

**CONSOLIDATED**

Supplement to the Republic of Zambia Government  
Gazette dated the 12<sup>th</sup> December, 1996

[No. 28 of 1996]

**THE PENSION SCHEME REGULATION ACT, 1996**

**ARRANGEMENT OF SECTIONS**

**PART I  
PRELIMINARY**

Section

1. Short title and commencement
2. Application
3. Interpretation

**PART II  
REGISTRAR OF PENSIONS AND INSURANCE**

4. **Establishment of Authority**
5. **Functions of Authority**
6. **Constitution of the Board**
7. **Registrar**

**PART III  
REGISTRAR OF PENSIONS**

8. Registration of Pension Schemes
9. Application for registration
10. Grant of certificate of registration
11. Creation fund
12. Application of fund
13. Conditions of certificate of registration
14. Duration of certificate
15. Register
16. Use of Register in evidence
17. Inspection of Register

**PART 111A  
REGULATION OF MANAGERS AND OTHERS**

- 17A. **Management etc of pension funds**
- 17B. **Qualifications of Manager, administrator or Custodian**
- 17C. **Principal office**
- 17D. **Appointment of chief Executive**

**PART IV  
PRUDENTIAL REGULATION AND SUPERVISION OF PENSION SCHEMES**

18. conditions of compliance of pension schemes
  19. Appointment of Actuary
  20. Qualification of Actuary
  21. Actuary rights and duties

- 22. Accounts and Audits
- 23. Appointment of auditor
- 24. Investment Policy
- 25. Investment of Funds**
- 26. Returns
- 27. Institution of legal proceedings
- 28. Unsafe and unsound practices
- 29. Examination of fund by Registrar
- 29A. **Imposition of levy**
- 30A. Penalty for late remittance of pension contributions**
- 30. General obligation of manager
- 31. Protection against attachment
- 32. Liability insurance

**PART V  
DEREGISTRATION AND APPEALS**

- 33. Deregistration
- 34. Notification
- 35. Rights of contributors
- 36. Powers of Registrar if assets insufficient
- 37. Appeals

**PART VI  
Miscellaneous**

- 38. General guidelines
- 39. Appointment of Inspectors
- 40. Powers of Inspectors
- 41. Obstruction of Inspectors
- 42. General penalty
- 42A. Inspector to furnish report**
- 43. Exemption from Banking and Financial Services Act
- 44A. References to Registrar**
- 44B. Vesting of assets of Registry office**
- 44C. Registration of property to be transferred by Government**
- 44D. Legal proceedings**
- 44E. staff of Registry office**
- 44. Transitional
- 45. Tax exemption
- 46. Regulations

**APPENDIX  
(Section 32)  
FIRST SCHEDULE  
(SECTION 4)**

**PART 1  
ADMINISTRATION OF AUTHORITY**

- 1. Seal of Authority**
- 2. Tenure of office and vacancy**
- 3. filling of casual vacancy**
- 4. Proceedings of Board**

5. **Committee of Board**
6. **Allowances of members**
7. **Disclosure of interest**
8. **prohibition of publication or disclosure**
9. **deputy Registrars, Secretary and other staff**

**PART 11  
FINANCIAL PROVISIONS**

10. **Funds of Authority**
11. **Investment of funds**
12. **Financial Year**
13. **accounts**
14. **Annual report**

**GOVERNEMENT OF ZAMBIA**

**ACT**

No. 28 of 1996

Date of Assent: 20<sup>th</sup> November, 1996

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

(As amended by Act No.27 of 2005)

[12<sup>th</sup> December, 1996

Enactment

ENACTED by the Parliament of Zambia

**PART I**

Short title and  
Commence-  
ment  
Application

**PRELIMINARY**

1. This Act may be cited as the Pension Scheme Regulation Act, 1996, and shall come into Operation on such date as the Minister may, By statutory instrument, appoint.
2. This Act shall apply to any institution or company that establishes or manages a pension scheme except the National Pension Scheme established under the National Pension Scheme Act.
3. In this Act, unless the context otherwise requires-  
**“Administrator” means a company or institution registered under this act whose business includes-**
  - (a) **undertaking, pursuant to a contract or other arrangement the management and day to day administration of the fund; or**
  - (b) **providing consultancy and secretarial services to the scheme funds;**
 (As amended by Act No.27 of 2005)

Act No. 40  
Of 1996

Interpreta-  
tion

**“Authority” means the Pensions and Insurance Authority established by section by four;**  
(As amended by Act No.27 of 2005)

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

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

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

**“custodian” means a company which is incorporated under the companies Act and which holds a banking licence issued under the Banking and Financial services Act and is registered under this Act**  
(As amended by Act No.27 of 2005)

**“Deputy Registrar” means the Deputy Registrar appointed under section six,**

**“Fidelity Fund” means the fidelity fund established by section one hundred and nine of the insurance Act;**  
(As amended by Act No.27 of 2005)

**“fund” means the total assets of a pension scheme;**

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

- (a) undertaking, pursuant to a contract or other arrangement the management of the funds and other assets of a scheme fund for purposes of investment; or**
- (b) providing professional services on the investment of the scheme funds; or**
- (c) reporting or disseminating information concerning the assets available for investment of scheme funds.**

(As amended by Act No.27 of 2005)

**“member” means any person who has joined a pension scheme after the eligibility requirements have been met and has not ceased membership to a scheme or any person drawing a pension under**

