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

(2014) LEGAL NOTICE NO. 81

PART 1

NAME OF STATUTORY INSTRUMENT: THE NATIONAL SOCIAL SECURITY FUND (MEMBER CONTRIBUTIONS), REGULATIONS 2014

NAME OF PARENT ACT: THE NATIONAL SOCIAL SECURITY FUND ACT.NO 45 OF 2013

ENACTED PURSUANT: PRESIDENTIAL ASSENT ON 24 DECEMBER 2013

NAME OF MINISTRY: MINISTRY OF LABOUR, SOCIAL SECURITY & SERVICES

GAZETTED ON: 13 JUNE 2014

TABLED ON:

PART 11

1. PURPOSE OF THE STATUTORY INSTRUMENT

Following the transformation of the Old Provident Fund to a Pension Scheme, the National Social Security Fund Act No. 45 of 2013 was enacted. Therefore, it became necessary to prepare Rules and Regulations to effectively operationalise the New NSSF Act.

2. LEGISLATIVE CONTENT

This Regulation is to implement the New Act and shall apply to the rate of contributions that will be made by Employers and Employees and Members of the Pension Fund.

Under the Old Provident Fund the contributions were woefully inadequate and capped at a monetary ceiling of Kshs. 400/= as opposed to the current contribution rate which is based on a percentage of monthly personable earnings.

The Benchmarking was from Seychelles, Namibia and Ghana.

3. POLICY BACKGROUND

The NSSF was established in 1965 by an Act of Parliament as a mandatory national scheme. The Fund operated a provident fund scheme providing benefits in the form of lump sum payments to the Kenyan Workers.

The National Development Plan (1997 – 2001), Kenya Vision 2030 and National Social Protection Policy of 2012 identified the transformation of the NSSF from a Provident Fund to a Pension Scheme. To this end, the New NSSF Act has positioned NSSF as a public mandatory social security scheme covering all employees in the formal and informal sectors. The Country's development blue print aims to transform Kenya into a newly industrialising *"middle income country providing a high quality life to all its citizens by the year 2030."*

The conversion was consistent with the Government Policy and Article 43 (1)(e) of the Constitution of Kenya which makes it a right for all Kenyans to enjoy social security.

A properly structured and effective social security will help individual Kenyans realize the benefits of saving while at the same time making the economy flourish by maintaining effective consumer demand within the economy.

The object of this Instrument is to improve adequacy of benefits paid out of the scheme by the Fund in line with Section 4 (c) of the Parent Act.

4. CONSULTATION OUTCOME

Consultative Meetings were held with key stakeholders drawn the Government (Ministry of Labour, Social Security & Services), Federation of Kenya Employers, Central Organization of Trade Unions and Retirement Benefits Authority and their proposals incorporated.

All in all, there were only three (3) key issues raised by the stakeholders: definition of fluctuating emoluments, gratuity and interest payable on transfer of Tier 2 Fund Credits.

With respect to **fluctuating emoluments**, there were proposals to exclude bonuses, commissions, overtime and service charge from the definition of fluctuating emoluments.

In the Fund's analysis, it noted that there are a considerable number of employees who are not salaried but are paid in the form of bonuses, commissions, overtime and service charge (for persons in the hotel industry) and therefore cannot be excluded as Members of the Fund.

With respect to **gratuity**, the Fund adopted the proposal by the Federation of Kenya Employers by virtue of being the Employers representatives.

With respect to **interest payable on transfer of Tier 2 Fund Credits**, the Fund noted that since declaration of interest is done annually, it may prove difficult to apportion interest on moneys held for short period(s) of time and taking into consideration the administrative cost incurred.

5. GUIDANCE

The Fund has carried out sensitization progammes throughout the country.

The Fund has also been appearing in both the electronic and print media and will continue sensitizing Members of the Public.

A Call Centre has been established to cater for the phone calls and queries from Members of the Public.

The Fund has also put a portal for twitter and facebook.

6. IMPACT

6.1 Impact on Fundamental Rights and Freedoms

There is no financial impact.

6.2 The Impact on the Private Sector

There is no financial impact.

