

**P.N.D.C.L. 247**  
**SOCIAL SECURITY ACT, 1991**  
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SCHEDULE

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**P.N.D.C.L. 247****SOCIAL SECURITY ACT, 1991<sup>1</sup>**

**AN ACT to establish a trust fund to provide social protection for the working population and the social contingencies and to provide for related matters.**

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1. This Act was issued as the Social Security Law, 1991 (P.N.D.C.L. 247) made on the 1st day of January, 1991, and notified in the *Gazette* on 15th February, 1991.

*Establishment of the Trust***1. Establishment of Social Security and National Insurance Trust**

(1) There is hereby established a body corporate to be called the Social Security and National Insurance Trust.

(2) The Trust shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Trust may, for the performance of a function under this Act acquire and hold movable or immovable property, dispose of the property and enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition by the Trust of property under subsection (3), the property may be acquired for the Trust under the State Property and Contracts Act, 1960 (C.A. 6) or under the State Lands, Act, 1962 (Act 125), and that Act shall apply in relation to the acquisition with the modifications that are necessary to provide for the vesting of the property acquired in the Trust and for the cost of the acquisition to be defrayed by the Trust.

(5) The Trust shall operate a Scheme to be called the Social Security Pensions Scheme.

(6) The Scheme shall have a fund into which shall be paid the contributions and any other moneys, as may be required under this Act.

**2. Membership of the Trust**

The Trust consists of

- (a) the personnel of the Social Security and National Insurance Trust existing immediately before the coming into force of this Act,
- (b) public officers transferred or seconded to the Trust, and
- (c) any other persons employed by the Trust.

*Objectives of the Trust***3. Objectives**

The objectives of the Trust are

- (a) to be responsible for the general administration of this Act and the Regulations,
- (b) to provide social protection for the working population for various contingencies such as old age, invalidity, and any other contingencies specified by law,
- (c) to be responsible for the administration and investment of the Scheme within the framework of the general directives issued by the Board referred to in section 4, and
- (d) carry out any other activities as may appear to the Trust to be incidental or conducive to the attainment of its objectives under this Act.

*The Board***4. The Board**

(1) The governing body of the Trust shall be a board of directors.

(2) The Board consists of

- (a) the chairman and three other persons,
- (b) two representatives nominated by Employer's Association,
- (c) two representatives nominated by the Trades Union Congress,
- (d) the person appointed Director-General under section 8,
- (e) one representative of the Ministry responsible for Finance,
- (f) one representative of the Bank of Ghana,
- (g) one representative of the Ministry responsible for Labour,
- (h) one representative nominated by the Civil Servants Association, and
- (i) one representative nominated by the Ghana National Association of Teachers.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

**5. Tenure of office**

(1) A member of the Board, other than the Director-General, shall hold office for a period of three years, and is eligible for re-appointment.

(2) A member of the Board, other than the Director-General, may resign from office by notice in writing addressed to the Minister responsible for Finance and without prejudice to the general effect of subsection (1), a member of the Board may be removed from office by the President.

(3) Where the office of a member of the Board, other than the Director-General, becomes vacant under subsection (2), before the expiration of the term of office under subsection (1), or by death, the Director-General shall notify the President of the occurrence of the event and the President shall, subject to this Act, appoint another person to hold office for the unexpired portion of that term of office.

(4) Subject to this Act, where the Board notifies the President that a member of the Board, other than the Director-General is incapacitated by illness, absent from the Republic or any other sufficient cause from performing the functions of office the President shall appoint another person to hold that office until the President is satisfied that the incapacity of that person has terminated or until the term of the member expires, whichever first occurs.

**6. Remuneration of a board member**

The remuneration of the members of the Board shall be determined by the President in accordance with the advice of the Minister.

**7. Meetings of the Board**

(1) The Board shall meet at least once every month for the despatch of business at the times and at places determined by the Board.

(2) A special meeting of the Board shall be called within seven days on a written request signed by the chairman or by five members of the Board addressed to the secretary.