**“Member” means a member of the Board or a committee of the Board;**  
(As amended by Act No.27 of 2005)

**Multi-employer trust” means the legal entity established by a group of employers into which all contributions, investment earnings, surpluses and other moneys are accumulated on behalf of members of a pension scheme or an entity which allows affiliation by any established pension scheme for the purpose of pooling resources for investments;**  
(As amended by Act No.27 of 2005)

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

(As amended by Act No.27 of 2005)

**“Pension plan rules” means the regulations which shall be issued by each pension fund and which shall be distributed to each member;**

**“Register” means the Register of Pensions established under this Act;**

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

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

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

(As amended by Act No.27 of 2005)

**“trust” means the legal entity, separate from the employer, in which the pension scheme funds are accumulated and includes a multi-employer trust or a single employer trust.**

## **PART II**

### **THE PENSIONS AND INSURANCE AUTHORITY**

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

**(2) The provisions of the schedule shall apply to the Authority**

**5. (1) The functions of the Authority shall be –**

- a) register and deregister pension schemes in accordance with this Act and in consultation with the Minister responsible for labour and social security;**
- b) register and deregister managers, administrators and custodians of pension schemes;**
- c) regulate and supervise the establishment and management of occupational pension schemes and insurance businesses;**
- d) protect the interests of members and sponsors of occupational pension schemes and shareholders and policy holders;**
- e) licence re-insurers insurers insurance brokers, insurance agents loss adjusters loss assessors, claims agents and insurance risk surveyors;**

Establishment of  
Authority

Functions of  
Authority

Act No. 27 of

- f) administer and manage the Fidelity Fund established pursuant to section one hundred and nine of the Insurance Act and settle claims against the Fund;
- g) formulate and enforce standards in the conduct of the business of insurance with which a member of the insurance industry must comply;
- h) monitor the solvency of insurers and ensure the observance of sound insurance principles and practises by the insurers in the conduct of insurance business;
- i) monitor and periodically review premium rates and scope of cover of policies that provide insurance cover in satisfaction of legal requirements;
- j) in consultation with the competition commission, formulate and implement measures calculated to encourage healthy competition and eliminate unfair practices in the insurance and pensions industries;
- k) advise the Minister and the Minister responsible for Labour and Social Security in policies relating to the pensions and insurance industries;
- l) advise the government on adequate insurance protection of national assets and properties;
- m) implement policies relating to the insurance and pensions industries;
- n) promote the development of insurance and pensions industries;
- o) set and enforce standards for the conduct of the business of insurance and occupational pensions schemes; and
- p) undertake such other activities as are conducive or incidental to the performance of its functions under the Act;

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

Constitution of the Board

6. (1) There is hereby constituted the Pensions and Insurance Authority Board which shall, subject to the provisions of this Act perform the functions of the Authority under this Act.
- (2) The Board shall consist of the following part-time members appointed by the Minister;
- a) a representative of the Ministry responsible for finance;
  - b) a representative of the Ministry responsible for labour and social security;
  - c) a representative of the Bank of Zambia;
  - d) a representative of Zambia association of Chambers of Commerce and industry;
  - e) a representative of the Attorney General;
  - f) a representative of Zambia Institute of Certified Accountants;
  - g) a representative of Zambia Federation of Employers;
  - h) a representative of a trade union representing workers in the insurance and pensions industries ; and
  - i) one other person who shall have expertise in the administration of pension funds, insurance or actuarial matters.

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

**(4) The chairperson and the Vice Chairperson shall be appointed by the Minister from among the members of the Board.**

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

- a) is an undischarged bankrupt**
- b) has been convicted of an offence involving fraud or dishonesty; or**
- c) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.**

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

Registrar

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

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

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

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

- (a) ensure that the pension fund is established in form of a single employer trust or multi-employer trust separate from the employers business;**
- (b) ensure that the pension scheme is laid down in pension plan rules covering the contribution formula, all the benefits, type of plan, option provided and deadline for choosing, calculation of portability rights and members rights for participation in management of the pension fund;**
- (c) examine the certificate of incorporation of the trust;**
- (d) ensure that the auditor and an actuary are appointed in accordance with this Act;**
- (e) examine the annual accounts, the report of the Manager of pension fund and the auditors' report ;**
- (f) examine the actuarial evaluation and ensure it is done periodically according to this Act;**
- (g) ensure that re-insurance arrangements are entered into in accordance with the actuary's recommendation;**
- (h) ensure that, in the case of a multi employer trust, a written affiliation agreement exists, which adequately**

- protects the pension fund's rights, the members' rights and the portability of accrued rights;
- (i) enforce any condition imposed under this Act on a pension fund, trust or the manager, administrator or custodian of such a fund or trust;
  - (j) direct insurers and re-insurers on the standardisation of the contracts of compulsory insurance;
  - (k) direct an insurer or re-insurer where the Registrar is satisfied that the contract of reinsurance issued by the insurer or re-insurers is obscure or contains ambiguous terms or terms and conditions which are unfair or oppressive to the policy holders, to clarify, simplify amend or delete the wording, terms or conditions as the case may be, in respect of future contracts and
  - (l) exercise and perform such other powers and functions as may be conferred on the registrar by or under this Act and the Insurance Act .
- (6) The Registrar, shall at all times-
- (a) protect the rights of benefits and other interest of the members in accordance with their corresponding pension scheme; and
  - (b) monitor the viability of a pension scheme and ensure that the pension scheme is operating on sound financial and actuarial principles
- (As amended by Act No.27 of 2005)