6.3 The Impact on the Public Sector

There is no financial impact.

6.4 An Impact Assessment

The implementation of the Rules and Regulations to operationalise the NSSF Act No. 45 of 2013 will have no impact on the Community and hence there is no need for an Impact Assessment.

7. MONITORING AND REVIEW

The Rules and Regulations being subsidiary legislation, it may be amended from time and time as and when the need arises.

8. CONTACT

Mr. Richard K. Langat, Chief Executive Officer/ Managing Trustee, National Social Security Fund : Telephone Number 2832005/2832006: Langat.R@nssfkenya.co.ke.

EXPLANATORY MEMORANDUM TO THE NATIONAL SOCIAL SECURITY FUND (MANDATORY REGISTRATION), REGULATIONS 2014

(2014) LEGAL NOTICE NO. 82

PART 1

NAME OF STATUTORY INSTRUMENT: THE NATIONAL SOCIAL SECURITY FUND (MANDATORY REGISTRATION), REGULATIONS 2014

NAME OF PARENT ACT: THE NATIONAL SOCIAL SECURITY FUND ACT.NO 45 OF 2013

ENACTED PURSUANT: PRESIDENTIAL ASSENT ON 24 DECEMBER 2013

NAME OF MINISTRY: MINISTRY OF LABOUR, SOCIAL SECURITY & SERVICES

GAZETTED ON: 13 JUNE 2014

TABLED ON:

PART 11

1. PURPOSE OF THE STATUTORY INSTRUMENT

Following the transformation of the Old Provident Fund to a Pension Scheme, the National Social Security Fund Act No. 45 of 2013 was enacted. Therefore, it became necessary to prepare Rules and Regulations to effectively operationalise the New NSSF Act.

2. LEGISLATIVE CONTENT

This Regulation is to implement the New Act and shall apply to the Registration of Employers and Employees and Members to the Pension Fund.

All Members of the Old Provident Fund shall, on the commencement date, become Members of the Pension Fund and a new account shall be opened for each Member in accordance with the new Act.

However, all new Employers and Employees shall be expected to register with the Pension Fund.

The Benchmarking was from Seychelles, Namibia and Ghana.

3. POLICY BACKGROUND

The NSSF was established in 1965 by an Act of Parliament as a mandatory national scheme. The Fund operates a provident fund scheme providing benefits in the form of lump sum payments to the Kenyan Workers.

The National Development Plan (1997-2001), Kenya Vision 2030 and National Social Protection Policy identified the transformation of the NSSF from a Provident Fund to a Pension Scheme. To this end, the New NSSF Act has positioned NSSF as a public mandatory social security scheme covering all employees in the formal and informal sectors. The Country's development blue print aims to transform Kenya into a newly industrialising *"middle income country providing a high quality life to all its citizens by the year 2030."*

The conversion was consistent with the Government Policy and Article 43 (1)(e) of the Constitution of Kenya which makes it a right for all Kenyans to enjoy social security.

A properly structured and effective social security will help individual Kenyans realize the benefits of saving while at the same time making the economy flourish by maintaining effective consumer demand within the economy.

The object of this Instrument is to:-

(i) Provide basic social security or its members and their dependants for various contingencies provided under the Act; and

(ii) Increase membership coverage of the social security scheme

in line with Section 4 (a) and (b) of the Parent Act.

4. CONSULTATION OUTCOME

Consultative Meetings were held with key stakeholders drawn from the Government (Ministry of Labour, Social Security & Services), Federation of Kenya Employers, Central Organization of Trade Unions and Retirement Benefits Authority and their proposals incorporated.

All in all, there were only three (3) key issues raised by the stakeholders: definition of fluctuating emoluments, gratuity and interest payable on transfer of Tier 2 Fund Credits.

With respect to **fluctuating emoluments**, there were proposals to exclude bonuses, commissions, overtime and service charge from the definition of fluctuating emoluments.

In the Fund's analysis, it noted that there are a considerable number of employees who are not salaried but are paid in the form of bonuses, commissions, overtime and service charge (for persons in the hotel industry) and therefore cannot be excluded as Members of the Fund.