(3) The chairman shall preside at meetings of the Board and in the absence of the chairman, a member of the Board elected by the members from among themselves shall preside.

(4) Questions proposed at a meeting of the Board shall be determined by a simple majority of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote.

(5) The quorum at a meeting is seven including either the chairman or the Director-General.

(6) The Board may co-opt a person to act as an adviser at any of its meetings but a person so co-opted is not entitled to vote at the meeting on a matter for decision by the Board.

(7) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of any of the members except where the defect affects the quorum.

(8) A member of the Board who has an interest in a company or an undertaking with which the Trust proposes to enter into a contract or who has an interest in a contract which the Trust proposes to enter shall disclose in writing to the Board the nature of interest and is disqualified, unless the Board otherwise directs, from participating in the deliberations of the Board on the contract and from voting in a decision of the Board on the contract.

(9) A member who infringes subsection (8) ceases to be a member of the Board.

(10) The Board shall cause to be recorded and kept minutes of the proceedings of its meeting.

*Management and Staff of the Trust***8. Board to control general policy**

(1) The Board shall, subject to this Act, have general control of the Fund and investments of the Scheme and the management of the Trust on matters of policy.

(2) The Trust shall have a Director-General who shall be appointed by the President in accordance with article 195 of the Constitution, and shall hold office on the terms and conditions specified in the instrument of appointment.

(3) Where the office of the Director-General becomes vacant the Board shall notify the Minister.

(4) Where the Director-General is incapacitated from the performance of functions under this Act the President shall appoint another person to perform those functions for the duration of the incapacity.

(5) Subject to this Act, the Director-General is the chief executive of the Trust and is responsible, subject to the general control of the Board on matters of policy, for the direction of the day-to-day business of the Trust and of its administration.

(6) Subject to subsection (5), the Director-General may delegate to an employee of the Trust or to any other person, a function under this Act of the Director-General, and may impose conditions with respect to the performance of the delegated function.

(7) Subsection (6), shall not be construed so as to absolve the Director-General from ultimate responsibility for an act done by a person in pursuance of delegation under subsection (6).

## 9. Execution of contracts

(1) The application of the seal of the Trust shall be authenticated by

- (a) the signature of the Director-General or any other member of the Board authorised by the Board to authenticate the application of the seal, and
- (b) the signature of the secretary or any other officer of the Trust authorised by the Board to act for that purpose in place of the secretary.

(2) The Trust may, by instrument in writing under its common seal, empower a person generally or in respect of specified matters as its attorney, to execute deeds on its behalf in or out of the Republic; and a deed signed by the attorney on behalf of the Trust and under the seal of the attorney, is binding on the Trust and has the same effect as if it were under the common seal of the Trust.

(3) An instrument or a contract which, if executed or entered into by a person other than a body corporate would not require to be under seal, may be executed and entered into on behalf in the Trust by the Director-General or a member of the Board if the Director-General or the member is authorised by resolution of the Board to execute or enter into that particular instrument or contract.

(4) The Trust may, by writing under its common seal, appoint a person outside the Republic as agent to execute or enter into the instrument or contract and the instrument or contract shall have effect as if it had been duly executed or entered into as prescribed for the purpose of subsection (3).

(5) A document purporting to be an instrument executed or issued by or on behalf of the Trust and

- (a) sealed with the common seal of the Trust authenticated in the manner provided by subsection (1), or
- (b) signed by the Director-General or by a member of the Board or any other person authorised in accordance with subsection (3) to act for that purpose,

shall be deemed to be so executed or issued until the contrary is shown.

(6) This section has effect subject to section 8 of this Act and of section 12 of the Contracts Act, 1950 (Act 25).

**10. Staff of the Trust**

(1) The Trust may engage the employees necessary for the proper and the efficient performance of the functions of the Trust.

(2) The appointments to a post of the Trust, other than that of Director-General, shall be made in accordance with article 195 of the Constitution.

