

ACT

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THE NATIONAL SOCIAL SECURITY AND INSURANCE TRUST ACT, 2001

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SCHEDULE

SIGNED this 20th day of July, 2001.

ALHAJI AHMAD TEJAN KABBAH,
President.



No. 5



2001

Sierra Leone

**The National Social Security and Insurance
Trust Act, 2001** Short title.

Being an Act to establish the National Social Security and Insurance Trust and a social security scheme to provide retirement and other benefits to meet the contingency needs of workers and their dependants and to provide for other related matters.

/

/ Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Commencement.

1. This Act shall come into operation on such date as the President shall fix by order in a statutory instrument.

Interpretation.

2. In this Act, unless the context otherwise requires—

“average monthly earnings” means, in relation to a member, the average earnings determined by reference to the earnings used for the calculation of contribution liability during the five years in which that average is the highest;

“Board” means the Board of Trustees referred to in section 8;

“Director-General” means the person appointed as such under section 12;

“earning” means all emoluments which are earned by a worker 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 to him at fixed or determined intervals of time—

(a) in respect of normal periods of work to be performed by the worker;

(b) where payment is calculated in relation to set tasks, in respect of the number of tasks completed by the worker; or

(c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the worker,

and includes emoluments earned by him on leave, any cost of leaving or prescribed allowance but does not include any presents made by the employer, value of any food concession, house rent allowance, overtime allowance, travelling allowance, bonus, commission, or any other similar allowance payable to the worker;

“employer” means—

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

“establishment” means any office, shop, factory, mine, plantation or any other place where persons are employed on remuneration for work or business of any kind, including an establishment of Government;

“Government” means the Government of the Republic of Sierra Leone;

“member” means any person —

- (a) who has accumulated rights to a benefit under this Act; or
- (b) from whose earnings a contribution has been deducted for payment to the Trust;

“Minister” means the Minister responsible for labour or social security;

“self-employed person” means a person who has no employer but works on his own account;

“Trust” means the National Social Security and Insurance Trust established by section 3;

“worker” means any person who is employed for remuneration in any kind of work, whether manual or otherwise, in or in connection with the work of an establishment and who gets his remuneration directly or indirectly, from the employer, and includes any person employed by or through a contractor in or in connection with the normal work of the establishment, and—

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

PART II—ESTABLISHMENT OF NATIONAL SOCIAL
SECURITY AND INSURANCE TRUST

Establishment
of National
Social Security
and Insurance
Trust.

3. (1) There is hereby established a body to be known as the National Social Security and Insurance Trust.

(2) The Trust shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

Common seal
of Trust.

4. (1) The Trust shall have a common seal, the use of which shall be authenticated by the signatures of—

- (a) the Chairman or other member of the Board authorised by the Board either generally or specially for that purpose; and
- (b) the Director-General or other officer or employee of the Trust authorised by the Board for that purpose.

(2) The Trust may, by instrument in writing under its common seal, empower any person either generally or in respect of any specified matter as its attorney, to execute deeds on its behalf in or out of Sierra Leone; and every deed signed by such attorney on behalf of the Trust and under his seal shall be binding on the Trust and have the same effect as if it were under the common seal of the Trust.

(3) Every document purporting to be an instrument executed or issued by or on behalf of the Trust and to be—

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- (a) sealed with the common seal of the Trust authenticated in the manner stated in subsection (1); or
 - (b) signed by the Director-General or by a member of the Board or other person authorised in accordance with subsection (2) to act for that purpose, shall be deemed to be so executed or issued until the contrary is shown.

5. The Trust shall consist of—

Composition
of Trust.

- (a) the Board of Trustees;
- (b) the Director-General; and
- (c) such other persons as may be employed by the Trust under this Act.

6. The Trust shall have a fund into which shall be paid—

Funds of Trust.

- (a) moneys appropriated by Parliament for the purposes of the Trust;
- (b) the contributions of employers and workers and self-employed persons required to be paid to the Trust by this Act; and
- (c) moneys to which the Trust is otherwise entitled.

7. (1) Subject to the approval of the Board, the Trust may invest any part of the fund not immediately required to be expended to meet any of its obligations under this Act.

Investments of
funds.

(2) The Board shall, in approving any investment, take into consideration the following:—

- (a) the safety and yield of the investment;
- (b) the liquidity of the investment;
- (c) the need to maintain the real value and spread of the investment;

- (d) the maintenance of the fund and diversification of the portfolio of the investment; and
- (e) the harmony of the investment with the public interest.