With respect to **gratuity**, the Fund adopted the proposal by the Federation of Kenya Employers by virtue of being the Employers representatives.

With respect to **interest payable on transfer of Tier 2 Fund Credits**, the Fund noted that since declaration of interest is done annually, it may prove difficult to apportion interest on moneys held for short period(s) of time and taking into consideration the administrative cost incurred.

5. GUIDANCE

The Fund has carried out sensitization progammes throughout the country.

The Fund has also been appearing in both the electronic and print media and will continue sensitizing Members of the Public.

A Call Centre has been established to cater for the phone calls and queries from Members of the Public.

The Fund has also put a portal for twitter and facebook.

6. IMPACT

6.1 Impact on Fundamental Rights and Freedoms

There is no financial impact.

6.2 The Impact on the Private Sector

There is no financial impact.

6.3 The Impact on the Public Sector

There is no financial impact.

6.4 An Impact Assessment

The implementation of the Rules and Regulations to operationalise the NSSF Act No. 45 of 2013 will have no impact on the Community and hence there is no need for an Impact Assessment.

7. MONITORING AND REVIEW

The Rules and Regulations being subsidiary legislation, it may be amended from time and time as and when the need arises.

8. CONTACT

Mr. Richard K. Langat, Chief Executive Officer/ Managing Trustee, National Social Security Fund : Telephone Number 2832005/2832006: Langat.R@nssfkenya.co.ke.

EXPLANATORY MEMORANDUM TO THE NATIONAL SOCIAL SECURITY FUND (VOLUNTARY REGISTRATION), REGULATIONS 2014

(2014) LEGAL NOTICE NO. 83

PART 1

NAME OF STATUTORY INSTRUMENT: THE NATIONAL SOCIAL SECURITY FUND (VOLUNTARY REGISTRATION), REGULATIONS 2014

NAME OF PARENT ACT: THE NATIONAL SOCIAL SECURITY FUND ACT.NO 45 OF 2013

ENACTED PURSUANT: PRESIDENTIAL ASSENT ON 24 DECEMBER 2013

NAME OF MINISTRY: MINISTRY OF LABOUR, SOCIAL SECURITY & SERVICES

GAZETTED ON: 13 JUNE 2014

TABLED ON:

PART 11

1. PURPOSE OF THE STATUTORY INSTRUMENT

Following the enactment of the NSSF Act No. 45 of 2013, a New Provident Fund was established to cater for Self Employed Persons and their Dependants.

The Old Provident Fund will be retained for purposes of dealing separately with liabilities, obligations, assets and any matters or issues connected therewith to avoid transferring the same to the New Provident Fund established under this Act

Therefore, it became necessary to prepare Rules and Regulations to effectively operationalise the New Provident Fund established under the NSSF Act No. 45 of 2013.

2. LEGISLATIVE CONTENT

This Regulation is to implement the New Act and shall apply to the Voluntary Registration of Self Employed Persons to the Provident Fund.

All Voluntary Members of the Old Provident Fund may, on the commencement date register and become Members of the Provident Fund and a new account shall be opened for each member in accordance with the new Act.

The Benchmarking was from Seychelles, Namibia and Ghana.

3. POLICY BACKGROUND

The NSSF was established in 1965 by an Act of Parliament as a mandatory national scheme. The Fund operated a provident fund scheme providing benefits in the form of lump sum payments to the Kenyan Workers.

The National Development Plan (1997- 2001), Kenya Vision 2030 and National Social Protection Policy identified the transformation of the NSSF from a Provident Fund to a Pension Scheme. To this end, the New NSSF Act has positioned NSSF as a public mandatory social security scheme covering all employees in the formal sector and a voluntary scheme for the self employed and workers in the informal sector who wish to make voluntary contributions to the Fund.

The Country's development blue print aims to transform Kenya into a newly industrialising *"middle income country providing a high quality life to all its citizens by the year 2030."*

The conversion was consistent with the Government Policy and Article 43 (1)(e) of the Constitution of Kenya which makes it a right for all Kenyans to enjoy social security.

