INCOME TAX ACT CAP 323 OF THE LAWS OF ZAMBIA

EXTRACT OF SECTIONS 34 - 4O DEALING WITH DEDUCTIONS

See section 37 for Approved fund and the Fourth Schedule

PART IV
DEDUCTIONS

29. (1) Subject to the provisions of this Part- Deductions gene

(*a*) in ascertaining business gains or profits in any charge year, there shall be deducted the losses and expenditure, other than of a capital nature, incurred in that year wholly and exclusively for the purposes of the business; and

(*b*) in ascertaining income from a source other than business, only such expenditure, other than expenditure of a capital nature, is allowed as a deduction for any charge year as was incurred wholly and exclusively in the production of the income from that source.
Provided that on the amount payable by way of insertion upon money borrowed by any person where the Commissioner General is satisfied that the loan or advance was obtained for capital employed wholly and exclusively for business purposes or in the production of income, a deduction shall be allowed.

(2) Only one deduction is allowed under this Act in respect of the same matter in any charge year.
(*As amended by Act No*. 26 *of* 1970 *and No. 3 0f 2003*)

29A. (1) Notwithstanding the provisions of section *twenty-nine* or any other provisions of this Act, any foreign currency exchange gains or losses, other than those of a capital nature, shall be assessable or deductible, as the case may be, in the charge year in which such gains or losses are realised, that is to say, in the charge year in which the person or partnership concerned is required to pay the additional kwacha or is allowed a rebate or a reduction in settlement of a foreign of a foreign debt or liability.
Provided that foreign exchange losses of a capital nature incurred on borrowing used for the building and construction of an industrial or commercial building shall be deductable.
(2) Subsection (1) shall not apply in case of a bank.
Provided that any foreign currency exchange gains or losses of a bank of a capital nature shall not be assessable or deductible as the case may be in the charge year in which they are translated.

Foreign currenc
exchange gains
losses

(3) Where the accounts of a bank made up for the bank's accounting period ending in the charge year ending 31st March, 1999 recognise any foreign currency exchange gain or loss but that gain or loss is not realised within the meaning of subsection (1) in that charge year, then the amount of that gain or loss shall be deemed to be a gain or loss of the business carried on by the bank assessable or deductible, as the case may be, in the charge year ending 31st March, 2000.
(4) In this section “industrial building” and “commercial building” have the meaning assigned to them in the fifteen schedule.
(*As amended by Act No*. 14 *of* 1987, *Act No.6 of* 1999,*Act No.6 of* 2000, *No.3 of* 2002 *and No. 3 0f 2003*)

30. (1) Subject to the other provisions of this section, any loss incurred in a charge year on a source by a person, shall be deducted only from the income of the person from the same source as that in which the loss was incurred. Losses

(2) Subject to the other provisions of this section, where a loss referred to in subsection (1) exceeds the income of a person for the charge year in which the loss was incurred, the excess

shall, as far as possible, be deducted from the income of the person from the same source as that in which the loss was incurred for the following charge year;

Provided that:

(i) in the case of any loss incurred by any mining company holding a large-scale, minig licence issued under section *twenty-three* of the Mines and Minerals Act and carrying on the mining of base metals, the loss shall not be carried forward beyond ten subsequent years after the charge year in which the loss was incurred;

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(ii) in any other case, the loss shall not be carried forward beyond five subsequent years after the charge year in which the loss was incurred; and

(iii) losses brought forward as at 31st March, 1997, shall be deemed to have been incurred in the charge year ending 31st March, 1997

(3) Where on the death of an individual his interest in a business passes to his spouse, any undeducted loss attributable to such interest shall be deducted from the spouse's income from that business in accordance with the provisions of sub-section (2).

(4) *Repealed by Act No*. 7 *of* 1996.

(*As amended by Acts No.* 11 *of* 1969, *No.* 11 *of* 1975,
No. 14 *of* 1976, *No.* 9 *of* 1977, *No.* 10 *of* 1981, *No.* 11 *of* 1984,
No. 7 *of* 1996,*No.* 3 *of* 1997,*No.9 of* 1998, *No. 4 of* 2000 and No. 7 of 2006)

30A. (1) The losses to be deducted by any mining company holding a large-scale mining licence pursuant to section *twenty-three* of the Mines and Minerals Act and carrying on the mining of base metals shall be indexed losses.

