him on domestic duties in his dwelling house has, in accordance with the provisions of sub-section (1) of section twenty-four A, registered with the Fund and obtained a membership card or a provisional registration card;

- (e) being the employer of a domestic servant fails to maintain any records prescribed under sub-section (2) of section twenty-four A;
- (f) being required under this Act to furnish any information, without lawful excuse, fails to disclose that information or furnishes information which is false;
- (g) fails to pay to the Fund within the period specified in section sixteen or seventeen or seventeen A any contribution which he is liable to pay under this Act;
- (h) obstructs any inspector, officer or servant of the Fund in the discharge of his duties;
- (i) without lawful excuse, fails to produce documents which he is required to produce under this Act; or
- (j) knowingly deducts from an employee's wages any amount by way of the employee's share which is in excess of the amount due to be deducted under this Act;

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

- (2) In any court proceedings under sub-section (1) with respect to used domestic contribution stamps, a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever, and whether it has actually been used for the purpose of paying a contribution or not and unless it is proved to the contrary, the evidence that a stamp has been affixed to any material shall be deemed to be sufficient evidence for the purpose of proving that the stamp was affixed to a contribution card.
- (3) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order that person to pay to the Fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from that person to the Fund at the date of conviction; and such amount shall be recovered in the same manner as a fine and shall be paid into the Fund for the credit, where applicable, of the accounts of the employees concerned.
- (4) Proceedings in respect of any offence under this Act may be commenced at any time within the period of twelve months after the commission of the offence has been brought to the notice of the Director.

*[As amended by Act [No. 19 of 1973](#), 29 of 1975 and Act [No. 13 of 1994](#)]*

### **38. Institution of legal proceedings**

Any action for the recovery of contributions and any criminal proceedings under section thirty-seven may be instituted by the Director.

*[As amended by Act [No. 19 of 1973](#)]*

#### **38A. Priority of payments**

In the event of an employer becoming bankrupt or, if the employer is a company, in the event of the company having commenced to be wound up, the amount of any contribution, penalty or other payment due to the Fund in respect of any employee by such employer—

- (a) at the date of the receiving order; or
- (b) at the date of the commencement of the winding up;

shall, notwithstanding anything to the contrary contained in any other written law, be deemed to be wages for all purposes of the Preferential Claims in the Bankruptcy Act.

*[As amended by Act [No. 19 of 1973](#)]*

*[Cap. 83]*

### 39. Protection of contributions

- (1) Where the Director has given the court written notice of a claim under this Act and—
- (a) any attachment is issued against the property of an employer in execution of a decree against him, and any such property is seized or sold or otherwise realised in pursuance of such execution; or
  - (b) on the application of a creditor the property of an employer is sold;
- the proceeds of the sale or other realisation of the property shall not be distributed to any person entitled thereto until the court ordering the sale or realisation has made provision for the payment, after the costs of the sale or realisation, of any amounts due in respect of contributions payable by the employer under this Act during the twelve months before the date of such order.
- (2) For the purpose of this section, "employer" includes any company in liquidation under the Companies Act.

[As amended by Act [No. 19 of 1973](#)]

[Cap. 388]

### 40. Certificates as evidence

A written extract of an entry in the accounts or records of the Fund shall, when certified by the Director, be received in all courts as *prima facie* evidence of the truth of the contents thereof.

[As amended by Act [No. 19 of 1973](#)]

## Part IX

### Miscellaneous

#### 41. Existing schemes

- (1) The employer of any employee who is a member of or is entitled to participate in an existing pension scheme or provident fund of his employer providing benefits for old age shall not thereby be exempt from contributing to the Fund in respect of that employee.
- (2) Where an employer—
- (a) is liable to make statutory contributions in respect of any employee or employees; and
  - (b) is by himself or in association with others operating a scheme to provide any benefits of the same class as those payable under this Act for such employee or employees;
- he or, as the case may be, the governing body of that scheme may, by virtue of this sub-section and whether or not the rules of the scheme allow, amend the scheme to take into account contributions made to the Fund and provide for a reduction of the contributions made to the scheme.
- (3) Nothing in sub-sections (1) and (2) shall be construed so as to—
- (a) authorise the amendment of a scheme in such a way that the benefits, excluding annual interest, to an employee under that scheme and this Act are reduced below those to which he would have been entitled if this Act had not been passed; or
  - (b) require an employer to contribute to both the scheme and the Fund an amount in excess of that paid by the employer to the scheme for any comparable period before he became a contributing employer.