A properly structured and effective social security will help individual Kenyans realize the benefits of saving while at the same time making the economy flourish by maintaining effective consumer demand within the economy.

The object of this Instrument is to bring within the ambit of the Act self-employed persons to access social security for themselves and their dependants in line with Section 4 (e) of the Parent Act.

4. CONSULTATION OUTCOME

Consultative Meetings were held with key stakeholders drawn from the Government (Ministry of Labour, Social Security & Services) ,Federation of Kenya Employers ,Central Organization of Trade Unions and Retirement Benefits Authority.

All in all, there were only three (3) key issues raised by the stakeholders: definition of fluctuating emoluments, gratuity and interest payable on transfer of Tier 2 Fund Credits.

With respect to **fluctuating emoluments**, there were proposals to exclude bonuses, commissions, overtime and service charge from the definition of fluctuating emoluments.

In the Fund's analysis, it noted that there are a considerable number of employees who are not salaried but are paid in the form of bonuses, commissions, overtime and service charge (for persons in the hotel industry) and therefore cannot be excluded as Members of the Fund.

With respect to **gratuity**, the Fund adopted the proposal by the Federation of Kenya Employers by virtue of being the Employers representatives.

With respect to **interest payable on transfer of Tier 2 Fund Credits**, the Fund noted that since declaration of interest is done annually, it may prove difficult to apportion interest on moneys held for short period(s) of time and taking into consideration the administrative cost incurred.

5. GUIDANCE

The Fund has carried out sensitization progammes throughout the country.

The Fund has also been appearing in both the electronic and print media and will continue sensitizing Members of the Public.

A Call Centre has been established to cater for the phone calls and queries from Members of the Public.

The Fund has also put a portal for twitter and facebook.

6. IMPACT

6.1 Impact on Fundamental Rights and Freedoms

There is no financial impact.

6.2 The Impact on the Private Sector

There is no financial impact.

6.3 The Impact on the Public Sector

There is no financial impact.

6.4 An Impact Assessment

The implementation of the Rules and Regulations to operationalise the NSSF Act No. 45 of 2013 will have no impact on the Community and hence there is no need for an Impact Assessment.

7. MONITORING AND REVIEW

The Rules and Regulations being subsidiary legislation, it may be amended from time and time as and when the need arises.

8. CONTACT

Mr. Richard K. Langat, Chief Executive Officer/ Managing Trustee, National Social Security Fund : Telephone Number 2832005/2832006: Langat.R@nssfkenya.co.ke.

EXPLANATORY MEMORANDUM TO THE NATIONAL SOCIAL SECURITY FUND (CLAIMS AND PAYMENTS FOR THE PROVIDENT FUND BENEFITS), REGULATIONS 2014

(2014) LEGAL NOTICE NO. 84

PART 1

NAME OF STATUTORY INSTRUMENT: THE NATIONAL SOCIAL SECURITY FUND (CLAIMS AND PAYMENTS FOR THE PROVIDENT FUND BENEFITS), REGULATIONS 2014

NAME OF PARENT ACT: THE NATIONAL SOCIAL SECURITY FUND ACT.NO 45 OF 2013

ENACTED PURSUANT: PRESIDENTIAL ASSENT ON 24 DECEMBER 2013

NAME OF MINISTRY: MINISTRY OF LABOUR, SOCIAL SECURITY & SERVICES

GAZETTED ON: 13 JUNE 2014

TABLED ON:

PART 11

1. PURPOSE OF THE STATUTORY INSTRUMENT

Following the enactment of the NSSF Act No. 45 of 2013, a New Provident Fund was established to cater for Self Employed Persons and their dependants.

The Old Provident Fund will be retained for purposes of dealing separately with liabilities, obligations, assets and any matters or issues connected therewith to avoid transferring the same to the Fund established under this Act.

Therefore, it became necessary to prepare Rules and Regulations to effectively operationalise the New Provident Fund established under the NSSF Act No. 45 of 2013.

2. LEGISLATIVE CONTENT

This Regulation is to implement the New Act and shall apply to Claims and Payments to Self Employed Persons and their dependants from the Provident Fund.

The Benchmarking was from Seychelles, Namibia and Ghana.