(2) For the purposes of this section indexed losses shall be computed as follows:

$$\left[1 + \frac{\underline{(R^2 R^1)}}{R^1}\right] \times \text{loss brought forward}$$

Where:

R^1 is the Kwacha against the United States Dollar at the exchange rate ruling on the last day of the preceding accounting year in which the loss is being claimed; and

R^2 is the Kwacha against the United States Dollar exchange rate to be used for this purpose on the last day of the accounting year in which the loss is being claimed.

The Kwacha against the United States Dollar exchange rate to be used for this purpose is the Bank of Zambia mid-rate at the end of the accounting period.
(As amended by Act No. 7 of 2006)

Indexation of losses

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31. If a company has incurred a loss on a source for the purposes of this Act and that Transfer of losse

company in this section called the old company)-
(*a*) was incorporated outside the Republic; and
(*b*) carried on its principal business within the Republic; and
(*c*) is about to be wound up voluntarily in its country of incorporation for the purposes of transferring the whole of its business and property wherever situate, to a company which has been or will be incorporated in the Republic (in this section called the new company) for the purposes of acquiring that trade and property and the only consideration for the transfer will be the issue to the members of the old company of shares in the new company in proportion to their shareholdings in the old company;
the new company after the transfer referred to in paragraph (*c*) shall be allowed the old company's loss as deduction from income from the same source as that in which the old company's loss was incurred to the extent that the loss has not been allowed as a deduction under this Act for any charge year and such loss shall be allowed in accordance with the provisions of section *thirty*.

Provided that the combined period of loss carried forward for both the old and new companies shall not exceed five years.
(*As amended by Acts No*. 14 *of* 1976, *No*. 14 *of* 1987 *and No*. 3 *of* 1997)

Losses prior to bankruptcy, etc

32. (1) Subject to the provisions of subsection (2), no person may carry forward any loss incurred before he had been adjudged bankrupt.

(2) Where any person has made a conveyance or assignment of his property for the benefit of his creditors, or has made an arrangement with them, or has entered into a composition with them which has been approved by the High Court pursuant to any Bankruptcy Act in force in the Republic, whereby the said person is released from his debts or from any proportion or part thereof, any loss incurred by him prior to his making of such conveyance, or assignment, or arrangement, or his entering into such composition, may be carried forward, reduced, however, *pro tanto*, by the amount of the debts released by or under the said conveyance, assignment, arrangement, or composition, as the case may be, and such loss shall be allowed in accordance with the provisions of section *thirty*.
(*As amended by Acts No*. 11 *of* 1969 *and No*. 14 *of* 1976)

Capital allowan

33. (1) Capital allowances are deducted in ascertaining the gains or profits of a business and the emoluments of any employment or office for each charge year-
(*a*) for buildings, implements, machinery and plant, and premiums, according to the provisions of Parts I to V inclusive of the Fifth Schedule;
(*b*) for capital expenditure in relation to mining operations, according to the provisions of Parts I to VI inclusive of the Fifth Schedule; and
(*c*) for farm improvements and works, according to the provisions of the Sixth Schedule.

(2) The capital allowances to be claimed by any mining company holding a large-scale mining licence pursuant to section *twenty-three* of the Mines and Minerals Act and carrying on the mining of base metals shall be indexed capital allowances.

(3) For the purposes of this section indexed capital allowances shall be computed as follows:

$$\left[1 + \frac{(R^2 R^1)}{R^1}\right] \text{ x Capital allowance}$$

Where:

R^1 is the Kwacha against the United States Dollar at the exchange rate ruling on the last day of the preceding accounting year in which the loss is being claimed; and

R^2 is the Kwacha against the United States Dollar at the exchange rate ruling on the last day of the accounting year in which the loss is being claimed.
The Kwacha against the United States Dollar exchange rate to be used for this purposes is the Bank of Zambia mid-rate at the end of the accounting period.
(*As amended by Acts No*. 11 *of* 1969, *No*. 26 *of* 1970,
No. 46 *of* 1973, *No*. 11*of* 1975, *No.* 3 *of* 1997 and No. 7 of 2006)