(3) The President may, in accordance with clause (2) of article 195 of the Constitution, delegate to the Board or the Director-General or to any other officer the power to appoint employees in respect of a post below the rank of a Deputy Manager.

(4) The Trust may engage the services of consultants and advisers on the recommendations of the Director-General.

(5) Except as provided in section 8, any other employees, consultants and advisers of the Trust shall be engaged on the terms and conditions determined by the President on the recommendations of the Director-General.

**11. Secretary of the Trust**

(1) The Trust shall have an officer to be designated as the secretary of the Trust.

(2) The secretary is the secretary to the Board and shall, subject to the directions of the Board, arrange the business for and is responsible for the recording and keeping of minutes of proceedings of the meetings of the Board.

(3) The secretary shall perform any other functions directed by the Board or delegation by the Director-General.

**12. Internal auditor**

(1) The Trust shall have an internal auditor.

(2) Subject to this Act, the internal auditor is responsible to the Director-General for the performance of the functions of the internal auditor.

(3) The internal auditor shall, at intervals of three months prepare a report on the internal audit work carried out during the period of three months immediately preceding the preparation of the report, and submit the report to the Director-General.

(4) Without prejudice to the general effect of subsection (3), the internal auditor shall make in each report the observations that are necessary as to the conduct of the financial affairs of the Trust during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to

- (a) the Minister,
- (b) the Auditor-General, and
- (c) the chairman of the Board.

(6) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 592) and where there is a conflict that Act shall prevail.

*Financial Provisions***13. Books of accounts**

The Trust shall keep proper books of accounts and proper records in the form approved by the Auditor-General.

**14. Financial year**

The financial year of the Trust shall end on the 31st of December in each year.

**15. Audit**

(1) The books and accounts of the Trust shall each year be audited by the Auditor-General.

(2) The Trust shall pay in respect of the audit the fee that the Auditor-General and the Trust may agree on or in case of disagreement, the fee determined by the Minister.

(3) The Board shall as soon as possible, on receiving the audit report under this section forward a copy of the report to the Minister.

(4) The Minister shall as soon as practicable on the receipt of the report lay a copy of the report before Parliament.

**16. Annual report**

(1) The Board shall as soon as practicable, after the expiration of each financial year, but within six months thereafter submit to the Minister an annual report dealing generally with the activities and operations of the Trust within that financial year which shall include a copy of the audited accounts of the Trust together with the Auditor-General's report on the accounts.

(2) The Minister shall as soon as practicable after receiving the annual report of the Board lay a copy of the report before Parliament.

(3) The Board shall also submit to the Minister any other reports on its affairs requested by the Minister in writing.

**17. Exemption from taxes**

Subject to article 174 of the Constitution, the Trust shall be exempted from corporate tax and any other taxes and duties determined by the Minister.

**18. Administrative expenses**

The expenses relating to the administration of the Scheme are a charge on the Fund in accordance with the standard pension accounting practice and shall be subject to the approval of the Minister on the recommendation of the Board from year to year.

**19. Member's account**

The Board shall maintain for each member an account to which shall be credited contributions of that member.

*Employers and Employees to whom the Act Applies***20. Employers and employees to whom the Act applies**

(1) This Act applies

- (a) to every employer of an establishment and to every employee employed in that establishment,
- (b) to any other employer and employee to whom the Social Security Act, 1972<sup>2</sup> applied immediately before the commencement of this Act, and
- (c) to all self-employed persons, who opt to join the Scheme.

(2) Where a member has ceased to be employed the member may continue to pay the monthly contribution at the rate being paid by a self-employed person.

(3) This Act does not apply to officers and men of the Armed Forces and any other officers as are expressly exempted by law.

**21. Existing Scheme**

(1) The existence of a private or company pension, provident fund, superannuation scheme or gratuity scheme in respect of employees to whom this Act applies shall not exempt the employer or the employees from the operation of this Act; and accordingly the employer is responsible for deducting contributions from the remuneration of the employees and paying them along with the employer's own contributions to the fund at the rates laid down in this Act.