3. POLICY BACKGROUND

The NSSF was established in 1965 by an Act of Parliament as a mandatory national scheme. The Fund operated a provident fund scheme providing benefits in the form of lump sum payments to the Kenyan Workers.

The National Development Plan (1997-2001), Kenya Vision 2030 and National Social Protection Policy identified the transformation of the NSSF from a Provident Fund to a Pension Scheme. To this end, the New NSSF Act has positioned the National Social Security Fund as a public mandatory social security scheme covering all employees in the formal sector and a voluntary scheme for the self employed and workers in the informal sector who wish to make voluntary contributions to the Fund.

The Country's development blue print aims to transform Kenya into a newly industrialising *"middle income country providing a high quality life to all its citizens by the year 2030."*

The conversion was consistent with the Government Policy and Article 43 (1)(e) of the Constitution of Kenya which makes it a right for all Kenyans to enjoy social security.

A properly structured and effective social security will help individual Kenyans realize the benefits of saving while at the same time making the economy flourish by maintaining effective consumer demand within the economy.

The object of this Instrument is to bring within the ambit of the Act self-employed persons to access social security for themselves and their dependants in line with Section 4 (e) of the Parent Act.

4. CONSULTATION OUTCOME

Consultative Meetings were held with key stakeholders drawn from the Government (Ministry of Labour, Social Security & Services),Federation of Kenya Employers, Central Organization of Trade Unions and Retirement Benefits Authority.

All in all, there were only three (3) key issues raised by the stakeholders: definition of fluctuating emoluments, gratuity and interest payable on transfer of Tier 2 Fund Credits.

With respect to **fluctuating emoluments**, there were proposals to exclude bonuses, commissions, overtime and service charge from the definition of fluctuating emoluments.

In the Fund's analysis, it noted that there are a considerable number of employees who are not salaried but are paid in the form of bonuses, commissions, overtime and service charge (for persons in the hotel industry) and therefore cannot be excluded as Members of the Fund.

With respect to **gratuity**, the Fund adopted the proposal by the Federation of Kenya Employers by virtue of being the Employers representatives.

With respect to **interest payable on transfer of Tier 2 Fund Credits**, the Fund noted that since declaration of interest is done annually, it may prove difficult to apportion interest on moneys held for short period(s) of time and taking into consideration the administrative cost incurred.

5. GUIDANCE

The Fund has carried out sensitization progammes throughout the country.

The Fund has also been appearing in both the electronic and print media and will continue sensitizing Members of the Public.

A Call Centre has been established to cater for the phone calls and queries from Members of the Public.

The Fund has also put a portal for twitter and facebook.

6. IMPACT

6.1 Impact on Fundamental Rights and Freedoms

There is no financial impact.

6.2 The Impact on the Private Sector

There is no financial impact.

6.3 The Impact on the Public Sector

There is no financial impact.

6.4 An Impact Assessment

The implementation of the Rules and Regulations to operationalise the NSSF Act No. 45 of 2013 will have no impact on the Community and hence there is no need for an Impact Assessment.

7. MONITORING AND REVIEW

The Rules and Regulations being subsidiary legislation, it may be amended from time and time as and when the need arises.

8. CONTACT

Mr. Richard K. Langat, Chief Executive Officer/ Managing Trustee, National Social Security Fund : Telephone Number 2832005/2832006: Langat.R@nssfkenya.co.ke.

EXPLANATORY MEMORANDUM TO THE NATIONAL SOCIAL SECURITY FUND (CLAIMS AND PAYMENTS FOR THE PENSION FUND BENEFITS), REGULATIONS 2014

(2014) LEGAL NOTICE NO. 85

PART 1

NAME OF STATUTORY INSTRUMENT: THE NATIONAL SOCIAL SECURITY FUND (CLAIMS AND PAYMENTS FOR THE PENSION FUND BENEFITS), REGULATIONS 2014

NAME OF PARENT ACT: THE NATIONAL SOCIAL SECURITY FUND ACT.NO 45 OF 2013

ENACTED PURSUANT: PRESIDENTIAL ASSENT ON 24 DECEMBER 2013

NAME OF MINISTRY: MINISTRY OF LABOUR, SOCIAL SECURITY & SERVICES

GAZETTED ON: 13 JUNE 2014

TABLED ON:

PART 11

1. PURPOSE OF THE STATUTORY INSTRUMENT

Following the transformation of the Old Provident Fund to a Pension Scheme, the NSSF Act No. 45 of 2013 was enacted. Therefore, it became necessary to prepare Rules and Regulations to effectively operationalise the New NSSF Act.