Board of
Trustees.

3. (1) The governing body of the Trust shall be a Board of Trustees which shall, subject to this Act, have the control and supervision of the Trust.

(2) The Board shall consist of a Chairman and the following other members: —

- (a) one senior official each representing —
 - (i) the Ministry responsible for labour or social security;
 - (ii) the Ministry responsible for finance;
 - (iii) the Ministry responsible for social welfare;
 - (iv) the Bank of Sierra Leone;
- (b) two persons each representing the Sierra Leone Labour Congress and the Sierra Leone Employers Federation respectively;
- (c) one representative each of the following:—
 - (i) the Sierra Leone Teachers Union;
 - (ii) the Sierra Lone Insurance Association;
 - (iii) the Civil Servants Association;
 - (iv) the Social Security Pensioners Association;
 - (v) any Association representing the Forces; and
- (d) the Director-General.

(3) The Chairman shall be appointed by the President after consultation with the members specified in paragraphs (b) and (c) of subsection (2) and subject to the approval of Parliament, but no person shall be appointed to be Chairman unless—

- (a) he has the requisite qualification and proven ability for the purpose and he is not an employee of the Trust; and
- (b) he is a contributing member or a pensioner of the scheme.

(4) The members of the Board referred to in paragraphs (b) and (c) of subsection (2) shall, after being nominated by the relevant bodies, be appointed by the President, subject to the approval of Parliament.

9. (1) The Chairman and the members of the Board referred to in paragraphs (b) and (c) of subsection (2) of section 8 shall hold office for not more than two terms of three years each.

Tenure of
Board
members.

(2) The Chairman or a member of the Board referred to in subsection (1) may resign his office by written notice to the President and may be removed from office by the President for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misconduct.

(3) Any vacancy occurring in the office of the Chairman or any member of the Board referred to in subsection (2), either by death, termination or otherwise, may be filled by the appointment in like manner of another person to serve for the unexpired term of the Chairman or member concerned.

10. The Chairman and other members of the Board, except the Director-General, shall be paid such remuneration and allowances as may be determined by Parliament and shall be reimbursed by the Trust, with the approval of the Minister, for expenses incurred in connection with the discharge of their functions.

Remuneration
and expenses
of Board
members.

Meetings of
Board.

11. (1) The Board shall hold its first meeting on such date and at such place as the Minister, after consultation with the Board, shall determine and thereafter the Board shall meet at such time and place as it thinks fit, but the Board shall meet at least four times a year.

(2) An extraordinary meeting of the Board may be held at the request in writing of the Chairman of the Board and shall be held at the written request of five members.

(3) At any meeting at which he is present, the Chairman of the Board shall preside but in his absence the members of the Board present shall elect one of their number to preside.

(4) The quorum at a meeting of the Board shall be eight, including the Chairman of the Board or the Director-General.

(5) Decisions of the Board shall be taken by a simple majority of the members of the Board present and voting and, in the case of equality of votes, the Chairman of the Board or other member presiding shall have a casting vote.

(6) The Board may co-opt any person to advise or otherwise assist it at any of its meetings but such person shall not vote on any matter for decision by the Board.

(7) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all members of the Board shall be of the same force or effect as a decision made at a properly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

(8) Any member of the Board who has any interest in a company or undertaking with which the Trust proposes to enter into a contract or who has any interest in any contract which the Trust proposes to make, shall disclose in writing to the Board the nature of his interest and shall, unless the Board otherwise directs, be disqualified from participating in the deliberations of the Board on the contract and shall, in any case, be disqualified from voting in any decision of the Board on such contract; and any member who infringes this subsection shall be liable to be removed from the Board.

12. (1) The Trust shall have a Director-General who shall be appointed by the President subject to the approval of Parliament and upon such terms and conditions as may be specified in his instrument of appointment. Appointment
of Director-
General.

(2) A person shall not be appointed Director-General unless he possesses the relevant academic and professional qualifications.

(3) Subject to this Act, the Director-General shall be responsible to the Board for—

- (a) the day-to-day administration of the Trust;
- (b) overseeing the work and discipline of the other officers and staff of the Trust; and
- (c) carrying out such other functions as the Board may direct.

(4) Where the Director-General is incapacitated from the performance of his functions, the Deputy Director-General shall act as Director-General for the duration of the incapacity.