(2) Despite the provisions of a scheme referred to in subsection (1), the employer concerned may amend the written provisions of the scheme referred to in subsection (1) with the prior approval of its board of trustees or in the absence of that approval with the consent of the Board so as to adjust the benefits there provided to enable the payment of the contribution payable under this Act.

*Contributions***22. Rate of contribution**

(1) An employer of an establishment shall deduct from the pay of every employee in that establishment immediately at the end of the month, the employee's contribution of an amount equal to 5% of the employee's pay for that period, irrespective of whether or not the pay is actually paid to the employee.

(2) An employer of an establishment shall pay for each month in respect of each employee, an employer's contribution of an amount equal to twelve and half percent of the employee's pay during that month.

(3) The contributions referred to in this section (2) shall, within fourteen days after the end of each month be remitted to the Trust.

(4) A self-employed person shall contribute seventeen and half percent of any income for the month from the profession, vocation, business or occupation of that person.

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(5) Despite an agreement or understanding to the contrary, an employer is not entitled

- (a) to deduct or recover the employee's contribution from the employee's pay, or
- (b) to deduct the member's contribution for an earlier contribution period from the pay in respect of a later period.

(6) For the purposes of subsection (5), the employer is entitled to make those deductions

- (a) if the failure to make the deduction was due to a false declaration made in writing by the employee at the time of the employment that the employee was not already a member of the Scheme, or
- (b) if the failure to deduct the contribution was the result of an accidental mistake or a clerical error in which case the deductions shall be made according to the written instructions of a Trust inspector.

(7) Where an employer deducts contributions from the pay of an employee under this Act, the contributions are held by the employer in trust for the purposes of this Act until they are remitted to the Trust.

### **23. Penalty for non-payment of contribution**

(1) Subject to subsection (2), if a contribution is not paid within the period prescribed under section 22,

- (a) a sum of money equal to three percent per month of the contribution payable shall be added to the contribution as a penalty;
- (b) the Director-General shall serve a demand note on the defaulting contributor and if payment of the contribution and penalty is not made within thirty days after the date of the service of the note, the Director-General may proceed to collect and recover the contribution and the penalty; and
- (c) if a person without reasonable excuse fails to pay the contribution and penalty imposed under paragraph (a) of this subsection, the Director-General may direct the payment by that person of an additional penalty of a sum of money equal to three percent of the total of outstanding contribution and penalty imposed under the paragraph for every month during which the default continues.

(2) The Director-General may, with the approval of the Board, remit wholly or partly, the penalty imposed under subsection (1).

### **24. Employment by several employers**

Where an employee is concurrently employed by more than one employer, each employer is responsible only for that employer's obligations under this Act.

### **25. Employer not to reduce remuneration**

An employer shall not, by reason of a liability for a contribution to the Scheme or for any other charges under this Act or the Regulations reduce, whether directly or indirectly, the pay or any other emoluments of a member of the Scheme.

*Legal Proceedings***26. Penal provisions**

- (1) A person commits an offence if that person,
- (a) with intent to evade payment of a contribution or any other amount due, knowingly makes a false statement or representation, or produces or furnishes or causes to be produced or furnished a document or an information which that person knows is false in a material particular; or
  - (b) for personal benefit or for any other person, knowingly makes a false statement or representation or produces or furnishes, or causes to be produced or furnished, a document or an information which that person knows is false in a material particular; or
  - (c) wilfully misrepresents or fails to disclose a material fact, or fails to pay to the Trust within the prescribed period an amount of money which that person is liable to pay under this Act or the Regulations; or
  - (d) wilfully obstructs or assaults an inspector, officer or a servant of the Trust in the discharge of duties; or
  - (e) without reasonable excuse, proof of which lies on that person, fails to comply with a provision of this Act or the Regulations;

and is liable on summary conviction,

- (f) in respect of an offence under paragraphs (a), (b) or (c) of this subsection, to a fine to the sum of money equivalent to the amount owed to the Trust or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment; or
- (g) in respect of an offence under paragraphs (d) or (e) of this subsection, to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(2) Where an employee of the Trust conspires or aids and abets any other person in the commission of an offence specified in subsection (1), the employee is liable, on summary conviction, to the same punishment as prescribed under subsection (1).