2. LEGISLATIVE CONTENT

This Regulation is to implement the New Act and shall apply to Claims and Payments to Employees in the Formal Sector and their dependants from the Pension Fund.

The Benchmarking was from Seychelles, Namibia and Ghana

3. POLICY BACKGROUND

The NSSF was established in 1965 by an Act of Parliament as a mandatory national scheme. The Fund operated a provident fund scheme providing benefits in the form of lump sum payments to the Kenyan Workers.

The National Development Plan (1997-2001), Kenya Vision 2030 and National Social Protection Policy identified the transformation of the NSSF from a Provident Fund to a Pension Scheme. To this end, the New NSSF Act has positioned the National Social Security Fund as a public mandatory social security scheme covering all employees in the formal and informal sectors.

The Country's development blue print aims to transform Kenya into a newly industrialising *"middle income country providing a high quality life to all its citizens by the year 2030."*

The conversion was consistent with the Government Policy and Article 43 (1)(e) of the Constitution of Kenya which makes it a right for all Kenyans to enjoy social security.

A properly structured and effective social security will help individual Kenyans realize the benefits of saving while at the same time making the economy flourish by maintaining effective consumer demand within the economy.

The object of this Instrument is to:-

(i) provide basic social security for its members and their dependants for various contingencies as provided under the Act; and

(ii) improve adequacy of benefits paid out of scheme by the Fund

in line with Section 4 (a) and (c) of the Parent Act.

4. CONSULTATION OUTCOME

Consultative Meetings were held with key stakeholders drawn from the Government (Ministry of Labour, Social Security & Services),Federation of Kenya Employers ,Central Organization of Trade Unions and Retirement Benefits Authority.

All in all, there were only three (3) key issues raised by the stakeholders: definition of fluctuating emoluments, gratuity and interest payable on transfer of Tier 2 Fund Credits.

With respect to **fluctuating emoluments**, there were proposals to exclude bonuses, commissions, overtime and service charge from the definition of fluctuating emoluments.

In the Fund's analysis, it noted that there are a considerable number of employees who are not salaried but are paid in the form of bonuses, commissions, overtime and service charge (for persons in the hotel industry) and therefore cannot be excluded as Members of the Fund.

With respect to **gratuity**, the Fund adopted the proposal by the Federation of Kenya Employers by virtue of being the Employers representatives.

With respect to **interest payable on transfer of Tier 2 Fund Credits**, the Fund noted that since declaration of interest is done annually, it may prove difficult to apportion interest on moneys held for short period(s) of time and taking into consideration the administrative cost incurred.

5. GUIDANCE

The Fund has carried out sensitization progammes throughout the country.

The Fund has also been appearing in both the electronic and print media and will continue sensitizing Members of the Public.

A Call Centre has been established to cater for the phone calls and queries from Members of the Public.

The Fund has also put a portal for twitter and facebook.

6. IMPACT

6.1 Impact on Fundamental Rights and Freedoms

There is no financial impact.

6.2 The Impact on the Private Sector

There is no financial impact.

6.3 The Impact on the Public Sector

There is no financial impact.

6.4 An Impact Assessment

The implementation of the Rules and Regulations to operationalise the NSSF Act No. 45 of 2013 will have no impact on the Community and hence there is no need for an Impact Assessment.

7. MONITORING AND REVIEW

The Rules and Regulations being subsidiary legislation, it may be amended from time and time as and when the need arises.

8. CONTACT

Mr. Richard K. Langat, Chief Executive Officer/ Managing Trustee, National Social Security Fund : Telephone Number 2832005/2832006: Langat.R@nssfkenya.co.ke.