(5) Subject to subsection (3), the Director-General may delegate to any employee of the Trust any of his functions under this Act and may impose such conditions with respect to the exercise of such delegated functions as he may think fit.

(6) Nothing in subsection (5) shall be construed so as to absolve the Director-General from ultimate responsibility for anything done or omitted to be done by any person in pursuance of any delegation under that subsection.

13. (1) The Trust shall have a Secretary who shall be appointed by the Board subject to such terms and conditions as the Board shall determine. Secretary to
Trust.

(2) The Secretary shall be the legal adviser to the Trust on all the activities of the Trust and Secretary to the Board, responsible for arranging the business and recording and keeping of the minutes of the meetings of the Board.

(3) Subject to this Act, the Secretary shall perform such other functions as the Board may direct or as the Director-General may delegate.

Deputy
Director-
General and
other staff.

14. (1) The Trust shall also, subject to such terms and conditions as the Board shall determine, have a Deputy Director-General and an Internal Auditor and such other officers and staff, including the inspectors referred to in section 58, as it considers necessary for the efficient performance of its functions under this Act.

(2) In making any appointment under subsection (1), the Trust shall limit recruitment to positions for which there are vacancies, each with a job description and a continuing justification and based on a general policy—

- (a) to recruit only persons with requisite formal qualifications, working experience, knowledge, skills and aptitude for the vacancy concerned;
- (b) to recruit internally, if qualified candidates can be identified; and
- (c) to ensure non-discrimination and equality of treatment for all applicants.

PART III—FUNCTIONS OF TRUST

Functions of
Trust.

15. (1) The object for which the Trust is established is to provide retirement and other benefits to meet the contingency needs of workers and their dependants.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Trust—

- (a) to set up and maintain a scheme for generating the funds to meet its obligations under subsection (1);
- (b) to advise the Minister on desirable changes in social security policy and its implementation, and
- (c) to carry out such other activities as may appear to the Trust to be incidental or conducive to the attainment of the object stated in subsection (1).

16. (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. Annual reports.

(2) The Minister shall as soon as practicable after receiving the annual report of the Board cause it to be laid before Parliament.

(3) The Board shall also submit to the Minister such other reports on its affairs as the Minister may in writing request from time to time.

PART IV — FINANCIAL PROVISIONS

17. The Trust shall keep proper books of accounts and proper records in relation thereto and such accounts, books and records shall, subject to the approval of the Auditor-General, be in accordance with the standard pension accounting practice. Accounts and other records.

18. The financial year of the Trust shall be the same as the financial year of the Government. Financial year.

19. (1) The books and accounts of the Trust shall each year be audited by the Auditor-General or by an auditor appointed or authorised by the Auditor-General. Audit of accounts and other records.

(2) The Auditor-General may, in addition to any accounts audited under subsection (1), at any time audit the accounts and examine the records of the financial transactions of the Trust and may draw attention of the Board to any irregularity discovered as a result of such audit.

(3) The Trust shall provide the Auditor-General or the auditor appointed or authorised by him with all necessary and appropriate facilities for the auditing of its accounts and records.

(4) The Auditor-General may make copies of or take extracts from the accounts, books or other financial records of the Trust.

(5) The Auditor-General shall submit to the Board a report of the audit carried out by him.

(6) The Board shall as soon as possible upon receiving the audit report, forward a copy to the Minister who shall include it in the annual report required to be laid before Parliament by section 16.

Exemption
from tax.

20. (1) The Trust shall be exempted from stamp duty and such other taxes and duties as the President may determine.

(2) Contributions to the Trust shall be tax deductible.

Expenses of
Trust.

21. All expenses relating to the administration of the scheme under this Act shall be a charge on the funds of the Trust in accordance with the standard pension accounting practice and shall be subject to the approval of the Board from year to year.

Member's
account.

22. The Board shall cause to be maintained for each member an account to which shall be credited all contributions from or in respect of such member.

PART V—EMPLOYERS AND WORKERS COVERED BY SCHEME

Employers and
workers
covered by Act.

23. (1) This Act shall apply to—

- (a) every employer and to every worker employed by him; and
- (b) subject to such conditions as may be specified in regulations, all self-employed persons who opt to join the scheme.

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

(3) This Act shall not apply to any employer or worker exempted from its application by any other law.

Existing
scheme.