**27. Institution of criminal proceedings**

(1) Criminal proceedings under this Act may be instituted and conducted by the Attorney-General or an officer of the Trust authorised by the Attorney-General.

(2) The Court, when convicting a person of an offence under this Act may, without prejudice to civil remedy, order that person to pay to the Trust the amount of contribution together with interest or penalty on the amount, due from that person to the Trust at the date of conviction and the amount may be recovered in the same manner as a fine and shall be paid to the Trust for the credit, where applicable of the accounts of the members of the Scheme.

**28. Offences by bodies of persons**

- (1) Where an offence under this Act is committed by a body of persons,
- (a) in the case of a body corporate, other than a partnership, every director and officer of that body corporate shall be deemed to have committed that offence, and

- (b) in the case of a partnership every partner of that firm shall be deemed to have committed the offence.

(2) A person shall not be convicted of an offence under subsection (1), if it is proved that the offence was committed without the knowledge of, or that due diligence was exercised by, that person to prevent the commission of the offence.

### **29. Civil proceedings**

(1) Despite any other enactment, a contribution to the Scheme 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 Trust at any time within twelve years from the date when the contribution or the penalty became due.

(2) Subject to article 88 of the Constitution, an action for the recovery of contribution and any other penalties under this section may be instituted and conducted by an authorised officer of the Trust.

### **30. Priority for payment of contributions**

Where,

- (a) on the application by the Trust an attachment is issued against the property of an employer in execution of a decree and the property is seized or sold or otherwise realised in pursuance of the execution, or
- (b) on the application of a secured creditor, the property of an employer is sold,

the proceeds of the sale or any other realisation of the property shall not be distributed to a person entitled to the distribution until the Court ordering the sale or their realisation has made provision for the payment of the amount due by the employer under this Act before the date of the order.

### **31. Protection against attachment**

Except as provided in section 34,

- (a) the accumulations to the credit of a member of the Scheme, or contribution in transit to the Scheme, or lying with an employer, are incapable of being assigned or charged and are not liable to attachment under a law or an order of a Court in respect of a debt or liability by the member, even in the event of the bankruptcy or insolvency of the member;
- (b) subject to the Internal Revenue Act, 2000 (Act 592), the amount actually or potentially standing to a member's credit on the Scheme at the time of death and payable to the dependants before it is paid to the dependants, is free from attachment by process of law;
- (c) accrued contributions to the Scheme shall be paid despite the bankruptcy or insolvency of an employer.

### **32. Exemption from tax**

(1) Income tax is not payable on the benefits received under this Act by a minor or a person of or beyond the compulsory retiring age.

(2) The Scheme and an existing scheme referred to in section 21 shall be an approved scheme for ascertaining the chargeable income of a person for making the appropriate deductions under the income tax law and income tax shall not be paid by an employer in respect of an employee on contributions which do not exceed seventeen and half percent of the total emolument of the employee.

### 33. Protection from acts done in good faith

A suit does not, or any other legal proceedings do not, lie against a member of the Board, an officer or employee of the Trust in respect of anything which is done in good faith in pursuit of the objectives of this Act.