- (4) Subject to the provisions of sub-section (5), an authority responsible for the administration of any existing pension scheme or provident fund may, with the approval of the Board, make a payment of any sum to the Fund in respect of any person who is or has been a member of or contributor to that scheme or fund, and the Board shall cause that sum to be credited to the account of such person in the Fund and for this purpose shall, if no such account exists, cause an account to be opened in the name of that person.
- (5) An authority making any payment in accordance with the provisions of sub-section (4) shall furnish with such payment—
  - (a) a certified copy of its resolution or other authority authorising the payment; and
  - (b) such information as to the identity of the person in respect of whom the payment is made as the Director may require.

*[As amended by Act [No. 19 of 1973](#)]*

#### **41A. Account for Workers Compensation Fund Control Board**

Notwithstanding anything contained in the Workers Compensation Act, the Director may, with the approval of the Board and the Minister, establish and maintain on behalf of the Workers Compensation Fund Control Board, an account in the Fund to which may be credited any assessment payable by employers under the provisions of the Workers Compensation Act, and to which shall be charged all payments due to, or made on behalf of, the Workers Compensation Fund Control Board and such expenses of the administration of the account as may be approved by the Minister.

*[As amended by Act [No. 19 of 1973](#)]*

*[[Cap. 271](#)]*

#### **42. \*\*\***

*[Repealed by Act [No. 17 of 1994](#).]*

#### **43. Prohibition against misuse of information received**

- (1) An inspector or other person who in the exercise of any powers conferred or the performance of any duty imposed by, under or in connection with this Act acquires information relating to the personal or financial affairs of any other person shall not, save in the performance of his duty, publish or disclose such information to any person.
- (2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding three months.

*[As amended by Act [No. 13 of 1994](#)]*

#### **44. Regulations**

The Minister may, by statutory instrument, make regulations to give effect to the provisions of this Act and, without prejudice to the generality of that power, such regulations may make provision for—

- (a) anything which is to be or which may be prescribed under this Act;
- (b) the nature of records to be kept by employers;
- (c) the amount of statutory or domestic contributions under this Act;
- (d) the method of collecting contributions under this Act;
- (e) the procedure for making claims, and the method of making payments, under this Act;

- (f) the occasions on which any person shall be required to produce his national registration card, or other identity document, for the purposes of this Act;
- (g) any forms required for the purposes of this Act;
- (h) the procedure for dealing with unclaimed moneys in the Fund;
- (i) the procedure for the administration of annuities;
- (j) the part payment of a benefit under the provisions of subsection (5) of section twenty-six;
- (k) the procedure for collecting assessments or contributions on behalf of the Workers' Compensation Fund Control Board, and the procedure for the administration of the account established by the Board under the provisions of section forty-one A.

*[As amended by Act [No. 19 of 1973](#)]*

#### **45. Reciprocal agreements**

- (1) The President may enter into a reciprocal agreement with the government of any other country in which a fund or scheme similar to the Fund has been established, and there may be included in the agreement provision—
  - (a) that any period of membership of such a fund or scheme in the country of that government may be treated as a period of membership of the Fund and vice versa; and
  - (b) that, subject to such conditions as may be agreed, any amount standing to the credit of a Member who works for any employer in the country of that government may be transferred to his credit in such fund or scheme, and any amount standing to the credit in such fund or scheme of any person who becomes a Member may be transferred to his credit in the Fund.
- (2) Any reciprocal agreement made under this section may modify, adapt or amend the provisions of this Act to give effect to the agreement:

Provided that, if it does so adapt or amend the provisions of this Act, it shall be laid before the National Assembly as soon as may be after it is made. If the National Assembly passes a resolution within seven sitting days after the laying, disallowing the agreement, the agreement shall be void, but without prejudice to the validity of anything previously done thereunder.

#### **46. Act to bind the Republic**

This Act shall bind the Republic.