Investment allowances

34. Where a person incurs capital expenditure on the construction of, addition to, or alteration of any industrial building, as defined in paragraph 1 of the Fifth Schedule, to be used by him for the purposes of his business as a manufacturer, an investment allowance of ten per centum of such expenditure shall be deducted in ascertaining the gains or profits of that business for the year in which the said building, addition or alteration is first used for the said purposes.
(*As amended by Acts No*. 11 *of* 1969, *No*. 26 *of* 1970, *No*. 11 *of* 1985 *and No*. 14*of* 1987 *and No*. 4 *of* 1993)

Development allowance

34A. (1) Where a person incurs expenditure on the growing of rose flowers, tea, coffee, or banana plant or citrus fruit trees, or other similar plants or trees, an allowance (in this Act referred to as a development allowance) of ten per centum of such expenditure shall be deducted in ascertaining the gains or profits of that business for the charge year.

(2) The development allowance referred to in subsection (1) may, in the case of a person growing for the first time plants or trees referred to therein, be carried forward to the following charge years up to the first year of production, but in no case shall the development allowance in respect of more than three consecutive years be carried forward.
(*As amended by Act No*. 10*of* 1981, *No. 3 of* 2002 *and No. 3 of* 2003)

Preliminary bus
expenses

35. A deduction is allowed in ascertaining the gains or profits of a business for the charge year in which that business commences, in respect of any expenditure that-
(*a*) was incurred within eighteen months before the commencement of the business; and
(*b*) would have been allowed as a deduction in ascertaining the gains or profits of the business after its commencement.

Amount paid aft
cessation of bus

36. Where any amount is paid by any person after the cessation of his business which, if it had been paid prior to the cessation, would have been deductible in computing his gains or profits from the business, then, to the extent to which that amount has not already been deducted in computing the gains or profits, it shall be deducted from his income for the charge year in which it is paid or, if he has not income in that charge year, from his income for the charge year in which the business ceased, and such deduction shall be made before deductions under sections *thirty*, *thirty-one* and *thirty-two*.
(*As amended by Act No*. 26 *of* 1970 *and No. 4 of* 2000)

37. (1) (*a*) A deduction shall, subject to the provisions of this subsection and subsection (4), be allowed in ascertaining the income from emoluments of an employee for a charge year of any amount paid by him during that charge year by way of contribution to any approved fund including National Pension Scheme Authority if the fund to which the contribution is made continues to be an approved fund for that charge year:

Approved fund deductions

Provided that no deduction shall be allowed under this paragraph in respect of any contribution other than a contribution-

(i) which is not a contribution in arrear (hereinafter in this subsection referred to as a current contribution); or

(ii) which is a special lump sum contribution allowed to be deducted under and in accordance with paragraph (*b*).

(*b*) A contribution paid by an employee-

(i) in respect of services rendered by him whilst resident in the Republic to his employer prior to the date of the employee becoming a member of the approved fund to which the said contribution is paid; or

(ii) in respect of a period when the employee was resident and employed in the Republic prior to the date of the employee becoming a member of a fund within paragraph (*c*) of the definition of approved fund or a fund approved under paragraph 5 of the Fourth Schedule to which the said contribution is paid;
in order that the employee may qualify for benefits under the approved fund to which the contribution is paid in respect of such prior services or period as aforesaid shall be a special lump sum contribution and shall, for the purposes of paragraph (*a*), be treated as a current contribution for such charge year or as current contributions for such charge years and in such amounts as the Commissioner-General, in his discretion, may direct.

(*c*) The deduction to be allowed to an employee for a charge year in respect of his current contributions to approved pension funds shall not exceed-

(i) fifteen per centum of his income from emoluments liable to tax which have been received for that charge year from any employer who established, adhered to or continued the said approved pension fund, the fifteen per centum to be calculated before any deduction under this subsection; or

(ii) One hundred and eighty thousand kwacha whichever is the less.

(*d*) The total deductions to be allowed to an employee for a charge year in respect of current contributions to an approved fund within the meaning of paragraph (*c*) of the definition of approved fund and a fund approved under paragraph 5 of the Fourth Schedule shall not exceed fifteen per centum of the income from emoluments of the employee liable to tax before allowing any deduction under this subsection for that charge year or one hundred and eighty thousand kwacha, whichever is the less.

