

(Legislative Supplement No. 33)

LEGAL NOTICE No. 80

THE NATIONAL SOCIAL SECURITY FUND ACT

(No. 45. of 2013)

IN EXERCISE of the powers conferred by section 68 of the National Social Security Fund Act, 2013, the Cabinet Secretary for Labour, Social Security and Services makes the following Regulations—

THE NATIONAL SOCIAL SECURITY FUND
(MEMBER CONTRIBUTIONS) REGULATIONS, 2014

PART I—PRELIMINARY

1. These Regulations may be cited as the National Social Security Fund (Member Contributions) Regulations, 2014. Citation.
2. These Regulations shall apply to employers, employees and members of the Pension Fund employed by more than one employer. Application.
3. In these Regulations, unless the context otherwise requires— Interpretation.
“fluctuating emoluments” earnings additional to basic wage or salary not paid on a fixed basis including benefits in kind, acting allowance, special duty allowance, leave allowance, uniform allowance, equipment allowance but including bonuses, commissions, overtime, shift pay, house allowance and service charge.

PART II—MANDATORY CONTRIBUTIONS

4. An employer shall pay contributions to the Pension Fund in respect of each employee in his or her employment as prescribed in section 20 of the Act. Employer to pay contributions in respect of each employee.
5. (1) An employer may opt to undertake the responsibility of making the mandatory contributions prescribed in section 20 of the Act. Employer's contribution.
(2) An employer who opts to undertake the responsibility of making the mandatory contributions shall contribute twelve percent of the employee's monthly pensionable earnings excluding fluctuating emoluments.
6. All contributions shall be paid directly to the Fund or the Fund's bank account in such manner as the Managing Trustee may from time to time authorize or through such other means as the Managing Trustee may with the approval of the Board require. Contributions to paid into Fund account.
7. Where a contribution is made by a cheque that bounces, the Fund shall recover from the employer the bank charges for the bounced cheque. Bank charges to be recovered for bounced cheques.

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| 8. Every contributing employer shall each month submit to the Managing Trustee returns in the prescribed format and manner together with the contributions payable. | Submission of monthly returns. |
| 9. There shall be no agency fee or commission or any deductions whatsoever levied on mandatory contributions remittances. | Deductions on mandatory contributions. |
| 10. The Managing Trustee may in respect of employees due for retirement require an employer to pay the contributions in respect of that employee earlier than the date prescribed to enable the Fund to make an expeditious payment of a benefit due. | Making an early payment in cases of retirement. |
| 11. The Fund shall immediately on receipt of each member's contribution, update the member's account to reflect the contribution. | Updating of member accounts. |
| 12. The Board may, where it reasonably believes that there is practice, in respect of payment of earnings calculated to avoid or reduce liability for contributions by means of irregular or unequal payments or other irregular pay practice, give directions for ensuring that such contributions are payable as if that practice was not followed. | Practices calculated to avoid or reduce liability. |
| 13. An employer who fails to deduct contributions from an employee's wages, shall be required to pay both shares of contributions from the employer's resources. | Failure to deduct contributions |
| 14. Where an employer pays increment of wages or salaries in arrears— | Payment of arrears. |
| (a) the employer shall be obligated to deduct and remit the equivalent pension to the Fund for the month that the wages or salaries are earned. | |
| (b) no deductions or remission on the wages or salaries shall be made on the arrears if the arrears are part of an agreement negotiated with the employee under which pension contributions are not payable on wages or salaries arrears. | |
| 15. All contributions will earn interest per annum. | Interest on contributions. |
| 16. A summarized annual statement indicating principal amounts, interest earned and total amounts shall be issued to individual members for the Old Provident Fund, New Provident Fund and Pension Fund. | Summarized annual statements. |
| 17. (1) Where an employee is ordinarily employed by two or more employers in a month the employers of such an employee shall submit to the Managing Trustee an arrangement for the payment of contributions in respect of such employee. | Contributions from employees with more than one employer. |
| (2) If the Managing Trustee is satisfied that the arrangement is secure, the Managing Trustee may, approve such an arrangement subject to such terms and conditions as he may think necessary. | |
| (3) If no such an arrangement is made and submitted to or approved by the Managing Trustee, each employer shall be liable towards the employee as if he were the sole employer. | |

18. Any penalties waived on unpaid contributions under this Act shall be net of the interest due to a member's account and expenses incurred.

Remission of penalty on contributions.

19. In relation to daily paid workers, the employer shall deduct and remit their contributions in accordance with the provisions of the Act.

Daily paid workers.

20. Where a contract of service provides for gratuity, the employer shall deduct and remit contributions in accordance with the Act,

Employers paying gratuity.

Provided that an employer may deduct its portion of contribution from the gratuity amount payable to the employee.

21. Except as otherwise prescribed, any notice or document required or authorized to be given to any person by the Board under these Regulations, shall be deemed to have been given or sent if it was sent by post or electronic mail to that person at the last known address of that person.

Transmission of notices and documents.

PART III – MANAGEMENT OF VOLUNTARY CONTRIBUTORS

22. No penalty may be levied on late payments received from the self-employed and voluntary contributors.

Waiving of penalty on voluntary contributions.

23. No contributions may be credited into a voluntary member's account in arrears.

Voluntary contribution arrears.

Made on the 10th June, 2014.

KAZUNGU KAMBI,
*Cabinet Secretary for Labour,
Social Security and Services.*