

SOCIAL SECURITY AND HOUSING FINANCE CORPORATION ACT, 2015

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SCHEDULE



THE GAMBIA
NO. 12 OF 2015

Assented to by The President,
this 20th day of December, 2015

YAHYA A. J. J. JAMMEH.
President



AN ACT to establish a Corporation to manage and administer the Social Security Fund, to develop, manage and administer housing finance and real estate activities and for connected matters.

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Social Security and Housing Finance Corporation Act, 2015.

2. Interpretation

In this Act, except where the context otherwise requires –

“arrears” means principal plus interest and surcharge where applicable;

“Board” means the Board of Directors of the Corporation;

“certificate of registration” means the Certificate issued to an employee who becomes a member of the Social Security Fund;

“Committees” means the Committees established under section 14;

“complete housing unit” means a fully finished housing unit;

“Core housing unit” means a partially finished housing unit;

“contributor’s account” means the account maintained for each member of the National Provident Fund;

“Corporation” means the Social Security and Housing Finance Corporation;

“employee” means a person who has entered into a contract of service or apprenticeship (whether in writing, orally or by any other means) with an employer and receives from that employer, salary or wages for work or services rendered;

"employer" means a person with whom an employee has entered into a contract (whether in writing, orally or by any other means) and is responsible for paying the salary or wages of that employee;

"establishment" means an institution or organisation not specifically exempted from this Act;

"Federated Pension Fund" means the Federated Pension Fund of the Social Security Fund established under section 31;

"housing unit" means a unit of complete or core house unit in a housing project;

"Housing fund" means the main fund established under section 58;

"Managing Director" means the person appointed by the President as the Chief Executive of the Corporation;

"member" means a person who has been registered under this Act as an employee and in whose respect contributions are paid into the Social Security Fund;

"Minister" means the Minister responsible for the operations of the Corporation and "Ministry" shall be construed accordingly;

"mortgage" has the same meaning assigned to it by the Mortgages Act;

"National Provident Fund" means the National Provident Fund of the Social Security Fund established under section 31;

"nominee" means a person who has been nominated in accordance with this Act as a person entitled to the benefits of a deceased member;

"project beneficiary" means a person who has been allocated a service plot, core house or a complete housing unit under a project;

"salary" means an amount paid in cash to an employee as a result of work or services performed in pursuance of a contract of service; but does not include bonuses, gifts and other payments made in kind;

"Secretary" means the Secretary to the Board;

"self-employed" means a person who has no employer but has been permitted under this Act to register as a member of the Social Security Fund;

"Social Security Fund" means the fund established under section 31;

"Tribunal" means the Social Security Tribunal established under this Act;

"wages" means an amount paid in cash to an employee as a result of work or services performed in pursuance of a contract of service; but does not include bonuses, gifts or other presents made in kind.

PART II - ESTABLISHMENT OF THE SOCIAL SECURITY AND HOUSING FINANCE CORPORATION AND ITS BOARD OF DIRECTORS

3. Establishment of the Social Security and Housing Finance Corporation

(1) There is established by this Act, a Social Security and Housing Finance Corporation.

(2) The Corporation is a body corporate with perpetual succession and a common seal and may -

- (a) sue or be sued in its corporate name;
- (b) enter into contracts and acquire, hold or dispose of property; and
- (c) so far as it is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

4. Functions of the Corporation

(1) The functions of the Corporation are to -

- (a) manage and administer the moneys, securities and other assets received by it into Social Security Fund, Housing Fund and any other Fund established under this Act;

- (b) manage the funds entrusted to it in a manner consistent with this Act and the Regulations made under it;
- (c) initiate investment policies that will yield reasonable returns to its members;
- (d) make provision for payment of benefits to its members in a manner consistent with this Act and the Regulations made under it;
- (e) undertake investment ventures considered beneficial to the members;
- (f) finance affordable housing development projects in The Gambia;
- (g) make direct investments in housing and real estate projects either alone or in partnership with other bodies approved by the Board;
- (h) develop, administer and manage real estates;
- (i) administer and manage repayment of all housing loans and grants received by the Corporation; and
- (j) provide finance for housing and real estate activities.

5. Governing body of the Corporation

(1) The governing body of the Corporation is a Board of Directors consisting of -

- (a) a Chairperson;
- (b) the Permanent Secretary of the Ministry who shall be the Vice Chairperson;
- (c) the Managing Director
- (d) the Permanent Secretary of the Ministry responsible for Lands;
- (e) a representative of the employees of the Corporation;

- (f) a representative of the employee members of the National Provident Fund;
- (g) a representative of pensioners; and
- (h) a representative of the employee members of the Pensions Fund.

(2) The President shall appoint members of the Board who are not ex-officio members after consultation with the Public Service Commission.

6. Disqualification of members of the Board

A person is not qualified to be appointed or to continue as a member of the Board if he or she-

- (a) has been sentenced to imprisonment for a term exceeding twelve months without the option of a fine or has been convicted of an offence involving dishonesty or moral turpitude;
- (b) is adjudged to be a person of unsound mind;
- (c) has been declared an insolvent or bankrupt under the Laws of The Gambia or in another country;
- (d) has been dismissed from the Public service of The Gambia for misconduct; or
- (e) has been disqualified for any reason from practising his or her profession in The Gambia or in another country.

7. Tenure of office of Board members

(1) The members of the Board who are not ex officio members shall hold office for three years, and may be re-appointed for one more term only.

(2) A member of the Board may resign from office in writing addressed to the President through the Minister.

(3) Where for any reason, a vacancy occurs in the membership of the Board, the Managing Director shall notify the Minister who shall arrange for the appointment of another person to fill

the vacancy for the un-expired period of the member's term of office.

8. Meetings of the Board

- (1) The Board shall meet for the discharge of its business at least once every three months, at the times and in the places determined by the Chairperson.
- (2) The Chairperson shall at the request in writing of not less than one-third of the Board members, convene an extraordinary meeting of the Board at the place and time determined by the Chairperson.
- (3) The quorum at a meeting of the Board is one half of the members of the Board, plus one.
- (4) The Chairperson shall preside at a meeting of the Board, at which he or she is present, and in his or her absence, the Vice Chairperson shall preside and where both of them are absent, the members of the Board present shall appoint one of their number to preside at the meeting.
- (5) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.
- (6) The minutes of a meeting of the Board shall be recorded and signed by the Chairperson or the person who presided at the meeting after confirmation by the Board members.
- (7) The Board may co-opt a person to act as an adviser at its meeting, but that person shall not vote on a matter tabled for a decision at the meeting.
- (8) The validity of a proceeding of the Board shall not be affected by -
 - (a) a vacancy in its membership;
 - (b) a defect in the appointment of a member; or
 - (c) reason that a person not entitled to do so, took part in the proceedings.
- (9) Subject to this section, the Board shall regulate the procedure for its meetings.

9. Absence of Managing Director from meetings

If the office of Managing Director is vacant or he or she is unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Managing Director shall attend the meeting and participate in its deliberations.

10. Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board shall-

- (a) disclose the nature of his or her interest to the Board; and
- (b) not participate in the deliberation and voting of the Board in respect of that matter.

(2) A Board member who contravenes sub-section (1) may be removed from the Board by the President on the recommendation of the Minister.

11. Transaction of business without Board meeting

A resolution is a valid resolution of the Board if-

- (a) it is signed or assented to by a majority of the members; and
- (b) proper notice of the proposed resolution was given to each member and to the Managing Director,

notwithstanding that it was not passed at a meeting of the Board.

12. Protection of Board members

An action, a suit, prosecution or other proceedings shall not be brought or instituted against a member of the Board personally in respect of a thing done in pursuance, execution or intended execution of this Act.

13. Allowances to Board members

Members of the Board and a person co-opted to the Board shall be paid the allowances approved by the Minister.

14. Committees of the Board

(1) The Board shall establish the following Technical committees chaired by the Managing Director -

- (a) Social Security Committees; and
- (b) Housing Finance Committees;

PART III – MANAGEMENT AND ADMINISTRATION OF THE CORPORATION

15. Control of general policy

The formulation of the general policy of the Corporation is, subject to this Act, vested in the Board.

16. Directives of the Minister

Notwithstanding section 16, the Minister may give general directives in writing to the Board on matters of policy and the Board shall comply with such directions.

17. Departments of the Corporation

(1) The Board may establish such Departments within the Corporation as it deems necessary for its efficient operation.

(2) Each Department shall be headed by a Director appointed by the Board who shall report directly to the Managing Director.

(3) Subject to this Act, a Director of a Department shall exercise his or her functions in accordance with the directives of the Managing Director.

18. Managing Director of the Corporation

(1) The President shall appoint a Managing Director for the Corporation after consultation with the Board and the Public Service Commission.

(2) The Managing Director shall hold office on the terms and conditions specified in his or her letter of appointment.

(3) The Managing Director shall be the Chief Executive of the Corporation.

19. Duties of the Managing Director

(1) Subject to this Act and the regulations made under it, the Managing Director is responsible for -

- (a) the execution of the policies and directives of the Board;
- (b) the direction of the day-to-day business of the Corporation and of its administration; and
- (c) the control and exercise of supervisory powers over the activities of the Corporation.

(2) If the office of the Managing Director is vacant or he or she is unable to discharge his or her functions, the Board may authorise the Deputy Managing Director, or an officer not below the rank of a Director to perform the functions of the Managing Director for a period not exceeding twelve months.

(3) Subject to this Part and the directives of the Board, the Managing Director may delegate to an employee of the Corporation any of his or her functions, on terms and conditions determined by the Managing Director.

(4) The delegation of a function under sub-section (3) shall not absolve the Managing Director from ultimate responsibility for an act done by the person delegated in pursuance of such delegation.

20. Staff of the Corporation

(1) The Board shall appoint for the Corporation, a Deputy Managing Director and such other employees necessary for the proper and effective performance of the functions of the Corporation.

(2) Subject to this Act, the Board may make rules and regulations relating to the terms and conditions of service of employees of the Corporation, and in particular on -

- (a) appointment, discipline, remuneration and security;
- (b) the procedure relating to disciplinary action against employees;
- (c) appeals and petitions filed by an employee aggrieved by a decision of the Board;

- (d) the procedure in respect of application for leave, resignation, retirement and other claims by an employee against the Corporation;
- (e) medical care and the contribution to be made by employees to medical bills; and
- (f) training schemes in administrative, managerial and other capacities.

(3) The Board shall adopt suitable policies in respect of conditions of service of staff in accordance with approved Government policy.

21. Secondment of public servants

A Public officer may at the request of the Board, be transferred or seconded to the Corporation or may otherwise give assistance to it.

22. Secretary to the Board

(1) The Board shall designate an officer from amongst the staff of the Corporation to be the Secretary to the Board.

(2) The Secretary shall-

- (a) keep the books and records and conduct the correspondence of the Board;
- (b) prepare the agenda and record the minutes of meetings of the Board; and
- (c) perform such other functions as may be assigned to him or her by the Board or the Managing Director.

23. Appointment and duties of Inspectors

(1) The Corporation shall appoint Inspectors for the purpose of implementing the provisions relating to the Social Security Fund.

(2) Where an Inspector appointed under this section has reasonable cause to believe that an employer or establishment is not complying with a provision relating to the Social Security Fund, he or she may, on production of his or her identity card -

- (a) enter the premises of such employer or establishment; and
- (b) conduct the examination or enquiry necessary to obtain information for enforcing the said provision.

(3) An Inspector may in the discharge of his or her duties, require from an employer or establishment, the production of documents concerning -

- (a) the appointment, attendance, wages and salaries of employees; and
- (b) contributions or liability of the employer or establishment to contribute to the Social Security Fund, for inspection.

(4) An Inspector shall submit a written report to the management of the Corporation on all premises visited in pursuance of this section.

(5) A person who -

- (a) without reasonable excuse, fails to produce a book or document required by an Inspector under this section; or
- (b) directly or indirectly obstructs or assaults an Inspector in the discharge of his or her duties,

commits an offence and is liable on conviction to a fine not exceeding five thousand Dalasis or to imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

(6) Subject to the consent of the Attorney General, an Inspector has a right of audience before a Magistrate court to prosecute offences under this Act and to recover arrears of contributions.

24. Execution of contracts and legal documents

(1) The seal of the Corporation shall be applied on all contracts and other legal documents executed by the Corporation.

(2) Such contracts and documents shall also be authenticated by the signatures of -

- (a) the Managing Director or Deputy Managing Director;
- (b) a Director of a Department of the Corporation;
or
- (c) the Secretary to the Board.

(3) A document bearing the imprint of the seal of the Corporation shall be considered to be properly sealed unless the contrary is proved.

(4) The Corporation may by instrument in writing under its seal, empower a person either generally or in respect of a specified matter, as its Attorney to execute a deed on its behalf outside The Gambia.

(5) A deed signed by the Attorney on behalf of the Corporation and under his or her seal, is binding on the Corporation and has the same effect as if it were under the seal of the Corporation.

PART IV – FINANCIAL PROVISIONS

25. Accounts of the Corporation

The Corporation shall maintain separate accounts and records for each of the Funds established under sections 32, 38 and 59.

26. Bank accounts

(1) The Corporation may operate banking accounts with any commercial bank established in The Gambia.

27. Financial year

The financial year of the Corporation shall begin on the first day of January and end on the thirty- first day of December of the same year.

28. Estimates, accounts and audit

(1) The Corporation shall, not later than three months before the end of each financial year, prepare and submit to the Minister for approval, estimates of the income and expenditure of the Corporation for the ensuing year.

(2) The Corporation shall keep proper records and books of accounts of its income, expenditure and transfers.

(3) The Corporation shall prepare, in respect of each financial year, a statement of accounts.

(4) The Corporation shall, within three months after the end of each financial year, submit its statement of accounts to the Auditor General for audit.