Registration of  
pension funds

### PART III REGISTRATION OF PENSION SCHEMES

8. (1) A person shall not establish a pension scheme except in accordance with this Act and under the authority of a certificate of registration of a pension scheme issued under this Act.
- (2) Every pension scheme, other than a scheme established by a written law, shall be established under an irrevocable trust.
- (3) Subject to subsection (2) the rules of the scheme or fund shall make provisions for-
- a) the manner of appointment or election of trustees and their term of office;
  - b) the functions, powers and duties of the trustees which shall include the general supervision and administration of the scheme or fund;
  - c) the number of trustees of whom one half shall be appointed or elected by the members and the remainder shall be appointed by the sponsoring employer;
  - d) the method of and ground for removal from the office of trustees;
  - e) the election and appointment of the chairperson of the Board of trustees and the functions ,powers and duties of such chairperson:
- provided that the chief executive officer of a sponsoring company shall not be chairperson of the Board of Trustees



- f) the quorum at any meeting of the board of trustees shall be 50% of the total number of Trustees
- g) the procedure of convening any meeting;
- h) the manager, administrator or custodian shall attend the meeting of the board of Trustees as ex-officio members and address the meeting but shall have no vote

- (4) A person shall not be appointed as trustee of any scheme fund if that person-
- a) has been sentenced to imprisonment by a court of competent jurisdiction for fraud or dishonesty for a period of six months or more;
  - b) is adjudged bankrupt;
  - c) was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof;
  - d) is disqualified under any other written law, from holding office as such; or
  - e) is considered by the Board to be, in any way, detrimental to the scheme.

Application for registration

- (5) A person who establishes or manages a pension scheme in contravention of this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.  
(As amended by Act No.27 of 2005)

9. (1) A person may apply to the Registrar for a certificate to establish or manage a pension scheme.
- (2) An application under subsection (1) shall be in such form as may be prescribed by the Minister, by statutory instrument, and shall specify-
- (a) the name and address of the applicant;
  - (b) the physical address of the place where the scheme is to be established or managed **or administered**;
  - (c) a certified up to date extract from the register of companies;
  - (d) a description of the applicant's qualifications enabling him to manage **or administer** a pension scheme;
  - (e) the name and address of the appointed actuary and auditor;
  - (f) the latest annual account established in compliance with generally accepted accounting principles and report of the auditor,
  - (g) the latest actuarial valuation containing the confirmation that the pension fund's assets sufficiently cover the accrued benefit obligations;
  - (h) the applicant has supplied such other information as the registrar considers necessary in determining the application**

Grant of Certificate Of Registration

Provided that paragraphs (f) and (g) shall not apply to newly established pension funds or pension fund managers.  
(As amended by Act No.27 of 2005)

(3) An application under subsection (1) shall be accompanied by the prescribed application fee.

10. (1) The Registrar shall issue the applicant with a certificate of registration authorising the applicant to establish, manage **or administer** a pension scheme, if the Registrar is satisfied that-

- (a) the applicant shall carry out the scheme in accordance with this Act and in accordance with general accepted actuarial principles;
- (b) the applicant shall protect the interests of the members;
- (c) the applicant is likely to be at all times capable of meeting its obligations to members in accordance with the pension plan rules;
- (d) the applicant has the capacity and the necessary facilities to conduct and manage a pension fund professionally; and
- (e) the applicant is capable of keeping the individual accounts of the members, and collecting the contributions and paying out the benefits.

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

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

Creation  
of fund

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

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

(As amended by Act No.27 of 2005)

11. Each pension scheme registered under this Act shall have a fund established in a separate **single-employer trust** or multi - employer trust into which shall be paid all contributions, investment earnings, surpluses from insurance and other moneys, as may be required under the relevant pension plan rules or under this Act.

Application  
of fund

(As amended by Act No.27 of 2005)

12. There shall be charged on, and discharged from a pension fund-

- (a) the payment of benefits in accordance with pertaining pension plan rules and this Act;
- (b) the expenses incurred in the management of the fund including the auditing and actuarial fees; and
- (c) any other payments authorised to be made out of the fund under this Act or any other law.

**Conditions**  
Of certificate  
of registration

13. (1) A certificate of registration shall be subject to the conditions laid down in this Act and such other conditions as the Registrar may consider necessary so as to ensure that the rights of the members under the pension plan are protected in accordance with this Act.

(2) The Registrar may attach such other conditions to a certificate when it is granted as the Registrar may determine.

(3) The conditions of a certificate of registration shall include conditions-

(a) requiring the **trustee** to comply with this Act, the pension plan rules and the directions given by the Registrar under this Act;

(b) requiring the **trustee** to furnish the Registrar, annually within three months after the end of the financial year, with the annual accounts established in compliance with the generally accepted accounting principles, the report of the auditor and the confirmation that the individual accounts of the members are duly kept;

(c) requiring the **trustee** to furnish the actuarial reports in accordance with this Act;

(d) requiring the **trustee** to file the pension plan rules and any revisions to those rules;

(e) requiring the **trustee** to maintain assets of such value as the actuary and the auditor may determine so as to ensure that the **trustee** shall meet his obligation towards the members; and

(f) which the Registrar may determine in consultation with the actuary and the auditor.

(As amended by Act No.27 of 2005)

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

Duration of Certificate

(As amended by Act No.27 of 2005)

15. The Registrar shall establish and maintain a register to be known as the Register of pension Schemes, in which shall be entered particulars of all registered pension schemes in accordance with this Act.