24. (1) The existence of a private or company pension, provident fund, or such similar facility in respect of workers to whom this Act applies shall not exempt the employer of such workers from the provisions of this Act and the employer shall be responsible for

deducting contributions from the earnings of the workers and paying them along with his own contributions to the Trust at the rates prescribed by this Act.

(2) Notwithstanding the terms of any fund or facility referred to in subsection (1), it shall be lawful for the employer concerned to amend the written provisions of that fund or facility with the prior approval of its governing authority or in the absence of such approval, with the consent of the Board so as to adjust the benefits provided therein to enable the payment of the contributions payable under this Act.

PART VI—CONTRIBUTIONS

25. (1) Every employer of an establishment shall deduct from the earnings of every worker in the establishment immediately at the end of each month, a worker's contribution of an amount equal to 5% of the worker's earnings for that month irrespective of whether or not such earnings are actually paid to the worker. Rates of contribution.

(2) Every employer of an establishment shall pay for each month in respect of each worker, an employer's contribution of an amount equal to 10% of such worker's earnings for that month.

(3) The contributions referred to in subsections (1) and (2) shall, within fifteen days after the end of each month, be paid to the Trust.

(4) A self-employed person who has agreed to become a member shall contribute 15% of his income for each month, from his profession, vocation, business or occupation.

(5) Notwithstanding any agreement or understanding to the contrary, an employer shall not be entitled—

- (a) to deduct or otherwise recover his own contribution from the worker's pay; or
- (b) to deduct the member's contribution for an earlier contribution period from the earnings in respect of a later period:

Provided that the employer shall be entitled to make such deductions if such 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.

(6) Where an employer deducts contributions from the remuneration of workers under this Act, the contributions shall be deemed to be held by such employer in trust for the purposes of this Act until they are paid to the Trust.

Crediting of
contributions
in certain
cases.

26. For any month throughout which a member is entitled to invalidity pension, a contribution shall not be payable in respect of that member but a contribution will instead be credited for that month equivalent to the contribution which would have been payable on the average monthly earnings of that member during the period of twelve months preceding that in which the entitlement to invalidity pension commenced.

Penalty for
non-payment
of contribution.

27. (1) If any contribution is not paid within the period prescribed in section 25—

- (a) it shall attract an interest, equivalent to the 90-day Treasury bill rate plus twenty per centum of that rate compounded on a monthly basis; and
- (b) the Director-General shall—
 - (i) serve a demand note on the defaulting employer and if payment of the contribution and interest is not made within thirty days after the service of the demand note, a further ten per centum of the 90 - day Treasury bill rate of the total outstanding shall be charged as penalty for each month of default; and
 - (ii) shall cause legal proceedings to be taken to collect or recover the contribution together with the interest and penalty and criminal proceedings to be instituted against the defaulting employer.

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

28. Where a worker is concurrently employed by more than one employer, each employer shall be responsible only for his obligations under this Act in respect of the worker. Employment by several employers.

29. No employer shall, by reason of his liability for any contribution to the scheme or for any other charges under this Act or regulations made thereunder reduce, whether directly or indirectly, the earnings or other emoluments of any member of the scheme. Employer not to reduce remuneration.

30. (1) When an employer fails to register his employees— Non-registration of employees.

- (a) he commits an offence and shall be liable on summary conviction to a fine not exceeding Le5,000,000.00 or to imprisonment for a term not exceeding three months or to both; and
- (b) there shall be immediate registration of all the employees concerned.

(2) Contributions for the period for which an employer fails to register his employee shall be paid as arrears together with interest and penalty in accordance with section 27.

31. A valid social security clearance certificate, being evidence of compliance by an employer with the provisions of this Act, shall be required of every employer by the appropriate authority or person in charge where the employer wishes to— Social Security clearance certificate.

- (a) import, export or clear goods from a port, factory or warehouse in Sierra Leone;
- (b) tender or be considered for any contract with a public institution;
- (c) register any document conferring title to any land;
- (d) obtain permit for the construction of any building;

- (e) leave the country if he is a non-citizen;
- (f) be paid or receive payment for any contract for goods or services;
- (g) obtain work permit for his foreign employees; and
- (h) renew a business registration.

Offences.