(*e*) The total of the deductions to be allowed for a charge year under paragraphs (*c*) and (*d*) shall not exceed fifteen per centum of the income from emoluments of the employee liable to tax before allowing any deduction under this subsection for that charge year or one hundred and twenty thousand kwacha, whichever is the less, and in any case shall not exceed the assessable income of the employee for the charge year before allowing the deductions under this subsection, subsection (3) and sections *thirty*,*thirty-two*, *thirty-six*, *forty* and *forty-one*.

(2) (*a*) A deduction shall, subject to the provisions of this subsection, be allowed in ascertaining the gains or profits of an employer for a charge year of any amount paid during that charge year by him by way of contribution to an approved fund established for the benefit of his employees (including an approved fund within the meaning of paragraph (c) of the definition of approved fund and a fund approved under paragraph 5 of the Fourth Schedule) if the fund to which the contribution is made continues to be an approved fund for that charge year:

Provided that no deduction shall be allowed under this paragraph in respect of any contribution other than a contribution-

(i) which is not a contribution in arrear (hereinafter in this subsection referred to as a current contribution); or

(ii) which is a special lump sum contribution which is allowed to be deducted under and in accordance with paragraph (*b*).

(*b*) A contribution paid by an employer-

(i) in respect of services rendered to him by an employee prior to the date of the employee becoming a member of the approved fund to which the said contribution is paid in order that the employee may qualify for benefits under that approved fund in respect of such prior services; or

(ii) for any other reason approved by the Commissioner-General;
shall be a special lump sum contribution and shall be treated as a current contribution for such charge year or as current contributions for such charge years and in such amounts as the Commissioner-General, in his discretion, may direct.

(*c*) The deduction to be allowed for a charge year in respect of current contributions to an approved fund other than a fund approved under subsection (1) of section *eleven* of the former Act shall not exceed twenty per centum of the emoluments liable to tax received from the employer in that charge year by each employee in respect of whom the contributions are paid.

(3) (*a*) A deduction shall, subject to the provisions of this subsection and subsection (4), be allowed from the income of an individual for a charge year of any amount paid by him during that charge year by way of a premium payable under an approved annuity contract if the pension fund to which the contribution is paid or the annuity contract under which the premium is paid continues to be an approved fund for that charge year and such deduction shall be deducted from the income of an individual before deductions under sections *thirty*, *thirty-two*, *thirty-six*, *forty*, and *forty-one*.

(*b*) The deduction to be allowed for a charge year under this subsection shall not exceed one hundred and twenty thousand kwacha or the assessable income of the individual for the charge year before allowing the deduction under this subsection and deductions under sections *thirty*, *thirty-two*, *thirty-six*,*forty* and *forty-one*, whichever is the less, except that in the case of an individual who is not resident in the Republic, the deduction shall not exceed an amount equal to the contribution or premium paid as aforesaid multiplied by the fraction of his assessable income as above over his world income.
(3A) For the purposes of subsection (3) "world income" in relation to any person means the total amount of that person's income from all sources, excluding the income which is chargeable to tax but which the Commissioner-General is precluded from including in an

assessment, the amount of income from each source being substantiated to the satisfaction of the Commissioner-General;

(4) The total of all deductions to be allowed to an individual under subsection (1) and (3) for a charge year shall not exceed one hundred and eighty thousand kwacha or the assessable income of that individual for that charge year before allowing the deductions under subsection (1) and (3) and deductions under sections *thirty*, *thirty-two*, *thirty-six*, *forty* and *forty-one*, whichever is the less.

(*As amended by Acts No*. 29 *of* 1970, *No*.12 *of* 1982,
No. 11 *of* 1984, *No*. 14 *of* 1987, *No*. 11 *of* 1992, *No*.4 *of* 1993,
No. 14 *of* 1994, *No*. 2 *of* 1995 *and No.* 7 *of* 1996,*No.6 of* 1999 *and No. 1 of* 2001)

37A. A deduction shall be allowed in ascertaining the gains or profits of an employer for a charge year of any amount incurred by the employer in the establishment or in the administration of an approved share option scheme for that year

Deduction for share option scheme

38. A deduction shall be allowed in ascertaining the gains or profits of a business for any payment made for the purposes of technical education relating to that business or for the purposes of obtaining further experience, training or qualifications, relating to that business: Technical educa

Provided that no deduction shall be allowed under this section in respect of any payment made-

(a) on behalf of an individual who is related by blood or marriage to the person making the payment, or to a person who is able to control directly or indirectly the person making the payment;

(b) in pursuance of an agreement or undertaking to the effect that the person making the payment will receive any reciprocal benefit for such payment where made on behalf of an individual who is related by blood or marriage to any other party to that agreement or undertaking.