Register of Pension Schemes

(2) The particulars under subsection (1) shall include-

(a) the name of the pension scheme and the date of registration;

(b) a specification whether it is a single or multi-employer trust;

(c) a summary of the pension plan rules stating the type of pension scheme;

(d) a statement of assets and liabilities of the pension fund;

(e) the investment portfolio including a summary of the investments and the net return on investment realised during the last

- financial year;
  - (f) the total administration cost n percent of the total contributions made to the fund;
  - (g) the financial year of the pension scheme; and
  - (h) such other particulars as the minister may prescribe.
- 16. (1) For the purposes of ascertaining the facts concerning the registration of a pension scheme, entries made in the Register shall be prima facie evidence as to the facts specified in the Register.
- (2) A document certified by the Registrar as a true copy or extract from the Register shall be admissible in any court as prima facie evidence of the contents of the Register.
- 17. The Register or a copy of the Register shall be available for inspection by the public at the office of the Registrar during business hours and upon payment of such fee as may be prescribed by regulation.

Use of Register in evidence

### PART 111A

#### REGULATION OF MANAGERS AND OTHERS

- 17A (1) **A person shall not act as manager, administrator or custodian of a pension fund unless that person is registered as such and holds a valid certificate of registration issued under this Act.**
- (2) **A person may apply to the Board for registration as a manager administrator or custodian of a pension fund in the prescribed form.**
- (3) **The Board shall within, sixty days from the date of receipt of an application for registration, consider the application.**
- (4) **Where the Board is satisfied that the applicant has complied with the requirement for registration under this Act the Board shall, on the payment of a prescribed fee, register the applicant and may refuse to register the applicant where the Board is not so satisfied.**
- (5) **Upon registration the Board shall issue the applicant with a certificate of registration in a prescribed form**
- (6) **Where the Board refuses to register an applicant as a manager, administrator or custodian, as the case may be, the Board shall, in writing, furnish, the applicant concerned with the reasons for such refusal within fourteen days of taking the decision.**
- (7) **A certificate of registration issued under subsection (5) shall unless earlier revoked, be valid from the date of issue to the thirty first day of December next following the date of issue.**
- (8) **A registered manager, administrator or custodian may apply for renewal of registration three months before the expiration of the certificate of registration upon payment of the prescribed renewal fee.**
- (9) **Notwithstanding the provisions of subsection (7), where an application for the renewal of a certificate of registration has been made, such certificate shall continue in force until the application for renewal is determined.**

Inspection of Register

Management etc of pension fund

Qualifications of manager, administrator or custodian

Cap.388

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

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

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

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

- a. is a limited liability company incorporated under the company's act whose liability is limited by shares and one of whose objects is to undertake administrative or secretarial functions of a pension scheme or fund;**
- b. has such minimum paid up share capital as may be prescribed by the board;**
- c. has the professional capacity to administer a pension scheme;**
- d. has never been involved in administration of any scheme which was deregistered due to any failure on the part of the administrator ; and**
- e. has shares of which not less than 51 percent are held by Zambian citizens or by a partnership whose partners are Zambian citizens or by a body corporate whose shares are wholly owned by citizens of Zambia.**

**3) A person shall not be registered as a custodian unless the person-**

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

are **Zambian citizens or by a body corporate whose shares are wholly owned by citizens of Zambia.**

**4) The Board may refuse to register a person as a manager, administrator or custodian under this act on the ground that-**

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

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

**17C. (1) Every registered manager, administrator or custodian shall, furnish the Registrar with the address of the office.**

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

Principal office

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

**17D. (1) Every registered manager, administrator or custodian shall, with the**

**approval of the Registrar, appoint a chief executive officer and shall, for the purpose of such approval, notify the registrar of the following:**

- a) the full name and address of the officer;**
- b) the date and place of birth of the officer;**
- c) the officers citizenship;**
- d) the officers academic and professional qualifications;**  
**and**
- e) work experience and record of employment.**

Appointment of  
chief executive  
officer

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

- a) is resident in Zambia;**
- b) has served in the pension fund or the financial sector or industry in a senior management position for a period of not less than-**
  - (i) ten years in case of a manager;**
  - (ii) ten years in case of a custodian; and**
  - (iii) seven years in case of an administrator;**
- c) has power of attorney sufficient to allow the person to act for the registered manager, administrator or custodian in all matters necessary to secure the compliance of the manager ,administrator or custodian with the provisions of this Act and regulations made under this Act ; and**
- d) is not disqualified by this Act from the appointment, and is in all respects a fit and proper person to be the chief executive officer of the manager, administrator or custodian .**

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

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

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

**(6) The minister may, on the advice of the Board, by statutory instrument, extend the provisions of subsection (1) to (5) with necessary modifications, to any office having duties of a kind**

**prescribed in that statutory instrument in relation to the business of a manager, administrator or custodian.**

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

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

(As amended by Act No.27 of 2005)

#### **PART IV**

### **PRUDENTIAL REGULATION AND SUPERVISION OF PENSION SCHEMES**

18. (1) A pension scheme shall –

- (a) make adequate arrangements for the preservation of pension rights so as to protect the interest of its members;
- (b) lay down the rights and obligations of the members in writing in the pension plan rules, a copy of which shall be given to each member;
- (c) each year give to every member a benefit statement showing the member's actual benefits and the member's accrued portable benefits;

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

(As amended by Act No.27 of 2005)

- (e) in managing its assets, aim to maintain at any time the real value of its members' accrued portable benefits; and
- (f) grant to members leaving the scheme before a benefit has become payable full portability of the accrued retirement benefits at the time the member leaves the scheme.