### *Benefits and Qualifying Conditions*

### 34. Classes of benefits

(1) The following benefits are payable under this Act:

- (a) a superannuation pension when a member of the Scheme retires or is retired after attaining the pensionable age; but a superannuation pension, or benefit shall not be paid to a person except on the condition
  - (i) the member retires on or after attaining the pensionable age of sixty years and has contributed to the Scheme for not less than twenty years in the aggregate or two hundred and forty months, or
  - (ii) the member voluntarily retires with a reduced pension on attaining the age of fifty-five years and has contributed to the Scheme for an aggregate period of not less than two hundred and forty months;
- (b) a lump sum of money equal to the member's contribution and interest equivalent to half the prevailing Government treasury rate on that sum where the member had done less than twenty years minimum contribution prior to the retirement either voluntarily or compulsorily;
- (c) an invalidity pension based on a member's right when a member of the Scheme has contributed for not less than twelve months within the last thirty-six months and is certified by a medical board to be incapable of a normal gainful employment by virtue of a permanent physical or mental disability; but where a person is certified by a medical board to have fully recovered from a disability and not attained the pensionable age under this Act, that person may rejoin the Scheme;
- (d) a survivor's lump sum benefit, on the member's death to the members of the family who are dependants and in whose favour a valid nomination exists in the Trust Office; but where there is no nominations or the nomination made is invalid, the lump sum payable shall be distributed to the dependants as determined by the Administrator-General;
- (e) any other prescribed benefits.

(2) A person who has worked as an underground mine worker or in steel works or in a specified hazardous employment may for an aggregate period of two hundred and forty months or more and has attained the age of fifty-five years is entitled to a retirement benefit.

**35. Qualifying conditions for pension**

(1) A person who

- (a) has satisfied the minimum contribution period of not less than two hundred and forty months,
- (b) has attained the age of sixty years or fifty-five years in the case of an underground mine worker or a worker specified in subsection (2) or has opted for voluntary retirement with reduced pension, and
- (c) has filed an application for superannuation benefit,

is entitled to a pension payment for each month beginning with the first month in which that person becomes so entitled to the payment.

(2) A person who has satisfied the minimum contribution period and has worked as an underground mine worker or in a quarry or in steel works or in any other employment and is likely to contract industrial diseases as defined in section 12 (2) of the Factories, Office and Shops Act, 1971 (Act 328) by virtue of that employment is entitled to a pension benefit on attaining the age of fifty-five years.

**36. Formula for computation of pension**

(1) For the purpose of computing pension benefits a member may be paid a full or a reduced pension.

(2) For the purpose of subsection (1), a member may exercise the option for a part lump sum payment of twenty five percent of the pension and a reduced pension payment.

(3) The minimum pension payment shall be based on fifty percent of the average annual salary for the three best years of a member during the working life of that member.

(4) Where a member works beyond the minimum contribution period the amount of pension payable shall be increased by one decimal point fifty percent for each twelve months worked up to a maximum of eighty percent.

(5) Despite subsection (3) a pension payment shall not exceed eighty percent of the average of the highest salaries in the top five percent bracket of contributing members.

(6) Where there are grounds to suspect that the annual salary has been inflated with intent to defraud, the Trust shall investigate and the right pension payment shall be made to the member concerned.

**37. Formula for survivor's benefit**

(1) Where a member dies having satisfied the minimum contribution period, a lump sum payment computed on the present value of the member's pension for a period of twelve years using the prevailing treasury bill rate shall be made to the nominated dependants of the member.

(2) Where a member dies prior to satisfying the minimum contribution period, a lump sum equal to the present value of the member's proportional pension for a period of twelve years shall be paid to the nominated dependants of the member.

(3) Where a member retires but dies before the age of seventy-two years, a lump sum payment based on the present value of the unexpired pension up till seventy-two years shall be made to the nominated dependants of the member.

### **38. Formula for invalidity computation**

Where a member is certified as being invalid in accordance with section 34 (c) the member is entitled to the minimum pension or the earned pension whichever is higher.

### **39. Periodic review of pension**

The Trust shall annually review the pension payment based on adjustment in salaries and wages of members.

### **40. Nomination of dependant to receive benefits**

(1) A person who is required or is entitled to become a member of the Scheme shall be asked by the employer to furnish and that person shall, on demand, furnish to the employer personal particulars and those of the death of that person and dependants for the receipt of benefits.

(2) The employer shall enter the particulars in the prescribed form, obtain the signature and thumb impression of the person concerned, and forward it to the Trust.