32. (1) Any person who—

- (a) with intent to evade payment of any contribution or any other amount due from him, knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular;
- (b) in order to benefit himself or some other person, knowingly makes any false statement or representation or produces or furnishes or causes to be produced or furnished, any document or information which he knows to be false in a material particular;
- (c) wilfully misrepresents or fails to disclose any material fact or fails to pay to the Trust within such period as may be prescribed any amount which he is liable to pay under this Act or regulations made thereunder;
- (d) wilfully obstructs or assaults any inspector, officer or servant of the Trust in the discharge of his duties; or
- (e) without reasonable excuse, proof of which shall be on him, fails to comply with any provision of this Act or regulations made thereunder,

commits an offence and shall be liable on summary conviction—

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- (i) in respect of an offence under paragraph (a), (b) or (c) to a fine in a sum equivalent to any amount owed to the Trust or to imprisonment for a term not exceeding five years or to both; and
 - (ii) in respect of an offence under paragraph (d) or (e), to a fine not exceeding Le5,000,000.00 or to imprisonment, for a term not exceeding five years or to both.

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

33. (1) Criminal proceedings under this Act may be instituted by the Board or any officer of the Trust authorised by the Board. Institution of criminal proceedings.

(2) The Court, when convicting any person of an offence under this Act, may, without prejudice to any civil remedy, order such person to pay to the Trust the amount of any contribution together with any interest or penalty thereon, due from such person to the Trust at the date of conviction and such 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 account of the member of the scheme.

34. (1) Notwithstanding any other law, a contribution together with interest or any 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 penalty became due. Civil proceedings.

(2) Action for the recovery of contributions and other penalties under this section, may be instituted and conducted by an authorised officer of the Trust.

35. Where—

- (a) on the application by the Trust any attachment is issued against the property of an employer in execution of an order against him and such property is seized or sold or otherwise realised in pursuance of such execution; or
- Priority for payment of contributions.

- (b) on the application of a secured creditor, the property of an employer is sold;

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

Protection
against
attachment.

36. Except as provided in section 38—

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

Protection for
acts done in
good faith.

37. No suit or other legal proceeding shall lie against any member of the Board or any officer or employee of the Trust in respect of anything which is done in good faith in pursuit of the object of this Act.

PART VII — BENEFITS AND QUALIFYING CONDITIONS

Classes of
benefits.

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

- (a) old age pension and old age gratuity;
- (b) retirement grant;

-
- (c) invalidity pension;
 - (d) invalidity grant;
 - (e) survivors' pension;
 - (f) survivors' grant,
 - (g) any other benefits to be prescribed by the Minister from time to time:

Provided that an actuarial study to determine the financial implications of such other benefits shall first be carried out and appropriate steps taken to resolve them.

(2) The Trust shall not under any circumstance pay a member's benefit to any person or body of persons in settlement of any obligation except for a benefit specified under this Act.

39. (1) An old age pension is payable when a member attains the age of 60 years and where the member has paid or been credited with contributions for a minimum of one hundred and eighty months. Old age pension.

(2) The amount of old age pension shall be calculated—

- (a) in respect of the first one hundred and eighty months of contributions paid or credited or both, thirty per cent of the average monthly earnings of the member, and
- (b) for every additional twelve months of contributions paid or credited or both, an additional two per cent of average monthly earnings of the member.

Provided that—

- (i) the maximum pension payable shall be eighty per cent of the average monthly earnings of the member, and
- (ii) the minimum pension shall be not less than fifty per cent of the minimum wage.

Voluntary or
early
retirement
benefits.

40. (1) A reduced pension upon early or voluntary retirement is payable on or after the member attains 55 years but before he is 60 years, based on the pension calculated in section 39, but reduced by an amount to be prescribed in regulations for each year below 60 years.

(2) In order to qualify for a reduced pension, the member must have contributed for or earned credits to an aggregate minimum of one hundred and eighty months or both;

Old age
gratuity.

41. A lump sum equal to twelve months of initial pension is payable as gratuity on the retirement of each person entitled to a pension under section 39 or 40.

Retirement
grant.

42. There shall be paid to a member who has attained age 55 but who has paid insufficient contributions to qualify for pension under section 40, a retirement grant equal to 1.5 per cent of his average monthly earnings for every twelve months of paid contributions.

Invalidity
pension.

43. (1) There shall be payable to a member as an invalidity benefit, a pension of an amount determined in the same way as for old age pension:

Provided that—

- (a) where at least sixty months of contributions have been paid or credited or both but less than one hundred and eighty, it shall be deemed that one hundred and eighty have been paid;
- (b) there shall be added to the number of contributions credited to the member, six months' credit for every twelve months between the date of commencement of invalidity and age 60; and
- (c) the amount of invalidity pension shall not be less than fifty per cent of the minimum wage.