(2) For the purposes of this section and the defined contribution schemes "portable benefits" means the total of the retirement contributions paid by the employee and the employer on the leaving member's account, plus interest during his participation under the plan.



(3) Where a member leaves a scheme under paragraph (f) of subsection (1), in the case of-

Appoint-ment  
of Actuary

(a) a defined contribution scheme, the portable benefits shall be the total of the retirement contributions paid by the member and the member's employer on the leaving member's account, plus interest during his participation under the plan and

(b) a defined benefit scheme, the portable benefit shall amount to the present value of the accrued retirement pension **to be determined by the scheme actuary.**

Qualifications

(As amended by Act No.27 of 2005)

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

(As amended by Act No.27 of 2005)

19. The board of trustees shall appoint an actuary to the fund, who shall not be bound to take directions from the manager, the trustees or the employer, and shall be financially independent from any such person or body.

(As amended by Act No.27 of 2005)

20. **The Board of trustees** shall not appoint an actuary to its pension scheme for the purposes of this Act unless the actuary so appointed has an actuarial qualification equivalent to the one of an associate or fellow of the Institute of Actuaries of England and has the experience to perform the tasks assigned to him under this Act.

(As amended by Act No.27 of 2005)

21. (1) An actuary appointed under section nineteen shall prepare an actuarial valuation of a pension scheme at the intervals stated in paragraph (d) of subsection (1) of section eighteen.

(2) The actuary shall, upon any valuation of a pension scheme, prepare a report on the state of the fund with regard to the fund's ability to meet the obligations it has entered into in the pension plan rules and the affiliation agreement and shall make recommendations and state any action required to be taken by, the manager of such a pension scheme.

(3) The actuary shall submit the report under subsection (2) to the manager, the trustees and the Registrar and a copy to the Minister.

(4) The Registrar shall ensure that the recommendations made by the actuary are carried out by the manager and trustees, within the deadlines fixed by the Registrar in consultation with the actuary, the manager and the trustees.

(5) A manager **or trustee** who contravenes this section shall be guilty of an offence and shall be liable upon conviction

to a fine not exceeding three years, or to both.  
(As amended by Act No.27 of 2005)

22. **The board of trustees** shall after the end of each financial year cause to be prepared-
- (a) an audited balance sheet;
  - (b) an audited statement of income and expenditure;
  - (c) and audited statement of the administration cost
  - (d) an audited statement that the individual account for the members are duly established in accordance with the pension rules under this Act;
  - (e) such other information as the Registrar may require in order to ensure compliance with the pension rules and this Act;
23. (1) The **trustees** of a pension scheme shall appoint an auditor for each financial year.
- (2) A person shall not be qualified for appointment as an auditor unless he is a member in good standing of a professional association of accountants in Zambia under the Accountant's Act.
- (3) The auditor appointed under subsection (2) shall not be bound to take directions from the manager, the trustees and the employer and shall be financially independent from any such person.
- (4) An auditor appointed under subsection (2) shall audit the accounts of the pension fund for the financial year for which he was appointed, and audit annually the pension fund so as to ensure compliance with this Act.
- (5) The auditor shall submit a report to the board of trustees and the manager of the pension scheme so audited.
- (6) The **trustees** shall lodge a copy of its accounts in accordance with subsection (1) and the auditor's report to the Registrar within three months after the end of its financial year.
- (7) Any person who contravenes subsection (6) shall be liable to pay a late submission penalty of one thousand fee units for each day the annual report is late.**  
(As amended by Act No.27 of 2005)
24. Each pension scheme shall have an investment policy so as to-
- (a) achieve secure and profitable investments; and
  - (b) maintain at any time the real value of its members' accrued portable benefits.

- (2) The **trustees** of a pension scheme shall, at such times as the Registrar may require, prepare and furnish to the Registrar, a statement of existing and proposed investments for the pension scheme.

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

**b. A pension fund shall not make unsecured loans to an affiliated employer:**

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

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

**Provided that the Minister may, on the recommendation of the Board, by statutory order, permit a pension fund to invest and maintain outside Zambia for the benefit of members not more than 30 per cent of the net assets of the pension fund subject to agreement between the trustees and the fund managers.**

(As amended by Act No.27 of 2005)

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

(2) The quarterly returns under subsection (1) shall be recorded in the register, and made available for inspection by the public; and inspection shall be free of charge to the members.

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

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

(As amended by Act No.27 of 2005)

27. A contributor may institute legal proceedings against a **trustee** contravening this Act, pension plan rules or regulations so as to protect contributions under a pension scheme.

(As amended by Act No.27 of 2005)

28. (1) Where in the opinion of the Registrar, the auditor, the actuary and the **trustees** are pursuing any act or course of conduct that the Registrar considers as unsafe or of unsound business practice, the Registrar shall direct the manager of such a pension scheme to refrain from adopting or pursuing a particular course of action.

(2) **The trustees** shall comply with the directions given by the Registrar under

Examination of Fund by Registrar

subsection (1).

(3) Directions given under this section shall be given by notice in writing to **the trustees** of a pension scheme and may in like manner be varied or revoked.

(4) A direction given under this section shall be effective immediately and shall remain in effect in accordance with its terms.

(5) **The trustees** acting in contravention of this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No.27 of 2005)

Unsafe and  
unsound practices

29. (1) The Registrar may cause an on site examination to be made of a pension scheme's books of accounts so as to determine the viability of the fund and to determine whether the pension fund is operating prudently in accordance with section twenty-four.