(*As amended by Act No*. 26*of* 1970)

39. A deduction is allowed in ascertaining the gains or profits of a business or the emoluments of any employment or office for any subscription paid by a person in respect of his membership of a trade, technical or professional association which is related to his business, employment or office. Subscriptions

40. *Repealed by Act No.* 3 *of* 1997.

41. (1) Subject to the provisions of this section, any amount paid by a person during a charge year to an ecclesiastical, charitable, research, educational institution of a public character or to a national amateur sporting association or to any fund of a public character wholly and exclusively established for the use of the Republic or for ecclesiastical, charitable, research, Charities educational or amateur sporting purposes, shall be deducted from the income of that person for that charge year if-

(*a*) the payments are in money or money's worth;

(*b*) the payments are made for no consideration whatsoever;

(*c*) the Minister approves the institution, association or fund to which payment is made or to be made and the Minister may in like manner withdraw such approval and such withdrawal may be made retrospectively.

(2) The deduction to be allowed in a charge year under this section shall be allowed before deductions under sections *thirty*, *thirty-one*, *thirty-two*, *thirty-six* and *forty*, and in no case shall exceed fifteen per centum of the assessable income of the person for the charge year.

FOURTH SCHEDULE-Approved Funds Paragraph

FOURTH SCHEDULE

(*No.* 23 *of* 1968)

(*Section* 37)

APPROVED FUNDS

1. In this Schedule, "trustees" means the persons, by whatever name called, having the management or control of a fund which either is or was an approved fund within the meaning of approved fund as defined in this Act, or which is a fund or scheme in relation to which an application is made under paragraph 2 for the approval of the Commissioner-General.

Definition of "trustees"

2. (1) Where any fund or scheme is established by or on behalf of an employer for the payment, under the rules relating thereto, of pensions and other benefits to his employees in respect of service with him on the retirement of his employees from such service or to dependants of his employees on the death of his employees, then application under paragraph 2 may be made for such fund or scheme to be approved by the Commissioner-General; and, where any fund or scheme is so approved, it shall be known as an approved pension fund.

(2) The Commissioner-General shall not approve any fund or scheme unless he considers that the rules relating thereto have as their main object the provision of pensions to employees on their retirement from the service of the employer on or after attaining a specified age and unless the Commissioner-General is satisfied-

(*a*) that the fund or scheme is established in the Republic in connection with any business carried on wholly or partly within the Republic by the employer; and

(*b*) that the rules do not-

(i) provide for the payment to any employee during the employee's life of any sum except a pension which may, subject to this paragraph, be commuted or, in the event of the employee leaving the service of the employee's employer in circumstances in which no pension is payable to the employee, any contributions to-

(a) a defined contributory fund or scheme made by the employee and the employee's employer together withreasonable interest; or

(b) a defined benefit fund or scheme made by the employee and the employee's employer together withreasonable interests;.

(ii) provide for the payment of the pension otherwise than on the retirement of the employee from the service of his employer on or after attaining the age of 55 years or on earlier retirement on account of any infirmity of mind or body;

(iii) provide for the payment of any other sums on the death of the employee except a lump sum, or sums payable by way of annuity to the widow or widower or dependants of the employee;

Approval of pension fun

(iv) provide for the payment of the pension otherwise than during the life of the employee or for the payment to the widow or widower of the employee of an annuity otherwise than for a term certain or during the life of the widow or widower or during the minority of any dependant of the employee;

(v) provide for the annuity, if any, payable to the widow or widower of the employee to be of a greater annual amount than the pension payable to the employee; and

(*c*) that the rules do-

(i) provide that all annual contributions of a recurrent nature to the fund or the scheme shall be in accordance with specified scales and clearly specify the benefits payable to members and their dependants from the fund or under the scheme;

(ii) provide that membership of the fund or scheme shall be open to all employees of the group or class of groups or classes specified in the rules;

(iii) provide that no pension, annuity or other sum payable out of the fund or under the scheme shall be capable of surrender or assignment except as provided for in sub-paragraph (2)(c)(vii);