(5) The audited accounts of the Corporation and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

29. Annual report

(1) The Board shall within two months after the end of each financial year, submit to the Minister, an annual report dealing generally with the activities and operations of the Corporation within that financial year.

(2) The report under sub-section (1) shall include-

- (a) a statement on the income, source of income and application of the moneys of the Corporation;
- (b) information with regard to the operation of the Corporation; and
- (c) such other information as the Minister may request.

(3) The Minister shall, not later than three months after the end of the financial year, cause the report to be laid before the National Assembly.

(4) The Board shall also provide the Minister with such information relating to the affairs of the Corporation as the Minister may request.

30. Valuation exercises

(1) The Corporation shall for the purpose of maintaining adequate financial resources for a Social Security Scheme, conduct periodic valuation exercises in relation to the Scheme.

(2) The Corporation shall, within six months after each valuation date selected by it, cause the financial condition of the Scheme to be investigated by the Actuary who shall report in writing to

the Board and the Minister and may make such recommendations with respect to the Scheme as he or she thinks fit.

(3) The first valuation date shall be the date of commencement of this Act and a valuation shall be conducted at least after every three years.

PART V – THE SOCIAL SECURITY FUND

31. Social Security Fund

There is established by this Act, the Social Security Fund comprising-

- (a) the Federated Pension Scheme; and
- (b) the National Provident Fund.

32. Application of scheme to employers and employees

Except as provided in this Part, the Social Security Fund Scheme shall apply to –

- (a) an employer not specifically exempted from this Act;
- (b) an employee of not less than eighteen years of age in an establishment of an employer not specifically exempted under this Act;
- (c) an employer and employee to whom before the coming into force of this Act, the Pensions Act applied; and
- (d) a citizen of The Gambia employed by Diplomatic Missions, International Institutions of equivalent status or a Non-Governmental Organisation.

33. Exemptions

(1) This Part shall not apply to-

- (a) a civil servant;
- (b) non-nationals employed in Diplomatic missions, international institutions of equivalent status or Non-Governmental Organisations; and

- (c) domestic employees to whom the Labour Act does not apply.

(2) Notwithstanding sub-section (1), this Part may be extended to additional schemes incorporated into the Social Security Fund.

34. Existing scheme

(1) As from the commencement of this Act, an employer shall deduct the contribution required under this Act from the wages or salaries of his or her employees and pay such contribution together with his or her own into the Fund.

(2) The Corporation shall adjust benefits under an existing scheme which has been reduced under this section, so that a lump sum or pension payable is reduced by the amount of a life annuity which is the equivalent of the benefit payable under this Act.

(3) An amendment to an existing scheme shall not operate to reduce the employer's rate of contribution under this Act below an amount to which the employee would have been entitled if this Act did not apply to him or her.

35. Continuation of existing schemes

(1) A Provident Fund or Pensions scheme in existence immediately before the coming into force of this Act shall continue to operate with such modifications as are consistent with this Act.

(2) An employer under such a scheme shall, within thirty days of the coming into force of this Act, register the scheme with the Corporation.

36. Payments into the Social Security Fund

(1) There shall be paid into the Social Security Fund—

- (a) contributions required to be paid by employers in respect of their employees under this Act;
- (b) contributions required to be paid by employees under this Act;
- (c) interest accruing from an investment made from moneys paid into the Social Security Fund; and

- (d) any other income earned on the assets of the Social Security Fund.

(2) A benefit and any other claim approved by the Corporation shall be paid out of the Social Security Fund.

37. Social Security Fund accounts

(1) The Social Security Fund shall operate-

- (a) a Member's Fund Account;
- (b) an Income Account; and
- (c) an Administration Account.

(2) The Member's Fund Account shall be credited with all receipts in respect of employer's and employees' contributions as well as the interest allotted to members of the National Provident Fund.

(3) A benefit paid out of the Social Security Fund shall be charged to the Member's Fund Account.

(4) The Income Account shall-

- (a) be credited with the interest and income earned from investments made from the Social Security Fund; and
- (b) be charged with the payments made by way of allotment of interest to Member's Accounts and transfers made to the Administration Account and the reserve Fund from the Income Account.

38. Reserve Fund

(1) The Board shall establish a Reserve Fund into which shall be paid -

- (a) fines and penalties imposed under this Act or regulations made under it;
- (b) a contribution by an employer or employee which cannot be allotted to a member's account in the Social Security Fund; and

- (c) the transfers from the Income Account that the Board approves.

(2) An increase or decrease in the value of properties that may arise as a result of a revaluation of the properties shall be charged to the Reserve Fund.

(3) Moneys in the Reserve Account shall only be appropriated with the authority of the Board.

39. Investments of Social Security Funds

(1) The Corporation may, with the approval of the Minister invest –

- (a) in a property held by it and forming part of the Social Security Fund or sell such property if it thinks fit;
- (b) moneys forming part of the Social Security Fund –
 - (i) in Gambia Government stock;
 - (ii) in shares or debentures of a Statutory Corporation;
 - (iii) in a society or company registered in The Gambia; or
 - (iv) by way of loans at the rate of interest the Board thinks fit.

(2) Notwithstanding sub-section (1), the Board may invest on other types of investments.

(3) The Corporation's investment in Gambia Government securities and Bank Term Deposits are subject to the limitations determined by the Managing Director.

(4) The Corporation may invest an amount not exceeding twenty five percent of its total investable funds outside The Gambia.

PART VI – CONTRIBUTIONS TO THE SOCIAL SECURITY FUND

40. Rate and payments of contributions

(1) An employee of the National Provident Fund shall, at the end of each month, contribute five per cent of his or her basic salary or wages to the Social Security Fund and his or her employer shall contribute ten per cent of the basic salary or wages of the employee to the same Fund.

(2) The employer of an employee under the National Provident Fund shall at the end of each month, pay into the National Provident Fund fifteen per cent of the employee's salary or wages as required under sub-section (1).

(3) The employer of an employee to whom sub-sections (1) and (2) apply, is entitled to deduct five per cent of the basic salary or wages of such employee which was paid under subsection (2) as the employee's contribution.

(4) The employer of an employee of the Federated Pension Fund shall contribute into the Fund at the rate determined by the Corporation on the advice of the Actuary.

(5) An employer shall remit to the Social Security Fund all contributions required to be paid under this section not later than the fifteenth day of the month after that in which the relevant basic salary or wages was paid, and shall send to the Corporation such covering form as may be prescribed by regulations.

(6) A payment made into the Social Security Fund under sub-section (5) shall be accompanied by the appropriate returns prescribed by the Corporation.

(7) The Board shall at the end of every three years, review the rate of contribution specified in sub-section (1).

(8) An Employer to whom this Act applies may elect to register with the National Provident Fund or the Federated Pension Fund.

41. Authority to make deductions

Notwithstanding Part VIII of the Labour Act or any other law in force, deductions made by an employer from the salaries or wages of an employee under this Act are deemed to be deductions authorised by the employee.