(2) An examination under subsection (1) shall be made by the Registrar if-

(a) he has reasonable cause to believe that **the trustees** is contravening the Act;

(b) **the trustees** has continued to contravene any requirement under this Act after notice has been given to him by the Registrar,

(c) **the trustees** has failed to carry out the recommendations made by an actuary under this Act; or

(d) he has received a complaint from a member under a pension scheme

(3) The Registrar shall publish his findings in the Gazette within thirty days after he has concluded the examination under subsection (1) and shall furnish a copy to **the trustees**.

(4) Subject to subsection (1), the Registrar may give such directions as he sees fit to **the trustees** so as to protect the members' interest.

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

**(a) on the net assets of pension funds**

**(b) on insurance premiums paid to insurers and re-insurers;**

**On such base as the Board may determine.**

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

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

**(4) All monies received in respect of a levy shall be paid to the Authority and if not paid on or before the date stated in the Registrars regulatory**

General  
obligation  
of  
manager

**statement as provided under section thirty eight the amount due and any sum payable under this section shall be a civil debt recoverable summarily by the Authority.**

(As amended by Act No.27 of 2005)

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

Imposition of levy

(As amended by Act No.27 of 2005)

30. The **trustees, administrator or manager** shall-

- (a) ensure that the pension scheme is at all times managed in compliance with this Act, pertaining regulations, the pension plan rules and directions of the Registrar,
- (b) take reasonable care to ensure that the administration of pension funds is carried out in the best interest of members of pension scheme and that members are informed periodically in accordance with the pension rules and this Act;
- (c) report to the Registrar immediately any occurrences which in his view could affect the rights of the members under the pension plan or under this Act;
- (d) report to the Registrar immediately if the contributions of an employer or a member are more than one month in arrears;
- (e) inform the Registrar of any mass-dismissals in process or impending with a contributing employer.

Penalty for late remittance of pension

Protection Against attachment

(As amended by Act No.27 of 2005)

Deregistration

31. Notwithstanding anything contained in any other law, where any judgement or order has been obtained against a member, no execution or attachment or process of any nature shall be issued against the contributions of a member, or an employer, except in accordance with the terms of the pension scheme and such contributions shall not form part of the assets of the member or an employer in the event of bankruptcy.

32. A manager, **administrator or trustee** in consultation with the auditor and the actuary shall take out liability insurance with a recognised insurance company against the negligence or dishonesty of the directors, officers or employees of a pension scheme in order to safeguard its members' contributions and a copy of the insurance policy shall be lodged with the Registrar.

(As amended by Act No.27 of 2005)

## **PART V DE-REGISTRATION AND APPEALS**

33. (1) **The Board, on the recommendation of the Registrar may deregister a pension scheme if –**

- (a) **it appears to the Board that the manager has contravened or failed to comply with any provision of, or requirement under, this Act or regulations made under this Act or the pension plan rules; or**
- (b) **it is wound in accordance with such regulation as the Minister may, on the recommendation of the board, prescribe.;**

(2) The **Board** shall, before taking any action under this section, satisfy himself so far as **the Board** reasonably can, that the action would not unfairly operate to the detriment of a contributor of a pension scheme

(3) The **Board** may appoint a curator who in the opinion of the actuary and of the auditor has had training and experience in pension fund management, to advise the manager on the implementation of such measures as may be specified by the **Board** after consultation with the actuary and the auditor to restore the pension scheme to a sound financial and operating condition.

(4) When a curator is appointed under this section, the manager and any of his employees shall act in accordance with every instruction given by the curator concerning the pension scheme of any part of the pension scheme's administration and operations that is regulated by or under this Act.

(5) If a manager fails to comply with any instructions of a curator appointed under this section, it shall be guilty of an offence and liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(6) The curator shall comply with any written instruction of the **Board**, and in all other matters shall act honestly and in good faith so as to restore the pension scheme to a sound financial and operating condition.

(7) Any act or omission of the manager in accordance with a direction of the curator shall be binding upon the manager, but no person shall have any right or claim against the curator or the **Board** as result of any direction given by the curator in good faith in accordance with this Act.

(8) The curator shall advise the **Board** within six months following the curator's appointment whether in his opinion the pension scheme can be restored to a sound financial and operating condition within a reasonable time, or should be de-registered.

(9) The **Board** shall not be bound to accept the advice of a curator under subsection (8).

(As amended by Act No.27 of 2005)

34. The **Board** shall within fourteen days after its' decision to de-register a pension scheme notify, in writing-

- (a) the manager, the actuary and the auditor;

- (b) the members of such a pension scheme;
- (c) the employer of a member and any other person otherwise entitled to any funds held by the pension fund; of the decision to de-register the pension scheme.

(As amended by Act No.27 of 2005)

- (2) A notice for the purposes of subsection (1), shall set forth such information as the **Board** may require by notice to the manager, contributor and contributor's employer.  
(As amended by Act No.27 of 2005)

35. (1) The decision of the **Board** under this part for de-registration of a pension scheme shall not prejudice the rights of a contributor or other creditor to payment in full of a claim against the scheme.

36. If the **Board** finds that the assets of a pension scheme that is de-registered shall not be sufficient for the full discharge of its obligations to its members, the Registrar may take over the distribution of the assets and the supervision of the pension fund so as to protect contributors' interest under the pension scheme so de-registered and such distribution shall take place only after a corresponding distribution plan has been established by the **Board**.