(iv) provide that no contribution made to the fund or scheme by the employer shall be returnable to him;

(v) provide, in any case where the employer is a company the directors whereof have a controlling interest therein, that no director or the widow or widower or any dependant of a director, of the company shall be entitled to any payment out of the fund or under the scheme in respect of his service while he is such a director and that no contributions shall be made to the fund or scheme in respect of the service of such a director; and for the purposes of this sub-paragraph director does not include a whole time service director;

(vi) provide that, if the fund or scheme is wound up, the assets thereof shall be applied in the purchase of annuities for its members or, if a member so elects, shall be transferred to another approved fund;

(vii) provide that, where any pensions payable out of the fund or under the scheme to an employee may be commuted, the amount of the pension that may be commuted shall not exceed five million kwacha or one-half of the pension, whichever may be the greater.

(*As amended by Act No.* 14 *of* 1994,*No. 3 of* 2002 *and No.1 of 2004*)

(3) The Commissioner-General may, in his discretion and subject to any conditions he thinks proper to impose-

(*a*) approve a fund or scheme the rules relating to which otherwise satisfy sub-paragraph (2), notwithstanding that the fund or scheme-

(i) is established outside the Republic in connection with any business carried on wholly or partly within the Republic by the employer;

(ii) is established in connection with a function exercised in the Republic by the employer which is not a business;

(iii) provides for a pension to be paid to an employee before he attains the age of 55 years, but not before he attains the age of 45 years, if the Commissioner-General is satisfied that the nature of the service of the employee is one in which persons customarily retire before attaining the age of 55 years;

(iv) provides, in the event of the death of an employee after he has commenced to draw a pension from the fund or under the scheme, for the payment of such a sum as together with the total amount paid to him by way of pension does not exceed the contributions made to the scheme in respect of him together with reasonable interest thereon;

(v) provides for the employer to recover out of the amount standing to the credit of any employee any sum due by the employee under this Act and paid on his behalf and on his authority by the employer;

(*b*) approve a fund or scheme notwithstanding that the rules relating thereto do not satisfy the other provisions of this paragraph if, in his opinion, such rules satisfy substantially those provisions;

(*c*) approve part of a fund or scheme where the rules relating to that part satisfy substantially the other provisions of this paragraph; and in any such case the part so approved shall be the approved pension fund.

Procedu[...] provision[...] relating [...] approval

3. (1) Where application is made for approval of any fund or scheme under paragraph 2, then the trustees of the fund or scheme shall make the application in writing to the Commissioner-General; and the application shall be accompanied by two copies of any instrument under which the fund or scheme is established and of the rules relating to the fund or scheme.

(2) After consideration of any application referred to in sub-paragraph (1), the Commissioner-General shall inform the trustees of the fund or scheme in writing of his decision and, if the decision is an approval of the fund or scheme, of the charge year in relation to which it is approved, whether the fund or scheme is approved in whole or in part and of any conditions to which the approval is subject; and, where any fund or scheme or part thereof has been approved by the Commissioner-General for any charge year, the fund or scheme or part thereof shall, subject to sub-paragraph (3), be deemed to be approved for each subsequent charge year unless the Commissioner-General withdraws approval under sub-paragraph (4).

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approval

(3) Where there is any alteration to the instrument establishing any approved pension fund or to any rules relating to any such fund, then the trustees of the fund in question shall immediately inform the Commissioner-General in writing of the alteration; and, if the Commissioner-General is not so informed, the approval of the fund in question shall be deemed to have been withdrawn as from the date of the alteration.

(4) The Commissioner-General may at any time by notice in writing withdraw his approval of any approved pension fund, if in his opinion-

(*a*) the conditions on which the approval of the fund in question was granted have not been complied with; or

(*b*) there has been any alteration to the instrument establishing the fund in question or to any rules relating to it.

(5) Where any approved pension fund ceases to be an approved fund, the provisions of section *eighty-two* shall nevertheless continue to apply in respect of the return of any contributions made while it was an approved fund.

(6) The accounts of an approved pension fund shall be maintained in such form and for such periods as the Commissioner-General may determine.

(7) References in sub-paragraphs (3) to (6), both inclusive, to approved pension fund shall be read and construed as including references to a pension fund within the meaning of paragraph (*d*) of the definition of approved fund; and fund shall be construed accordingly.