(2) In order to qualify for an invalidity pension, the member must—

- (a) be less than 60 years old;
- (b) be permanently and totally incapable of further employment; and
- (c) have paid contributions or earned contribution credits for—
 - (i) at least sixty months of which twelve months' contributions must have been paid during the thirty six months preceding the commencement of invalidity; or
 - (ii) a minimum of one hundred and eighty months.

(3) The entitlement to invalidity pension shall cease -

- (a) if a medical board determines that the member is no longer an invalid; or
- (b) if the member commences work other than work which is determined by a medical board as beneficial for rehabilitation, or
- (c) at age 60, at which point it is converted into an old age pension.

(4) For the purposes of this section, there shall be a medical board consisting of three persons not being employees of the Trust but appointed by the Board, two of whom shall be medical practitioners of proven ability, one of whom shall be chairman, and the third shall be a person belonging to another profession recognised by the laws of Sierra Leone.

(5) Regulations made under this Act shall provide for the procedure of the medical board.

Invalidity
grant.

44. There shall be paid to a member who is permanently and totally incapable of further employment but who is not entitled to an invalidity pension under section 43, an invalidity grant equal to 1.5 times the member's average monthly earnings for every twelve months of paid contributions.

Survivors
benefits.

45. (1) On the death of a member, survivors' benefits in the form of pensions shall be payable to the widow or widower and dependent children of that deceased person if such person—

- (a) was in receipt of old age pension or invalidity pension at the time of death, or
- (b) would have been entitled to an old age pension at the time of death, or
- (c) has contributed for a minimum of sixty months of which twelve months' contributions had been paid in the thirty six months preceding his death and would have been entitled to invalidity pension at the time of death.

(2) The aggregate of survivors' pensions payable shall be limited to one hundred per cent of—

- (a) any old age or invalidity pension payable to the deceased at the time of death, or
- (b) an invalidity pension which could have been payable to the deceased at the time of death based on contributions paid or credited or both in respect of the deceased.

(3) The widow or widower of the deceased member shall be entitled to 40% of the survivors' benefit until death or, in the case of a widow, until she begins to live with a man as a wife; and dependent children shall be entitled to 60% of the benefit until death, but the entitlement shall cease in respect of a child who attains the age of 18 years or 23 years while enrolled in full time education:

Provided that—

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- (a) the entitlement of a widow or widower shall remain 40% whether or not there are any dependent children; and
 - (b) a wife of a polygamous marriage or a marriage under common law of three years' standing shall be entitled to share equally with the other wife or wives of the deceased in the 40% share reserved for a widow under subsection (3).

(4) A dependent child who is an invalid shall be entitled to a survivors' benefit until death.

(5) If the deceased member has no widow or widower, the whole of the survivors' benefit shall be paid to the dependent children to whom shall be reallocated the share of any of them who ceases to be regarded as a dependent child:

Provided that a single child shall not be paid more than 60% of the benefit whether in respect of one deceased parent or both.

(6) If the deceased member has no widow or widower and no dependent child, a lump sum equivalent to twelve months' survivors' pension shall be paid to any surviving parent who is either on pension or in employment; and a lump sum equivalent to twenty-four months' survivors' pension shall be paid where the surviving parent is not on pension or in employment.

(7) In this section, "dependent children" includes every child wholly or mainly maintained by the deceased.

46. (1) If the conditions for entitlement to a survivors' benefit under subsection (1) of section 45 are not satisfied and no dependant of the deceased is entitled to a pension, a survivors' grant shall be payable to the dependants of the deceased in an amount equivalent to 1.5 times the average monthly earnings of the deceased for every twelve months of contributions paid by the deceased.

(2) Subsections (3) to (7) of section 45 shall, with the necessary modifications, apply to the distribution of the survivors' grant payable under subsection (1).

Actuarial
review.

47. (1) The scheme shall be valued by an actuary every three years during the first ten years of the scheme and shall be valued every five years thereafter.

(2) Benefit payments shall be tied to the level of earnings and other payments to the Trust and indexation shall be in accordance with increases in the incomes as reflected in the fund of the Trust.

PART VIII — APPEALS FROM DECISION OF TRUST

Appellate
Tribunal.

48. (1) There is hereby established a body to be known as the Social Security Appellate Tribunal, hereinafter referred to as "the SSAT".