(As amended by Act No.27 of 2005)

37. **Any person aggrieved by the Boards –**

- (i) **refusal to register a pension scheme;**
- (ii) **refusal to register such person as a manager, administrator or custodian, as the case may be or renew a certificate of registration on its expiry,**
- (iii) **decision to de-register a pension scheme,**

**may appeal to the Minister within thirty days after receiving notification of the Boards refusal or decision.**

(As amended by Act No.27 of 2005)

(2) A person not satisfied with the decision of the Minister under subsection (1) may appeal to the High Court within thirty days.

(3) The **Board** shall give effect to the decision of the Minister under subsection (1) pending a decision of the High Court.

(4) Where an appeal is disallowed by the Minister or the High Court, the **Board** shall take adequate steps to ensure the member's interest under the pension scheme are protected.

(As amended by Act No.27 of 2005)

## PART VI MISCELLANEOUS

Appoint-  
ment  
Of  
inspectors

38. The Registrar shall have power to prescribe and publish guidelines or other regulatory statements as he, in consultation with the actuaries and the auditors, may consider necessary or desirable for the administration and execution of this Act.

39. (1) In order to ensure compliance with the provisions of this Act the Minister may appoint suitably qualified public officers as inspectors for the purposes of this Act.

(2) Every inspector shall be provided with a certificate of appointment, and in the exercise of any powers of the inspector under this Act, the inspector shall produce the certificate for inspection by any person reasonably requiring its production.

40. For the purposes of this Act, an inspector may at any reasonable time, enter the premises where a pension scheme is operating and inspect any accounts, documents or records relating to a pension scheme so as to determine the viability of such a pension scheme.

41. A person who -

(a) delays or obstructs an inspector in the exercise or performance of the inspector's powers and functions;

(b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of the exercise of the inspector's power under this Act; or

(c) gives an inspector false or misleading information in answer to any inquiry made by the inspector;

shall be guilty of an offence and shall be liable, upon conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

42. (1) Any person who -

(a) contravenes any provision of this Act that is expressly stated to be an offence but for which no other penalty is provided; or

(b) fails to comply with any direction given by the Registrar under this Act;

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

(2) In the case of any offence under this Act committed by a body of persons -

(a) in the case of a body corporate, every director or similar officer of the body shall be guilty of the offence; and



(b) in the case of a partnership, every partner shall be guilty of an offence.

**3) where an offence under this Act committed by a manager, administrator or custodian is proved to have been committed with the consent or connivance of any director or officer, such director or officer shall be deemed to have committed the same offence and shall, on conviction, be liable to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.; and**  
(As amended by Act No.27 of 2005)

4) A person shall not be guilty of an offence under subsection (1), if he proves to the satisfaction of the court that the act constituting the offence was done without his knowledge, consent or connivance or that he attempted to prevent the commission of the offence having regard to all the circumstances of the case.

**42A. Each inspector shall furnish the Board with such reports and other information relating to an inspection as the Board may direct.**  
(As amended by Act No.27 of 2005)

43. The Banking and Financial Services Act shall not apply to any pension scheme registered under this Act in so far as it relates to the regulation and supervision of a pension scheme

Inspector to  
furnish reports

44. Any pension scheme to which this Act applies that was operating immediately before the commencement of this Act shall apply to the Registrar for registration within ninety days after the commencement of this Act.

**44A. On or after the appointed date, reference to written law or any other legal document to the Registrar of Pensions and Insurance shall be read and construed as references to the registrar appointed under section seven of this Act.**

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

**(a) the affairs of the registry office and**

**(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the registry office.**

Reference to  
Registrar

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

Vesting of assets  
of Registry Office

**(a) the Authority had been a party thereto;**

**(b) for any reference to the Government they were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Authority; and**

**(c) For any reference to any officer of the registry office not being a party thereto and beneficially interested therein they were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Authority as the Authority shall designate.**

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

**44C. (1) where under this Act, any property, rights, liabilities and obligations of the government through the Registry Office are deemed transferred to the Authority in respect of which transfer a written law provides for registration, the authority shall make an application in writing to the appropriate authority for registration of the transfer.**

Registration of  
property to be  
transferred by  
government

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

Staff of Registry  
Office

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

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

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

Act No.  
35  
of 1996

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

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

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

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

**c. On or after the appointed date public officers from the Registry Office who are not engaged by the Authority under Subsection (2) shall be retained by the Government and shall –**

**(a) be redeployed in the service of the Government; or**

**(b) be retired under section thirty-nine of the Public Service Pension Act.**

**(As amended by Act No.27 of 2005)**

Act No. 35 of 1996

**45. Any pension scheme to which this Act applies shall be entitled to tax exemptions as may be provided for under the Income Tax Act.**

**46. (1) The Minister, in consultation with the Minister responsible for labour and social security, and the Registrar, may by statutory instrument, make regulations to give effect to the provisions of this Act, and to prescribe anything which by the provisions of this Act is required to be prescribed**

**(2) Without limiting the generality of subsection (1), regulations may provide for the following matters:**

**(a) the form and manner of making applications for registration of a pension scheme and fees payable for such application;-**

**(b) prescribe investment guidelines; and**

**(c) the form and manner of appeals**

**APPENDIX  
(Section 32)  
FIRST SCHEDULE**

*(Section 4)*  
**PART 1**  
**ADMINISTRATION OF AUTHORITY**

1.
  - (1) **The seal of the Authority shall be such device as may be determined by the Board and shall be kept by the Secretary.**
  - (2) **The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.**
  - (3) **Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the secretary or any other person generally or specifically authorised by the Board in that behalf.**
  - (4) **Any document purporting to be a document under the seal of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.**
2.
  - (1) **Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years.**
  - (2) **The office of the member shall become vacant**
    - (a) **upon the member's death;**
    - (b) **if the member is absent without reasonable excuse from three consecutive meeting of the Board of which the member has had notice;**
    - (c) **on ceasing to be a representative of the organisation which nominated the member**
    - (d) **if the member becomes mentally or physically incapable of performing the duties of a member of the Board;**
    - (e) **if the member is declared bankrupt;**
    - (f) **if the member is convicted of an offence involving fraud or dishonesty; or**
    - (g) **if the member is convicted of an offence against any other written law and is sentenced to a term of imprisonment of not less than six months without the option of a fine.**
  - (3) **On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed three months.**

