



THE REPUBLIC OF KENYA

LAWS OF KENYA

**THE NATIONAL SOCIAL SECURITY FUND
(MEMBER CONTRIBUTIONS) REGULATIONS**

NO. 80 OF 2014

Revised and published by the National Council for Law Reporting
with the authority of the Attorney-General as gazetted by the Government Printer

www.kenyalaw.org

Kenya

National Social Security Fund Act

The National Social Security Fund (Member Contributions) Regulations

Legal Notice 80 of 2014

Legislation as at 31 December 2022

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FRBR URI: [/akn/ke/act/ln/2014/80/eng@2022-12-31](#)

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The National Social Security Fund (Member Contributions) Regulations (Legal Notice 80 of 2014)
Contents

- Part I – PRELIMINARY 1
 - 1. Citation 1
 - 2. Application 1
 - 3. Interpretation 1
- Part II – MANDATORY CONTRIBUTIONS 1
 - 4. Employer to pay contributions in respect of each employee 1
 - 5. Employer's contribution 1
 - 6. Contributions to Paid into Fund accounts 2
 - 7. Bank charges to be recovered for bounced cheques 2
 - 8. Submission of monthly returns 2
 - 9. Deductions on mandatory contributions 2
 - 10. Making an early payment in cases of retirement 2
 - 11. Updating of member accounts 2
 - 12. Practices calculated to avoid or reduce liability 2
 - 13. Failure to deduct contributions 2
 - 14. Payment of arrears 2
 - 15. Interest on contributions 3
 - 16. Summarized annual statements 3
 - 17. Contributions from employees with more than one employer 3
 - 18. Remission of penalty on contributions 3
 - 19. Daily paid workers 3
 - 20. Employers paying gratuity 3
 - 21. Transmission of notices and documents 3
- Part III – MANAGEMENT OF VOLUNTARY CONTRIBUTORS 3
 - 22. Waiving of penalty on voluntary contributions 3
 - 23. Voluntary contribution arrears 3

NATIONAL SOCIAL SECURITY FUND ACT
THE NATIONAL SOCIAL SECURITY FUND
(MEMBER CONTRIBUTIONS) REGULATIONS
LEGAL NOTICE 80 OF 2014

Published in Kenya Gazette Vol. CXVI—No. 74 on 20 June 2014

Commenced on 20 June 2014

[Amended by [The National Social Security Fund \(Member Contributions\) \(Amendment\) Regulations, 2021 \(Legal Notice 61 of 2021\)](#) on 13 May 2021]
[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]

Part I – PRELIMINARY

1. Citation

These Regulations may be cited as the National Social Security Fund (Member Contributions) Regulations.

2. Application

These Regulations shall apply to employers, employees and members of the Pension Fund employed by more than one employer.

3. Interpretation

In these Regulations, unless the context otherwise requires—

"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. Employer to pay contributions in respect of each employee

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.

5. Employer's contribution

- (1) An employer may opt to undertake the responsibility of making the mandatory contributions prescribed in section 20 of the Act.
- (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. Contributions to Paid into Fund accounts

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.

7. Bank charges to be recovered for bounced cheques

Where a contribution is made by a cheque that bounces, the Fund shall recover from the employer the bank charges for the bounced cheque.

8. Submission of monthly returns

Every contributing employer shall each month but not later than the ninth day of the month submit to the Managing Trustee returns in the prescribed format and manner together with the contributions payable.

[L.N. 61 of 2021, r. 2.]

9. Deductions on mandatory contributions

There shall be no agency fee or commission or any deductions whatsoever levied on mandatory contributions remittances.

10. Making an early payment in cases of retirement

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.

11. Updating of member accounts

The Fund shall immediately on receipt of each member's contribution, update the member's account to reflect the contribution.

12. Practices calculated to avoid or reduce liability

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.

13. Failure to deduct contributions

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.

14. Payment of arrears

Where an employer pays increment of wages or salaries in 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. Interest on contributions

All contributions will earn interest per annum.

16. Summarized annual statements

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.

17. Contributions from employees with more than one employer

- (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.
- (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. Remission of penalty on contributions

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

19. Daily paid workers

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

20. Employers paying gratuity

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

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

[L.N. 61 of 2021, r. 3.]

21. Transmission of notices and documents

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.

Part III – MANAGEMENT OF VOLUNTARY CONTRIBUTORS**22. Waiving of penalty on voluntary contributions**

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

23. Voluntary contribution arrears

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