42. Preservation of accrued benefits

Within three months after the coming into force of this Act, a gratuity or other benefit which has accrued to a member as a result of an industrial agreement, a contract or any other agreement, but has not yet matured, shall be paid by the employer of such member into the member's account.

43. Penalty in case of default

(1) An employer who fails to comply with sub-section (5) of section 41 shall, in addition to the amount owing, pay two and one half per cent per month of the unpaid amount for each month or part of the month such amount remains unpaid.

(2) An employer who fails to register with the Social Security Fund within three months from the date he or she is eligible to register with the Scheme shall, in addition to the amount owing in respect of his or her employees, pay a penalty of five thousand dalasis for each month or part of the month such non registration continues.

(3) The Managing Director may, with the approval of the Board, waive wholly or partly, the penalties imposed under this section.

44. Employees working for two or more establishments

Where an employee is concurrently employed by two or more different establishments, each employer shall pay to the Social Security Fund an amount equal to fifteen per cent of the salary or wages paid to the employee.

45. No contribution to be deducted in case of death

A contribution shall not be paid by an employer on behalf of an employee who dies before his or her contribution is deducted at the end of the month in which the death occurs, but where a contribution has been deducted it shall be dealt with as prescribed by Regulations.

46. Employers contribution not to be charged to workers

(1) An agreement or a contract between an employer and an employee which purports to authorise the employer to recover his or her portion of the employee's contribution from the employee's salary or wages is void.

(2) Notwithstanding sub-section (1), an employer is entitled to recover or deduct five percent from an employee's basic salary or wages which had been paid as a result of a genuine mistake or false representation made by the employee.

(3) Such recovery or deduction shall not be made unless the employer has produced satisfactory evidence of a written notice served on the employee.

(4) Where there is a dispute between an employer and an employee regarding the recovery or deduction under sub-section (2), the matter shall be referred to an Inspector appointed under this Act for his or her decision and instruction.

(5) A contribution due and paid under this Act is not refundable.

47. Prohibition of reduction of employees remuneration

An employer who reduces the salary, wages, remuneration or emoluments of an employee or dispenses with the service of his or her employee for the purpose of reducing or avoiding liability for a contribution or an obligation to the Social Security Fund commits an offence under this Act.

PART VII – REGISTRATION OF CONTRIBUTORS AND RELATED MATTERS

48. Registration of employers or establishments

(1) Where an employer or establishment is qualified for registration, the application for registration shall be made within fourteen days of becoming so qualified, and the Corporation shall without delay, register such employer or establishment.

(2) An employer or establishment subject to this Act shall within thirty days after becoming liable to register under this Act, register with the Corporation.

(3) A member institution of the Scheme established under the Social Security and Housing Finance and Development Corporation Acts (the repealed Acts) shall at the commencement of this Act, be treated as having been registered in accordance with this Act.

(4) An application for registration shall be in the form prescribed by Regulations.

(2) Notwithstanding sub-section (1), an employer is entitled to recover or deduct five percent from an employee's basic salary or wages which had been paid as a result of a genuine mistake or false representation made by the employee.

(3) Such recovery or deduction shall not be made unless the employer has produced satisfactory evidence of a written notice served on the employee.

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(2) An employer or establishment subject to this Act shall within thirty days after becoming liable to register under this Act, register with the Corporation.

(3) A member institution of the Scheme established under the Social Security and Housing Finance and Development Corporation Acts (the repealed Acts) shall at the commencement of this Act, be treated as having been registered in accordance with this Act.

(4) An application for registration shall be in the form prescribed by Regulations.

(5) The effective date of the initial contribution shall commence on the first day of the month following the month in which the application was made.

49. Voluntary registration

(1) An employer not subject to this Act may with the written consent of his or her employees, apply to the Corporation for registration on the special application form prescribed by regulations.

(2) The Managing Director shall on the receipt of an application under this section, examine the particulars deposed in such application and takes a decision.

(3) Where a member has ceased to be employed, he or she may with the permission of the Corporation, continue to pay his or her monthly contribution at a rate to be mutually agreed between him or her and the Corporation.

(4) Where a member of the Social Security Fund procures an employment with an employer to whom this Act does not apply, such member may, with the permission of the Corporation, continue to contribute directly to the Social Security Fund or through his or her employer if he or she so agrees, at a rate to be mutually agreed.

(5) Where an employer to whom this Act does not apply agrees to pay the employer's contribution in respect of an employee to whom this Act applies, he or she may complete the prescribed form for the approval of the Corporation and the Corporation shall determine his or her application within thirty days of its submission.

(6) Where the Corporation approves an application under subsection (5), the employer's liability shall be restricted to such contribution and other incidental obligations, but no new obligation to his or her other employees may be created.

(7) A self-employed person may become a member of the Social Security Fund by completing a form prescribed by regulations.

50. Registration of employees

(1) An employer to whom this Act applies shall within thirty days of becoming liable to register under this Act, forward to the

Managing Director, the duly completed forms relating to his or her employees to whom this Act applies.

(2) An employee who is liable to register under this Act shall be registered by his or her employer as a member of the Social Security Fund within fourteen days of him or her becoming liable.

(3) The Managing Director shall, as soon as practicable, and not later than thirty days of the receipt of an application in respect of a new member, forward to such member through his or her employer a membership card or membership of the Social Security Fund.

(4) Where an employee who is registered with the Social Security Fund procures an employment with a new employer, he or she shall produce his or her membership card to the employer.

(5) Where the employee loses his or her card, he or she may provide the employer with his or her registration number or such particulars as will enable the employer trace his or her membership with the Social Security Fund.

(6) The Managing Director shall, after tracing particulars relating to the membership of the employee, issue him or her with a new membership card, after payment of the prescribed fee.

51. Contributor's account

(1) The Corporation shall establish and maintain an account for each member of the National Provident Fund.

(2) The Corporation shall credit to a member's account, the moneys paid as contribution by both the employer and the employee and debit it with the benefits paid from it.

(3) The Corporation shall forward to each member, a statement of Pension accruals in respect of the Federated Pension Fund and a statement of account in respect of the National Provident Fund, as determined by the Corporation.

PART VIII – BENEFITS AND CLAIMS

52. Types of benefits payable

(1) Subject to this Act and the regulations made under it, the following benefits are payable in respect of the National Provident Fund -

- (a) a retirement benefit;
- (b) an invalidity benefit;
- (c) a withdrawal benefit;
- (d) a survivors benefit; and
- (e) a redundancy benefit.

(2) A retirement benefit is payable to a member of the Social Security Fund who proves to the satisfaction of the Managing Director that he or she -

- (a) has attained the retirement age prescribed by regulations made under this Act or any law in force in The Gambia; or
- (b) has retired from regular employment after reaching the retirement age.

(3) An invalidity benefit is payable to a member of the Social Security Fund who proves to the satisfaction of the Managing Director that by reason of permanent physical or mental disability, he or she is incapable of engaging in gainful employment.