### **First Schedule (Section 5)**

#### **The Zambia National Provident Fund Board**

##### **1. Constitution of Board**

- (1) The Board shall consist of sixteen persons appointed by the Minister, of whom—
  - (a) five shall represent employers' associations in Zambia;
  - (b) five shall represent employees' associations in Zambia;
  - (c) five shall be public officers; and
  - (d) one shall be the Director.
- (2) The Minister shall designate two members of the Board to be the Chairman and Vice-Chairman respectively of the Board.

- (3) Members of the Board shall be appointed for any period not exceeding three years, but a retiring member shall be eligible for reappointment.
- (4) The office of a member of the Board shall become vacant—
  - (a) upon his death;
  - (b) if he is adjudicated a bankrupt or makes a composition with his creditors;
  - (c) if he is absent from three consecutive meetings of the Board without special leave of the Board;
  - (d) if he gives one month's notice in writing to the Minister of his intention to resign office and his resignation is accepted by the Minister; or
  - (e) if his appointment is terminated by the Minister.

## 2. Procedure of Board

- (1) The Board may meet for the despatch of business, adjourn and, subject to the provisions of this Act, regulate its meetings as it thinks fit.
- (2) The quorum necessary for the transaction of the business of the Board shall be eight members provided that there are included at least one member representing employees and one member representing employers, and, in the absence of the Chairman and Vice-Chairman, the members present at any meeting shall elect one of their number to act as Chairman.
- (3) Decisions of the Board shall be made according to the majority of votes of the members present and voting at a meeting of the Board at which a quorum is present and, in the event of an equality of votes, the Chairman presiding at the meeting shall have a casting vote in addition to his deliberative vote.
- (4) The Board shall cause minutes to be kept recording—
  - (a) all resolutions, proceedings and meetings of the Board; and
  - (b) the names of the members present at each meeting of the Board.
- (5) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such co-opted person shall have any right to vote.
- (6) The Board may by resolution declare the remuneration and allowances of any co-opted person and such sums shall be properly payable out of the Fund.
- (7) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under hand of the Director.
- (8) The common seal of the Board shall not be affixed to any instrument except by authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Director and of such other person as the Board may appoint for the purpose.
- (9) If any member of the Board is directly or indirectly interested in any contract or proposed contract or other matter, and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact of his interest and shall not take part in the consideration or discussion of, or vote upon any question with respect to, that contract or matter.
- (10) The members of the Board shall be paid out of the Fund such fees for attendance at meetings of the Board and its sub-committees, and such travelling and subsistence allowances, as the Minister may direct.

*[As amended by Act [No. 19 of 1973](#)]*

## Second Schedule (Section 14)

### Employees who are not eligible employees

1. Any person who is required to contribute under the Public Service Pensions Act, or under the Teaching Service Commission (Pension) Regulations.
2. Any person who has been confirmed in his appointment, and whose service is qualifying service for pension or gratuity under the Civil Service (Local Conditions Pensions) Act (Chapter 410 of the 1971 edition) and the Police Act.
3. Any person who has been confirmed in a pensionable office, and who is qualifying for pension, under the European Officers' Pensions Act.
4. Any member of the Fund established under the Local Authorities Superannuation Fund Act.
5. Any member of the Regular Force within the meaning of the Defence Act.
6. Any member of the University of Zambia Superannuation Scheme for Senior Staff.
7. Any person who is exempt from social security schemes by virtue of the Diplomatic Immunities and Privileges Act.
8. Any employee, not being a citizen of Zambia, who is employed in Zambia for periods not exceeding six years at a time, provided that the employer has satisfied the Director that the employee is liable to contribute to or is prospectively entitled to benefit from, the social security scheme of any country other than Zambia or of any benefit scheme by virtue of his employment, on terms that would provide the employee with benefits substantially not less favourable than the like benefits to which he would have been entitled under this Act.
9. Casual employees in respect of whom no order has been made under section 14 (3).
10. Any person who is employed in Zambia under an employment permit issued on or after the 1st day of July, 1973, under the provisions of the Immigration and Deportation Act.

*[As amended by Act [No. 19 of 1973](#)]*

*[[Cap. 260](#); [Cap. 410](#) of the 1971 edition; [Cap. 107](#); [Cap. 266](#); [Cap. 284](#); [Cap. 106](#); [Cap. 20](#)]*