(2) The SSAT shall consist of not more than seven persons, including at least, one legal practitioner, all of whom shall be appointed by the President.

(3) Members of the SSAT shall hold office for a term of three years and shall be eligible for reappointment.

(4) Members of the SSAT shall receive such remuneration as the Board may determine.

(5) The SSAT shall appoint one of its members who is a legal practitioner to be its chairman.

(6) No action, suit, prosecution or any other proceeding may be brought or instituted personally against a person who is or was a member of the SSAT in respect of any act done or omitted to be done in good faith in the discharge of any function under this Act.

(7) A member of the SSAT who has a material, pecuniary or other interest which may conflict with the proper performance of the member's functions shall disclose that interest and shall not take part in any hearing of the SSAT which may conflict with such interest unless both parties to the proceeding agree on the member taking part in the hearing.

49. (1) The SSAT shall have a secretary appointed by the chairman from among the members of the SSAT. Secretary to SSAT.

50. (1) The SSAT shall hear and determine appeals against the decisions of the Trust on— SSAT to hear appeals.

(a) entitlements to the payment of benefits; and

(b) the amount of benefit payable.

(2) An appeal shall be heard by not less than three members of the SSAT who shall be nominated by the chairman of the SSAT.

(3) The chairman of the SSAT shall preside or shall nominate a member of the SSAT to preside over any hearing.

51. (1) The times and places of the sittings of the SSAT shall be as specified by the chairman, to secure a reasonable opportunity for appellants to appear before the SSAT with as little inconvenience and expense as is practicable. Administration and procedure of hearings.

(2) The proceedings of the SSAT shall be conducted in accordance with the Schedule and such further rules of practice and procedure as the chairman may specify.

(3) In carrying out its functions under this Act, the SSAT shall have the powers of the High Court in respect of the summoning of witnesses and contempt.

52. (1) Proceedings of the SSAT shall be in public unless the chairman directs otherwise. Hearings and decision.

(2) In all proceedings before the SSAT, the appellant and the Trust may be represented by a legal practitioner or other relevant professional person.

(3) A decision on an appeal shall be made as quickly as practicable and notified to the parties in writing.

(4) A decision of the SSAT shall be by simple majority and in the event of equality of votes the chairman or other person presiding shall have a casting vote.

(5) The written decision of the SSAT including its findings of fact shall be signed by the chairman or other member of the SSAT presiding over the hearing.

(6) Decisions of the SSAT and evidence received by it, including a transcript of the report of the hearings, shall be open to the inspection of the public.

(7) The SSAT may provide for the publication of its decisions in such form and manner as may be adapted for public information and use and such authorised publication shall be evidence of the decisions of the SSAT in all courts without any further proof or authentication.

Appeals to
SSAT.

53. (1) Any person dissatisfied with any decision of the Trust may within thirty days of being served with notice of the decision file a notice of appeal with the SSAT and shall serve a copy of the notice of appeal on the Trust.

(2) The secretary shall give not less than fifteen days' notice to the parties before the date fixed for hearing of the appeal.

(3) In deciding an appeal, the SSAT may make an order

(a) affirming or varying the decision under appeal; or

- (b) remitting the matter for reconsideration by the Trust in accordance with the directions or recommendations of the SSAT.

(4) An order made under subsection (3) may be based on the SSAT's conclusions regarding a question of fact or a question of law relevant to the decision and shall state what those conclusions are.

54. A party to a proceeding before the SSAT who is dissatisfied with a decision of the SSAT may within sixty days of the decision appeal to the Industrial Court Division of the High Court.

55. (1) There is hereby established a body to be known as the Medical Appeals Tribunal, hereinafter referred to as "M.A.T".

(2) The M.A.T shall consist of the same persons forming the SSAT except that there shall be, at least, one medical practitioner on the panel hearing the appeal.

(3) The function of the M.A.T. is to hear and determine appeals against the decisions of the medical board set up under section 43.

(4) Sections 50 to 53 shall, with the necessary modifications, apply to the M.A.T.

PART IX—MISCELLANEOUS PROVISIONS

56. (1) The Minister may, acting on the advice of the Board, enter into a reciprocal agreement with the Government of any other country in which a scheme similar to the scheme under this Act has been established and there may be included in such agreement the following provisions—

- (a) that any period of membership of such scheme in the territory of that Government may be treated as a period of membership of the scheme under this Act and vice versa; and

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- (b) that, subject to such conditions as may be agreed, any amount standing to the credit of a member of the scheme under this Act in Sierra Leone who works for any employer in the territory of that Government may be transferred to his credit in that territory, and vice versa.