(3) An employer shall, before taking a person into employment ask that person to state in writing whether or not that person is a member of the Scheme and for the account number and the name and particulars of the last establishment, where that person was employed and whether that person had nominated anyone to receive the benefits as survivor.

(4) Where that person was a member of the Scheme the old account number and the nomination shall continue to be operative and the Trust's attention shall be drawn to them by the new employer.

(5) Where that person was not a member, the employer shall require that person to furnish, and on demand furnish to the employer for communication to the Trust particulars regarding that person and the dependants and the employers shall enter the particulars in the prescribed form and having obtained the particulars with both the signature and thumb impression of the person concerned, forward the form to the Trust.

(6) Subject to subsection (3) a member of the Scheme is free to update the nomination and the revised nomination shall be forwarded to the Trust.

(7) Where payment of benefits had been made to a person validly nominated under this section, any other person shall not have any other claim against the Trust.

### **41. Reciprocal agreement**

(1) The Government may enter into a reciprocal agreement with the government of any other territory in which a scheme has been established and there may be included in the agreement a provision

- (a) that a period of membership of a scheme in the territory of that government may be treated as a period of membership of the Scheme and vice versa, and

- (b) that, subject to the conditions that are agreed on an amount of money standing to the credit of a member of the Scheme in the Republic who works for an employer in the territory of that government may be transferred to the credit of the member in the Scheme, and vice versa.

(2) A reciprocal agreement made under this section may make provision for the modification of this Act in its application to the agreement.

#### *Miscellaneous*

#### **42. Function of Trust inspectors**

(1) An inspector of the Trust appointed under this Act who has reasonable cause to believe that there are employees on any premises or place may on production of the certificate of appointment or identity card as an employee, enter at a reasonable time on the premises or place and there make an examination or enquiry necessary to obtain information for the purposes of this Act.

(2) In the performance of functions under this section, an inspector may require the production of documents relating to appointment, attendances, wages of employees and contributions or liability of employers to contribute to the Scheme for inspection on the premises or place and to take copies of or extracts from the documents.

(3) Where an establishment has discontinued its work or has been closed down and has no premises, the inspector may require the production of the documents relating to past transactions at a reasonable place and time, including the office of the inspector or the office of any other establishment and the previous employer or any other person having custody of the documents shall produce them as required by the inspector.

(4) Where it becomes necessary for an inspector to visit those premises or that place as has been declared by a competent Government authority as a security area or the admission to which is restricted, the inspector shall not enter the premises or area without obtaining prior permission of the officer in charge.

#### **43. Regulations**

The Minister may, by legislative instrument, make Regulations for the purpose of carrying out the provision and principles of the Act.

#### **44. Transitional provisions**

On the coming into force of this Act, the following provisions shall apply for a period of five years:

- (a) a person to whom the Social Security Act, 1972<sup>3</sup> applied immediately before the commencement of this Act shall be credited for the number of months that person had contributed to the Scheme;
- (b) where a person had already collected the interim benefit under the Social Security Act, 1972 and is still in employment that person may exercise an option to repay the amount collected together with interest at the rate of six percent within six months on inception of the Scheme and that person shall continue to contribute till the retiring age and qualifies for pension;

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3. N.R.C.D. 127.

- (c) where a person on the coming into operation of the Scheme has attained the maximum age of fifty-seven years and has already collected the final benefits under the previous Scheme that person may exercise the option to repay the amount collected with interest at the rate of six percent within a period of six months on the coming into operation of the Scheme and shall continue to contribute till the compulsory retiring age;
- (d) where a member retires on reaching the age of fifty-five years on the coming into operation of this Act without satisfying the minimum contribution period that person is entitled to a reduced pension where that person shall have contributed for a period of not less than fifteen years to the Scheme;
- (e) where a member fails to contribute for the minimum period of fifteen years the person shall be paid the amount standing to the member's credit with interest.