3. **Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates office but that member shall hold office only for the unexpired part of the term.**
4.
  - (1) **Subject to the other provisions of this act, the Board may regulate its own procedure.**
  - (2) **the Board shall meet for the transaction of business at least every three months at such places and times as the Chairperson may determine.**
  - (3) **The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Board.**
  - (4) **If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.**
  - (5) **Five members of the Board shall form a quorum at any meeting of the Board.**
  - (6) **There shall preside at any meeting of the Board-**
    - (a) **the Chairperson;**
    - (b) **in the absence of the Chairperson, the Vice-Chairperson; or**
    - (c) **in the absence of the Chairperson and the vice-Chairperson such member as the members present may elect for the purpose of that meeting.**
  - (7) **A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.**
  - (8) **The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person shall have no vote.**
  - (9) **The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings**
5.
  - (1) **The Board may, for the purpose of performing its functions under this Act, constitute such committees as it considers necessary and may delegate to any committee such of its functions as it considers fit.**

- (2) The Board may appoint as members of a committee, persons who are, or are not, members of the Board, except that at least one member of a committee shall be a member of the Board.
  - (3) A person serving as a member of a committee shall hold office for such period as the Board may determine.
  - (4) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.
- 6. The members of the Board or any committee shall be paid such allowance as the Board may, with the approval of the Minister, determine.
- 7. (1) If a member or person is present at a meeting of the Board or any Committee of the Board at which any matter is the subject of consideration and in which matter the member or person or the member or person's spouse is directly or indirectly interested in a private capacity, the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.
  - (2) A declaration of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.
- 8. (1) A person shall not without the consent in writing given by, or on behalf of, the Board, publish or disclose to any person other than in the course of duties, the contents of any document, communication, or information which relates to, and which has come to the person's knowledge in the course of the person's duties under this Act.
  - (2) any person who knowingly contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.
- 9. (1) The Board shall appoint-
  - (a) a Deputy Registrar who shall be responsible for insurance and
  - (b) a Deputy Registrar who shall be responsible for pensions.
  - (2) A person shall not be appointed as Deputy Registrar unless the person has qualifications and experience in actuarial analysis, business management, law or accounting.
  - (3) The Deputy Registrar referred to in sub-paragraph (2) shall-
    - (a) assist the Registrar in the performance of the Registrar's duties

**under this Act; and**

- (b) discharge the functions of the Registrar if the Registrar is absent or is for any reason unable to discharge the functions of the Registrar's office.**
- (4) The Board shall appoint a Secretary and such other staff of the Authority as it considers necessary for the performance of its functions under this Act.**
- (5) The Board shall, with the approval of the Minister, determine the terms and conditions of service of the Deputy Registrars, Secretary and staff of the Authority.**

## **PART 11**

### **FINANCIAL PROVISIONS**

- 10. (1) The funds of the Authority shall consist of such money as may-**
- (a) be appropriated by Parliament for the purposes of the Authority;**
  - (b) be paid to the Authority by way of loans, grants or donations;**
  - (c) be paid to the Authority from a levy which may be imposed on the net assets of pension funds or insurance premiums paid to insurers and re-insurers; and**
  - (d) vest in or accrue to the Authority**
- (2) The authority may-**
- (a) accept moneys by way of grants or donations from any source in Zambia; and**
  - (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.**
- (3) There shall be paid from the funds of the Authority-**
- (a) the salaries, allowances, loans, gratuities and pensions of staff of the Authority and other payments for the recruitment and retention of staff;**
  - (b) such reasonable travelling and subsistence allowances for members or members of any committee of the Board when engaged on the business of the Board at such rates as the Board may, with the**

**approval of the Minister, determine;  
and**

- (c) any other expenses incurred by the Board in the performance of the Authority's functions.**
  
- 11. The Board may, with the approval of the Minister, invest in such manner as it considers necessary any of the Authority's funds which it does not immediately require for the performance of the Authority's functions.**
  
- 12. The financial year of the Authority shall be the period of twelve months ending on 31st December in each year.**
  
- 13.**
  - (1) The Board shall cause to be kept proper books of the accounts and other records relating to the Authority's accounts.**
  
  - (2) The accounts of the Authority shall be audited annually by independent auditors appointed by the Board subject to the approval of the Minister.**
  
  - (3) The Auditor's fees shall be paid by the Authority.**
  
- 14. (1) As soon as is practicable, but not later than one hundred and eighty days after the end of the financial year, the Board shall submit to the Minister a report concerning its activities during such financial year.**
  - (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report-**
    - (a) an audited balance sheet;**
    - (b) an audited statement of income and expenditure;**
    - (c) an audited statement of income and expenditure of the Fidelity Fund; and**
    - (d) such other information as the Minister may require**
  
  - (4) The Minister shall, not later than seven days after the first sitting of the National assembly next after receipt of the report referred to in subsection (1), lay it before the National assembly.**

(As amended by Act No.27 of 2005)