(4) A withdrawal benefit is payable to a member of the Social Security Fund who proves to the satisfaction of the Managing Director that he or she has attained the age of forty-five years and that his or her claim is in accordance with the qualifying conditions prescribed by regulations.

(5) A survivor's benefit is payable on the death of a member, to the nominee of the member or in the absence of such nominee, to his or her dependants in accordance with the law.

(6) A redundancy benefit is payable to an employee who is made redundant by his or her employer and proves to the Managing Director that he or she is unable to find another gainful employment for a period of three months.

(7) The amount of benefit payable to a member under this Act may be a proportion of or the total balance of the member's account with the Social Security Fund together with accrued interest and shall be paid in accordance with this Act.

53. Conversion to annuity

(1) The Managing Director may at the request of a member, seek the approval of the Board to convert a lump sum benefit into an annuity, but the amount so converted shall not be below the prescribed minimum.

(2) The Corporation may make regulations to determine the actuarial equivalent to be used for such conversions.

54. Nomination of survivors

(1) An application form submitted by an employer on behalf of a person for registration as a member of the Social Security Fund shall include the names of the applicant's nominees and clearly specify the proportions in which benefits shall be distributed.

(2) A person nominated under this section shall be a dependant of the employee.

(3) Notwithstanding sub-section (2), a person who is not a dependant may be nominated if the employee swears to an affidavit that he or she has no dependant.

(4) A member may revise the names of his or her nominees and the proportions of the benefits to be paid to them whenever there is a change in his or her family circumstances.

(5) Where after the death of a member, there is a claim that he or she has left a child below the age of eighteen years and a nomination does not exist in respect of such child, the Managing Director shall refer the matter to the Curator of Intestate Estates.

(6) Where the Curator is satisfied that such a child is the dependant of the deceased member, he or she may vary and re-distribute the benefit by making reasonable provision for the child in a manner which is fair and just.

(7) Where there is a conflict between a nomination made in accordance with this Act and the provisions of a Will relating to the benefits under this Act, the document made later in time shall prevail unless that document is shown to be fraudulent.

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(6) Where the Curator is satisfied that such a child is the dependant of the deceased member, he or she may vary and re-distribute the benefit by making reasonable provision for the child in a manner which is fair and just.

(7) Where there is a conflict between a nomination made in accordance with this Act and the provisions of a Will relating to the benefits under this Act, the document made later in time shall prevail unless that document is shown to be fraudulent.

55. Unclaimed benefits

Where a claim is not made in respect of a benefit which is payable under this Act for period of ten years after it became payable, the right of the member or his or her survivors shall be extinguished and the amount forfeited to the Social Security Fund.

56. Proof of claim

(1) A beneficiary claiming under this Act shall provide the evidence the Managing Director considers necessary to prove his or her claim.

(2) A member of the social Security fund shall not be permitted -

(a) to alter the date of birth entered on the prescribed form at any time within the three years before his or her normal retirement; or

(b) to alter the date of birth accepted on a claim during the processing of the claim.

(3) An application to alter a date of birth shall not be permitted unless the application is accompanied by the original birth certificate, or other evidence of the date of birth of the applicant which is satisfactory to the Corporation.

57. Closing members' account

(1) The Corporation shall close the account of a member after all benefits from that account have been paid, and the account shall not be re-opened even after the member enters another employment.

(2) Where a member whose account has been closed under sub-section (1) re-enters employment, a new account shall be opened for him or her.

PART IX - THE HOUSING FUND

58. The Housing Fund

There is established by this Act, the Housing Finance Fund, into which shall be paid moneys derived from section 60.

59. Accounts of the Fund

(1) The Housing Fund shall operate the following Accounts-

- (a) Loans Account;
- (b) Mortgage Account;
- (c) Income and Expenditure; and
- (d) Project Account for each specific project.

(2) The moneys received or paid out by the Corporation shall be recorded in the relevant books of accounts of the Housing Fund specified under sub-section (1).

60. Reserve Fund

(1) The Board shall also create a Reserve Fund into which shall be paid-

- (a) fines and penalties charged or exacted under this Act or the Regulations made under it;
- (b) an unidentified mortgage repayment; and
- (c) the annual net surplus from the operations.

(2) Moneys in the Reserve Account shall only be appropriated with the authority of the Board.

61. Investment of Fund by the Corporation

(1) The Corporation may from time to time, and with the approval of the Minister, invest-

- (a) in a property held by it and forming part of the Housing Fund or sell such property if it thinks fit; and
- (b) moneys forming part of the Housing Fund in shares, debentures or debenture stock of a Statutory Corporation, Society or Company Registered in The Gambia or by way of loans at such interest to such Corporation as the Board thinks fit.

(2) Notwithstanding subsection (1) the Corporation may-

- (a) invest a sum not exceeding thirty five *per cent* of its investable funds in a viable venture; and
- (b) invest moneys forming part of the Housing Fund in Bank Term Deposit, Government securities and Housing Projects;

(3) The Corporation may also deal with a property held by it or forming part of the Fund in a manner it thinks fit.

62. Financial Statements

The Corporation shall maintain proper accounts and records of the Funds established under this Act.

63. Deposit of Funds

The Board may retain or place moneys forming part of its Funds on a deposit or current account.

PART X- MISCELLANEOUS

64. Claims against defaulters

(1) Notwithstanding any law to the contrary, a contribution to the Social Security Fund along with interest or a monetary penalty imposed for failure to pay in time may be recovered by action as a debt owing to the Corporation, within ten years from the date the contribution or penalty became due.

(2) A mortgage repayment due to the Corporation along with interest or a monetary penalty payable or imposed for failure to pay in time may be recovered by action as a debt owing to the Corporation, at any time within ten years from the date when the arrears or penalty became due.

65. Priority for payment of contributions

(1) The proceeds of sale of property or other realisation of property in pursuance of an attachment issued against the property of an employer in execution of a decree against such employer, shall not be distributed to a person entitled to it, until the court ordering the sale or other realisation has made provision for the payment of an amount due from the employer under this Act before the date of such order.

(2) The Corporation may at any stage of proceedings before a court against an employer, intervene to bring to the attention of the court moneys owed by that employer under this Act.

(3) An "employer" for the purposes of this section includes a company in liquidation.

66. Non attachment of benefits

The benefits accumulated to a member under the Social Security Fund or contributions in transit to such Fund or in the custody of the employer, shall not be subject to assignment, transfer or liable to attachment under a decree or order of a court before or after the death of the member.

67. Bankruptcy or insolvency of a member or employer

A member or an employer who has been declared bankrupt or insolvent shall, notwithstanding such declaration, continue to be liable for his or her contribution.

68. Exemption from income tax

(1) The Corporation is exempt from the payment of income tax and capital gains tax, within the meaning of the Income and Value Added Tax Act 2012.

(2) A benefit payable under this Act is not liable to the payment of income tax.

69. Establishment of Social Security Tribunal

There is established under this Act, a Social Security Tribunal, which shall deal exclusively with matters relating to breaches of this Act.