4. (1) Where an individual in any charge year pays a premium under a contract providing for the payment to him of a life annuity (hereinafter referred to as an annuity contract) then he may apply for the contract to be approved by the Commissioner-General.

(2) Subject to sub-paragraph (3), the Commissioner-General shall not approve an annuity contract unless he considers that the main object of such contract is the provision for the individual applying for its approval, of a life annuity in old age and unless the Commissioner-General is satisfied-

(*a*) that the annuity contract is made in the Republic with an Insurance Company or body of Persons lawfully carrying on in the Republic the business of granting annuities on human life;

(*b*) that the annuity contract provides for annual contributions by the individual throughout the currency of the contract; and

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(*c*) that the annuity contract does not-

(i) provide for the payment during the life of the individual of any sum except sums payable to the individual by way of annuity, which may, subject to this paragraph, be commuted; or

(ii) provide for the annuity payable to the individual to commence before he attains the age of 55 years or after he attains the age of 65 years; or

(iii) provide for the payment of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable to the individual, are payable to the executors or administrators of the individual by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits;

(iv) provide for the annuity if any, payable to the individual's widow or widower to be of a greater annual amount than that paid or payable to the individual; or

(v) provide for the payment of an annuity otherwise than for the life of the annuitant;

(*d*) that the annuity contract does-

(i) provide that no annuity payable under it shall be capable in whole or in part of surrender or assignment except as provided for in subparagraph (2) (*d*) (ii);

(ii) provide that not more than one-third of any annuity payable under it to the individual may be commuted;

(iii) provide that no annuity payable under it to the individual's widow or widower may be commuted:

Provided that, save under such conditions as the Commissioner-General thinks proper to impose, no annuity contract shall be approved by the Commissioner-General if the individual is contributing to any approved pension fund or an approved fund within the meaning or paragraph (c) of the definition of approved fund.

(3) The Commissioner-General may, in his discretion and subject to any conditions he thinks proper to impose, approve an annuity contract otherwise satisfying sub-paragraph (2) notwithstanding that such annuity contract was made by an individual resident in the Republic in a country other than the Republic with an insurance company or body of persons lawfully carrying on the business of granting annuities on human life before he became resident or that the annuity contract provides-

(*a*) for the payment after the death of the individual applying for such approval of an annuity to a dependant not the widow or widower of the individual;

(*b*) for the payment to the individual of an annuity commencing before he attains the age of 55 years, if the annuity is payable on his becoming incapable through infirmity of mind or body of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted;

(*c*) if the individual's occupation is one in which persons customarily retire before attaining the age of 55 years, for the annuity to commence before he attains that age (but not before he attains the age of 50 years);

(*d*) for the annuity payable to any individual to continue for a term certain (not exceeding 10 years) notwithstanding his death within that term or for the annuity payable to any individual to terminate or be suspended on marriage (or re-marriage) or in other circumstances;

(*e*) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will and, in the event of any individual dying entitled to it, for it to be assignable by executors or administrators in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those entitled on intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

(4) The Commissioner-General may at any time, by notice in writing given to the persons by and to whom premiums are payable under any approved annuity contract, withdraw that approval on such grounds and from such date as may be specified in the notice.

Approva foreign f scheme establish law

5. (1) On receiving a claim for approval, the Commissioner-General may, in his discretion, and subject to any conditions he thinks proper to impose, approve a fund or scheme established by law in any other country, the main object of which is to provide for the payment under the rules relating thereto of pensions to its members on retirement from employment and, where any such fund or scheme is so approved, it shall be known as an approved pension fund.

(2) The Commissioner-General may at any time withdraw approval of a fund approved under this paragraph.

(*As amended by Act No*. 26 *of* 1970)

Appe

6. Where under this Schedule the Commissioner-General may approve any pension fund or annuity contract (but not where he may approve thereof subject to any conditions) or may withdraw approval from any approved fund, then any person aggrieved by the refusal of the Commissioner-General to grant his approval or by the withdrawal of any approval already granted, may appeal therefrom as if the refusal or withdrawal of approval were a determination and such an appeal shall be heard accordingly.

Remoter

7. The Commissioner-General's approval for the purposes of this Schedule is not subject to any rule of law against remoteness, and in any case is without prejudice to any such rule.