#### 45. Interpretation

In this Act, unless the context otherwise requires,

**“Auditor-General”** includes an auditor appointed by the Auditor-General;

**“Board”** means the governing body of the Trust;

**“citizen”** means a citizen of Ghana;

**“contribution period”** means where pay is paid to an employee

- (a) at intervals of more than a fortnight, the month during which the pay is given;
- (b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the pay is given; and
- (c) at intervals of a week or less, the week in which the pay is given;

**“Court”** means a court of competent jurisdiction;

**“dependant”** includes

- (a) the members of the family of a member, and
- (b) any other persons who by reason of an adoption under the Children's Act, 1998 (Act 560) or otherwise a member is obliged to maintain and who were dependants on the earnings of the member at time of death;

**“Director-General”** means the Director-General appointed under section 8;

**“employee”** includes a person who is employed for payment, in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who is paid, directly or indirectly, by the employer, and a person employed by or through a contractor in or in connection with the normal work of the establishment; and

- (a) is employed in the Republic but not as a member of the crew of a ship, or
- (b) being a permanent resident of the Republic is employed
  - (i) as a member of the crew of a ship, the owners of which have an office or agents in the Republic, or
  - (ii) outside the Republic for an employer in the Republic;

**“employer”** means

- (a) the owner of an establishment of the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the affairs are entrusted to a manager, managing director or managing agent, that manager, director or agent;
- (b) in any other case, the person with whom the employee entered into a contract of service or apprenticeship and who is responsible for paying the employee;

**“establishment”** means an office, shop, factory, mine, plantation, or any other place where a person is employed on pay for work or business of any kind;

**“Fund”** means the Social Security Fund provided for under subsection (6) of section 1;

**“member”** means a person to whose credit there is an amount standing in the Fund or from whose pay a contribution has been deducted for payment into the Fund and whose benefits have not been paid,

- (a) when used in relation to a citizen, any one of those persons mentioned in the Schedule according to whether the family is based on the paternal or the maternal system;
- (b) when used in relation to person who is not a citizen, the wife, husband, father, mother, grandfather, grandmother, stepmother, stepfather, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister;

**“pay”** includes emoluments which are earned by an employee while on duty in accordance with the express or implied terms of the contract of employment or apprenticeship and which are paid or payable in cash at fixed or determinable intervals of time

- (a) in respect of normal periods of work to be performed by the employee; or
- (b) where payment is calculated in relation to set tasks, in respect of the number of tasks completed by the employee; or
- (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the employees;

and the emoluments which are earned by the employee on leave, the cost of living for prescribed allowance but does not include the presents made by the employer, value of the food concession, house rent allowances, overtime allowance, travelling allowance, bonus commission, or any other similar allowance payable to the employee;

**“prescribed”** means prescribed by the Act or the Regulations;

**“Regulations”** means the Regulations made under this Act;

**“Scheme”** means the scheme provided for by subsection (5) of section 1;

**“self-employed person”** means a person who does not have any other employer and works on that person’s own account.

## 46. Repeals and savings

*Spent.*<sup>4</sup>

## SCHEDULE

[Section 45]

<i>Paternal system</i>	<i>Maternal system</i>
Mother, Father	Mother, Father
Husband	Husband
Wife, son, daughter	Wife, son, daughter
Brother, sister	Brother, sister
Father's father	Mother's mother
Father's brother	Mother's brother
	Mother's sister
	Sister's son
	Sister's daughter
	Mother's sister's son
	Mother's sister's daughter

## 4. The section provided that,

"(1) The Social Security Decree, 1972 (N.R.C.D. 127) is hereby repealed.

(2) Notwithstanding the repeal of the Social Security Decree, 1972 (N.R.C.D. 127) the statutory instrument made thereunder and in force immediately before the commencement of this Law shall with the necessary modifications continue in force until amended or revoked.

(3) For the removal of doubt all assets, rights, obligations and liabilities existing under the Social Security Decree, 1972 as amended and any statutory instrument made thereunder are hereby transferred to the Trust."

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