70. Offences and Penalties

(1) A person who –

(a) with intent to evade payment of a contribution or an amount due under this Act knowingly makes a false statement or representation, or furnishes or causes to be furnished a document or information which he or she knows to be false in a material particular;

(b) in order to benefit himself or herself or some other person knowingly makes a false statement or representation, or furnishes or causes to be furnished, a document or information which he or she knows to be false in a material particular;

- (c) reduces the salary, wages, remuneration or emoluments of an employee or dispenses with the service of his or her employee for the purpose of reducing or avoiding liability for a contribution or an obligation to the Social Security Funds;
- (c) misrepresents or fails to disclose a material fact;
- (d) fails to pay an amount due to the Social Security Fund within the period pre-scribed under this Act;
- (e) obstructs or assaults an officer or employee of the Corporation in the dis-charge of his or her duties;
- (f) evades the liability or obligation to make a contribution to the Social Security Fund;
- (g) fails to comply with regulations made under this Act,

commits an offence and is liable on conviction to a fine not exceeding five thousand Dalasis or to imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

(2) Where an employee of the Corporation conspires with or aids another person to commit an offence specified in sub-section (1), he or she commits an offence and is liable on conviction to imprisonment for a term of not less than five years without the option of a fine.

(3) A person who without authority, signs a document or executes a deed under this Act commits an offence and is liable on conviction to a fine of not less than five thousand dalasis or imprisonment for a term not exceeding two years or to both the fine and imprisonment.

(4) The Tribunal may in addition to a sentence imposed, order an offender to pay to the Social Security Fund the amount of any contributions, together with interest or penalty, due from such person to the Social Security Fund at the date of conviction.

(5) The amount payable under sub-section (4) may be recovered in the same manner as a fine and shall be paid into the Social Security Fund for the benefit of the accounts of the members concerned.

(6) For the purposes of this Act late payment means a payment received after the fifteenth day of the following month.

(7) Where an offence is committed by a body of persons-

- (a) in the case of a body corporate, each Director of that body corporate shall be deemed to have committed the offence; and
- (b) in the case of a partnership firm, each partner of that firm shall be deemed to have committed the offence.

(8) A person shall not commit an offence under sub-section (7) if he or she proves that the offence was committed without his or her knowledge or that he or she exercised due diligence and care to prevent the commission of the offence.

71. Foreclosures

The Mortgages Act shall apply to mortgages made under this Act.

72. Regulations

The Minister may, on recommendation of the Board, make regulations with respect to -

- (a) a thing that is required to be prescribed under this Act;
- (b) the computation of the number of employees engaged by an employer or establishment;
- (c) the inspection of premises and the forms and returns to be furnished under this Act;
- (d) the fees, charges and fines that may be imposed for the purposes of this Act;
- (e) the inspection of premises, and the mortgage statements and returns to be furnished by or under this Act;

- (f) the fees charged and fines that may be imposed for the purposes of this Act; and
- (g) any other matter, the carrying out of which is consistent with the purposes of this Act.

73. Repeal of Acts No. 4 and 5 of 2010

The Social Security Corporation Act 2010 and the Housing Finance and Development Corporation Act 2010 are repealed.

74. Savings and transition

As from the commencement of this Act-

- (a) the rights, assets, funds and liabilities under the Social Security or Housing Fund of the dissolved Corporation existing immediately before the commencement of this Act are transferred to the Corporation established under this Act;
- (b) an action, a proceedings, judgement or an order related to the Social Security or Housing Fund pending immediately before the commencement of this Act to which the former Corporation was a party, may be continued and enforced by or against the Corporation established under this Act;
- (c) the purchases and acquisitions made in relation to the Social Security or Housing Fund under the repealed Acts are considered to have been made under this Act;
- (d) all persons employed by the dissolved Corporations immediately before the commencement of this Act, shall continue to be employed by the Corporation established under this Act on the same terms and conditions, without a break in the employment because of the enactment of this Act;
- (e) a licence, permit, certificate, or any other authorisation issued under the Social Security or Housing Fund of the repealed Acts is considered to be issued under this Act;

- (f) the regulations, orders, by-laws or notices made or issued under the Social Security or Housing Fund of the repealed Acts and the Schedules to those Acts in so far as they are not inconsistent with this Act, shall remain in force until they elapse or are revoked;
- (g) an application made in relation to the Social Security or Housing Fund of the repealed Acts and wholly or partly heard when this Act comes into force is considered to have been made under this Act;
- (h) where a period of time specified in relation to the Social Security or Housing Fund of the repealed Acts is current at this Act's commencement, the Act has effect as if the provision corresponding to that enactment had been in force when that period began to run.

SCHEDULE

The Rules of the Federated Pension Scheme of The Gambia

DEFINITIONS

In these Rules, except where the context otherwise requires -

"Act" means the Social Security and Housing Finance Corporation Act, 2015;

"Corporation" means the Social Security and Housing Finance Corporation;

"employer" in relation to a member means any of the member institutions in whose service a member is for the time being employed;

"final salary" means the salary of a member or former member on the following dates -

- (a) in the case of member or former member who dies whilst in service, the date of his or her death;

- (b) in the case of a member or former member who is in service, the date on which his or her retirement benefits are to be ascertained, the date on which they are ascertained or if earlier, the date a member reaches the normal retirement age;
- (c) in the case of a former member who is not in service, the date on which his or her retirement benefits are to be ascertained (the date on which he or she was last in service); and
- (d) in the case of a member or former member whose salary changes by at least twenty per cent in twelve calendar months before the date he or she was last in service and the change was not part of a general pay increase allowed by the employer, the average salary over the twelve months preceding retirement, as the Managing Director may approve.

“former member” means a person who has been a member but has ceased to be in the full-time employment of an employer in The Gambia and has not received or is not in receipt of a retirement benefit in respect of his or her last or only period of membership;

“member” means a person in the full-time employment of an employer in The Gambia who has been admitted to membership of the Scheme in accordance with Rule 1;

“normal retirement date” means the sixtieth birthday of a member or former member;

“pensionable service” means a service in the employment of an employer prior to normal retirement date; (a reference to a member’s or former member’s period of pensionable service is a reference to that part of his or her period of service completed whilst in such employment);

“retirement benefits” means the benefits secured under the Scheme to be payable on the retirement of a person who has been a member and consists of either-

- (a) an annual pension to be payable as detailed in these rules; or

- (b) a retirement gratuity in the form of a single cash payment;

“salary” means a member’s or former member’s annual remuneration arising from his or her service excluding any bonus, commission, over-time payment or other fluctuating emolument;

“service” means full-time employment in The Gambia with -

- (a) an employer; or
- (b) the public service, which qualifies for benefit under the Pensions Act,

(references to a member’s or former member’s period of service is reference to the aggregate of all periods during which a member was in service excluding a period in respect of which he or she he or she has received or is in receipt of a retirement benefit or the like benefit under the Pensions Act.)