(2) Any reciprocal agreement made under this section may modify, adapt or amend the provisions of this Act to give effect to the agreement.

Registration of
dependants to
receive
benefits.

57. (1) Every person who is required or entitled to become a member of the scheme shall upon registration furnish to the employer particulars concerning himself and his dependants for the receipt of benefits on his death.

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

(3) Every employer shall, before taking any person into his employment, ask him to state in writing whether or not he is a member of the scheme and, if he is, ask for the number and the name and other particulars of the last establishment, if any, where he was employed and whether he had nominated anyone to receive benefits under this Act as his survivor.

(4) If the person was a member of the scheme, his old account number and the nomination made by him shall continue to be operative and the Trust's attention shall be drawn to them by the new employer.

(5) Subject to subsection (3), a member of the scheme may update his nomination and such revised nomination shall be forwarded to the Trust.

(6) Where payment of benefits has been made to a person validly nominated under this section, no other person shall have any other claim against the Trust.

58. (1) If any inspector of the Trust appointed under this Act has reasonable cause to believe that there are workers on any premises or place of an establishment, he may on production of his certificate of appointment or identity card as an employee of the Trust, enter at all reasonable times on the premises or place and make any examination and inquiry necessary to obtain information for the purposes of this Act.

Functions of
Trust
Inspectors.

(2) In the performance of his duties under this section, an inspector may require the production of documents relating to appointment, attendances, remuneration of workers and contributions or liability of employers to contribute to the scheme, for inspection by him on the premises or place and to take copies thereof or extracts therefrom.

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

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

59. The Minister may in writing give directions of a general policy nature to the Trust and the Trust shall comply with such directions.

Minister's
power of
direction.

60. The Minister may by statutory instrument make regulations for the purpose of carrying out the provisions of this Act.

Regulations.

PART X—TRANSITIONAL PROVISIONS

Conversion to
social security
pensions.

61. The Trust may, within 5 years after the commencement of this Act, take over the responsibility for the payment of pensions to

- (a) persons receiving pensions from the Government or any other employer; or
- (b) persons entitled to pensions which are not yet due from Government or any other employer,

if the Government or other employer concerned so requests the Trust in writing and pays to the Trust the cost of transferring the responsibility to the Trust.

Voluntary and
compulsory
retirement
from public
service.
Cap. 137.

62. Notwithstanding sections 7 and 9 of the Pensions Act or any other law, a member of the public service—

- (a) may retire voluntarily from the public service on or after attaining the age of fifty-five; and
- (b) shall retire or vacate office compulsorily at the age of sixty.

SCHEDULE

(Section 51 (2))

PRACTICE AND PROCEDURE BEFORE TRIBUNAL

1. Where the appellant is not represented by a legal practitioner, and the onus of proof is on him, the chairman may ask the Trust or its representative to open proceedings with a concise summary of the points at issue.

2. Where the appellant is represented and the onus of the proof is on him, the proceeding shall normally take the following order—

- (a) the appellant's representative opens the case for the appellant;
- (b) the appellant may be examined under oath by his representative;
- (c) the appellant may be cross-examined by the Trust's representative;

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- (d) the appellant may be re-examined by his representative;
 - (e) the appellant's witnesses may in turn each be examined;
 - (f) the appellant's representative summarises the appellant's case;
 - (g) the Trust's representative opens the case of the Trust;
 - (h) the witnesses of the Trust may in turn each be examined, cross-examined, and re-examined;
 - (i) the case of the Trust is summarised; and
 - (j) the appellant's representative replies.

3. The order of proceeding contained in paragraph 2 may be amended as the parties to the hearing agree or as the chairman decides, and any variation in the order of proceeding will not of itself invalidate the decision of the SSAT.

4. The SSAT may decide any appeal in the absence of the appellant and his representative but where it is satisfied that an appellant's absence is due to sickness or other reasonable cause, the SSAT may permit the postponement of the hearing for a period not exceeding three months.

PASSED in Parliament this *12th day of July*, in the year of our Lord two thousand and one.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.

(This cancels Act No.4 published in Govt. Notice No. 255 as supplement to the Sierra Leone Gazette No. 37 dated 26th July, 2001)