RULE 1 - MEMBERSHIP

(1) A full-time permanent officer of an employer normally employed in The Gambia who is between the ages of eighteen and sixty is eligible for membership.

(2) The Corporation may declare that any other employee of an employer is eligible for membership from the date and on the terms that it determines.

(3) The Corporation may exclude from membership, a person who is otherwise eligible.

(4) A person who wishes to be admitted for membership shall -

- (a) complete an application for membership in the form and at the time pre-scribed by the Corporation; and
- (b) fulfil the requirements (if any) as to age and good health prescribed by the Corporation.

(5) There is a separate section of the Scheme for each employer known as the Pension Fund of the employer, and an employee shall be included in the Pension Fund of the

employer in whose service he or she is for the time being or was at the date of retirement or of leaving the service.

(6) The Corporation shall record the name and date of commencement of each separate Pensions Fund.

RULE 2 – EMPLOYER’S CONTRIBUTIONS AND PENSION SCHEME

(1) The Corporation shall operate a unified Pension Scheme (the Federated Pension Scheme) and an employer shall pay such contribution to the Scheme as the Corporation on the advice of the Actuary, considers necessary to secure the benefits to which the members of the Pension Scheme are entitled, as well as to meet the expenses of the management and administration of the Scheme.

(2) An employer shall in addition, pay such contributions to the Scheme as the Corporation considers necessary to meet the expenses of the management and administration of the scheme.

(3) The Corporation shall keep separate accounts for each employer in a manner to be determined, on the advice of the Actuary.

RULE 3 – ENTITLEMENT TO RETIREMENT BENEFITS

(1) A member who completes at least five years of service is entitled to retirement benefits in accordance with these Rules and, unless his or her retirement benefits become payable prior to normal retirement date in accordance with rule 5 or are deferred thereafter in accordance with rule 7, the same shall become payable upon the attainment of normal retirement age.

(2) Except upon grounds of disability and in accordance with rule 6, a member who has not completed five years of service is only entitled to retirement benefits at the request of the employer and in circumstances that appear justifiable to the Corporation.

(3) In such circumstances, the amount and nature of the retirement benefits awarded to such a member shall be determined by the Corporation.

RULE 4 – RETIREMENT BENEFITS AT NORMAL RETIREMENT DATE

A Retirement benefit payable at normal retirement date consists of the following –

- (a) where a member has completed at least ten years of service, an immediate pension of an annual amount calculated by multiplying $1/600$ of the member's or former member's final salary by the number of his or her completed months of pensionable service; or
- (b) where the member or former member has not completed ten years of service, a retirement gratuity of an amount equal to five times the pension calculated in accordance with paragraph (a) of this rule he or she would otherwise become entitled to.

RULE 5 – RETIREMENT BENEFITS PAY-ABLE PRIOR TO NORMAL RETIREMENT DATE

(1) A member below the age of forty five who is entitled to retirement gratuity under rule 4 (b), on ceasing to be a member on grounds of marriage, may elect to receive instead of his or her retirement, a marriage gratuity of an amount not exceeding -

- (a) one year's salary at the date on which membership ceases;
- (b) an amount equal to the retirement gratuity to which the member would have become entitled at the normal retirement date under rule 4(b); or
- (c) $1/96^{\text{th}}$ of the member's final salary for each completed month of service, which-ever of these provisions is least but subject to be reviewed by management.

(2) A member or former member who is entitled to retirement benefits pursuant to rule 3(1) and has not attained the normal retirement age but-

- (a) has attained the age of forty-five years and ceases to be in service;

- (b) is required by his or her employer to retire from service on account of ill-health, injury, or redundancy; or
- (c) satisfies the Corporation that he or she is unable to continue gainful employment on account of ill health or injury,

may elect to have his or her retirement benefits payable on or from such date prior to his or her normal retirement date as he or she shall determine in accordance with rule 4.

(3) The amount payable under paragraph (b) and (c) of sub rule (2) shall be reduced by such proportion as the Corporation, on the advice of the Actuary may determine, to take due account of their early payment.

RULE 6 - RETIREMENT BENEFITS ON DISABILITY ARISING FROM EMPLOYMENT

(a) If a member retires from service on account of ill-health or injury which, in the opinion of the employer-

- (i) has caused permanent disability; and
- (ii) arose directly as a consequence of his or her employment with the employer,

the Corporation may, at the request of the employer, determine that the nature and amount of the member's retirement benefits shall be ascertained as though his or her service and pensionable service both include a part or the whole of the period from the date of his or her retirement up to his or her normal retirement age.

(b) If a former member in receipt of a disability pension pursuant to rule 6 (a) recovers from his or her disability and re-enters service, such pension shall cease to be payable, and upon him or her becoming entitled to receive retirement benefits after leaving service again, his or her service and pensionable service shall be considered to include the period during which his or her disability pension was paid to him or her.

RULE 7- DEFERMENT OF RETIREMENT BENEFITS AFTER NORMAL RETIREMENT AGE

(1) If a member remains in service after attaining the normal retirement age, the Corporation shall, at his or her request,

defer the payment of his or her retirement benefits until he or she subsequently retires from service and the member's additional period of service shall be taken into account in ascertaining the nature of his or her retirement benefits.

(2) The amount of a member's retirement benefits ascertained in accordance with rule 4 shall be increased by the amount the Corporation on the advice of the Actuary determines, having regard to the period during which the payment of the same have been deferred.

RULE 8 – PAYMENT OF PENSIONS

(a) A pension which is payable under the Scheme shall be paid by monthly instalments, the first instalment falling due on the first day of the month coincident with or if not coincident with this date, the next working date following the date on which the pension becomes pay-able.

(b) The pension shall continue to be payable during the remainder of the lifetime of the pensioner unless pursuant to rule 6 (b), it ceases to be payable upon his or her re-entry into service, with the last instalment falling due on the first day of the month immediately preceding the date of his or her death.

(c) The Corporation may arrange for payment of pensions to be made by or through the agent it thinks fit, and notwithstanding paragraph (a) of this rule, it may arrange for instalments to be paid in advance.

(d) An instalment to be paid in advance is not refundable to the Corporation if the death of the pensioner occurs before the date on which such instalment would have fallen due if paid monthly.

RULE 9 – COMMUTATION OF PENSION

(a) If the Corporation is satisfied that a former member entitled to a pension is-

(i) so seriously ill that, or

(ii) likely to reside permanently outside The Gambia and,

the receipt of retirement benefits in the form of a pension would represent a hardship to him or her, it may permit the former member to commute the whole of his or her pension for a lump sum in cash.

(b) A former member entitled to the immediate payment of a pension may commute up to one quarter of his or her pension for a lump sum in cash and, if this sum is less than one year's final salary, he or she may commute a further portion of his or her pension, such that the total lump sum payable does not exceed one year's final salary.

(c) The lump sum to be paid in commutation of a pension payable whether at normal retirement age or pursuant to paragraph (a) of this rule, at an age prior to the date on which it would have been payable shall consist of the amount the Corporation determines, on the advice of the Actuary.

RULE 10 -- TEMPORARY ABSENCE FROM EMPLOYMENT

A member who is absent from his or her employment ..

- (i) as a result of authorized leave of absence shall continue to be a member, and a resulting reduction in salary shall be disregarded;
- (ii) as a result of secondment to other employment, shall continue to be a member at the discretion of the employer; or
- (iii) for any other reason, shall cease to be a member and may only become a member again with the consent of the employer, and his or her pensionable service shall be reduced by the period of absence.

RULE 11 – BENEFIT ON DEATH

(a) Where a member or former member dies while in service, there shall be payable to him or her, whichever of the following amounts is greater-

- (i) two times the member's final salary reduced by a sum payable under the Pension Act; or
- (ii) three and one-eighth times the pension calculated in accordance with rule 4(a) in respect of the member's pensionable service (whether or not the member had completed ten year's service).

(b) Where a pensioner dies whilst in receipt of a pension under the scheme, there shall become payable an amount equal to the excess (if any) of a sum calculated under paragraph (a) of this rule over the aggregate of-

- (i) a sum paid to the pensioner in part commutation of his or her pension; and
 - (ii) eighty percent of the total pension payments made to the pensioner up to the date of his or her death.
- (c) On the death of a pensioner who has received a retirement gratuity under rule 4 (b), no further payment is payable out of the Scheme.
- (d) Where a former member dies before the date on which his or her retirement benefits become payable, but after the date on which the former member ceased to be in service, there shall become payable a sum equal to that which would have become payable to him or her if in circumstances of serious ill-health he or she had-
- (i) elected under rule 5 to receive his or her retirement benefits on the day prior to his or her death; and
 - (ii) further elected under rule 9 to commute a pension payable to him or her for a lump sum.

RULE 12 – APPLICATION OF DEATH BENEFIT

A sum which is payable under rule 11 on the death of a member or former member shall be held by the Corporation upon trust to pay the same to his or her estate or to the Curator of Interstate Estates.

RULE 13 – PROHIBITION OF ASSIGNMENT

(1) If a person who is entitled to a benefit from the Scheme sells, assigns or mortgages a benefit to which he or she is entitled under the Scheme or attempts to do so, such benefit shall forthwith be forfeited to the Corporation, and it may in its absolute discretion pay or apply the benefit for the maintenance or support of one or more of the following persons -

- (a) the member;
- (b) his or her spouse or spouses; and
- (c) a person who, in the opinion of Corporation is dependent on the member for all or any of the ordinary necessities of life.

(2) A payment shall not be made to a person by virtue of such assignment or purported assignment.

RULE 14 – FORFEITURE OF BENEFITS ON MISCONDUCT

(a) If a member or former member is dismissed from service on account of negligence or misconduct, or resigns from service to avoid dismissal for such cause, his or her benefits under the scheme shall be forfeited, and the benefits or their values shall be retained as part of the assets of the Pension fund of which he or she was last a member.

(b) The Corporation may, if it considers that the circumstances justify such a step, pay a part or the whole of the benefits forfeited under paragraph (a) to the member or former member or apply the same in accordance with rule 12.

(c) A debt due to an employer may be deducted from the benefits due to a member or former member under the Scheme.

(d) The Corporation may deduct the amount of a debt from the benefit and the balance remaining after the payment of the debt, shall be paid or applied in the manner set out above.

(e) Where the amount of the debt equals or exceeds the amount of the benefit, the whole of the benefit shall be forfeited.

(f) The certificate of an employer dismissing a member or former member or from whose service he or she resigns, shall be sufficient evidence that paragraph (a) of this rule applies to the termination of his or her service.

RULE 15 – INSTALMENTS NOT CLAIMED WITHIN FIVE YEARS

(a) A person entitled to the payment of a pension or other benefit under the Scheme shall not be entitled to claim the payment of an instalment or part of an instalment of such pension or other benefit more than five years after the instalment has fallen due, if the reason for the non-payment of the instalment or part of it was -

(i) the failure of a person to make a claim; or

(ii) the lack of knowledge by the Corporation of the existence or whereabouts of a person entitled to claim, or of a relevant fact.

(b) Notwithstanding paragraph (a), the Corporation may pay such instalment or part of it, if it considers it fit to do so.

RULE 16 – BENEFITS NOT CLAIMED WITHIN TEN YEARS

(a) If the Corporation, having made a reasonable effort to trace and identify a beneficiary under the Scheme (by advertisement or otherwise) is unable to trace and identify such beneficiary within ten years after the happening of the event which gave rise to his or her entitlement to benefit, it shall not be bound to pay to such beneficiary if he or she is subsequently traced.

(b) Notwithstanding paragraph (a), the Corporation may pay such benefit or a part of it, if it considers it fit to do so.

RULE 17 – PERSONS UNDER DISABILITY

(a) If a person entitled to a benefit under the Scheme is a minor or suffers from a physical or mental incapacity, the Corporation may, if it thinks fit to do so, pay all or a part of such benefit to a person whom the Corporation reasonably believes to have custody or care of such person and the receipt of such person shall be a full discharge to the Corporation in respect of such payment.

(b) The Corporation has the right to monitor the application of the benefit paid out under paragraph (a).

(c) For the purpose of this rule, a certificate by a qualified medical practitioner that a person is suffering from a physical or mental incapacity may be accepted by the Corporation as conclusive evidence of the fact.

RULE 18 – NOMINATIONS

(a) An application form submitted by an employer on behalf of a person, for registration as a member of the Federated Pension Scheme shall include the names of the applicant's nominees and clearly specify the proportions in which benefits shall be distributed.

(b) A person other than a dependent of a member shall not be nominated in pursuance of this rule unless the employee swears to an affidavit that he or she has no dependant.

(c) Where after the death of a member, there is evidence that he or she has left a child below the age of eighteen years who was not born at time of nomination, the Managing Director shall refer a claim made by such child to the Curator of Interstate Estates to determine the validity of the claim.

(d) Where the Curator is satisfied that the child is a dependant of the deceased member, it may vary and re-distribute the benefit, making reasonable provision for such child in a manner which is fair and just; and the Managing Director shall act in accordance with such variation.

(e) A member of the Federated Pension Scheme may revise the names of his or her nominees and the proportions of the benefit to be paid to them whenever there is a change in his or her family circumstances.

RULE 19 – INCREASE OF PENSIONS

(a) The Corporation may, from time to time, and after taking into consideration-


- (i) the general rise in the cost of living;
- (ii) the actual salary and wage increases throughout The Gambia; and
- (iii) the inflationary effect on the level of incomes,

increase the level of current pensions payable under its pensions schemes.

(b) An increase of pension under paragraph (a) of this rule shall not exceed the latest estimated rise in earnings made by the Actuary under this Act.

Social Security and Housing Finance Corporation Act, 2015

PASSED in the National Assembly this 28th day of December, in the year of Our Lord Two Thousand and Fifteen.

for: 

D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

for: 

D. C. M. Kebbeh

Clerk of the National Assembly.