REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

NATIONAL PENSION SCHEME (AMENDMENT) BILL N.A.B. NO.1 OF 2023

FOR THE

SECOND SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

FOREWORD

Honourable Madam Speaker, the Committee on National Economy, Trade and Labour Matters, has the honour to present its Report on the National Pension Scheme (Amendment) Bill, N.A.B. No. 1 of 2023, for the Second Session of the Thirteenth National Assembly. The functions of the Committee are as set out under Standing Orders No. 197 (j) and 198 of the National Assembly of Zambia Standing Orders, 2021.

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from different stakeholders, the list of which is at Appendix II. The Report highlights a summary of submissions from stakeholders; concerns raised by stakeholders; and the observations and recommendations made by the Committee.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It further wishes to thank you, Madam Speaker, for affording it an opportunity to consider the National Pension Scheme (Amendment) Bill, N.A.B. No. 1 of 2023.

The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.

Mr Mutotwe L Kafwaya, MP
CHAIRPERSON

March, 2023
LUSAKA

TABLE OF CONTESTS

1.0 Membership of the Committee

The Committee consisted of Mr Mutotwe L Kafwaya, MP (Chairperson); Ms Sefulo Sibeso Kakoma, MP (Vice-Chairperson); Mr Sialubalo Simuunza Gift, MP; Mr Mubika Mubika, MP; Mr Binwell Mpundu, MP; Mr David Mabumba, MP; Mr Elliot Kamondo, MP; Mr Ronald Chitotela, MP; Mr Davies Chisopa, MP; and Mr Njavwa Simutowe, MP.

2.0 Background

Pension schemes were established to provide benefits and pension income to employees when they attained the age of retirement. They were also meant to provide benefits to dependants when an employee died during the course of his or her employment, or after retirement.

The *National Pension Scheme Act, Chapter 256 of the Laws of Zambia*, only allows members who have attained the pensionable age to access their benefits. As part of pension reforms, the Government introduced the National Pension Scheme (Amendment) Bill, N.A.B. No 1 of 2023 which sought to amend the National *Pension Scheme Act,* so as to, among others, provide for members to access a pre-retirement benefit.

The Bill, once enacted, would provide an option for members to access part of their retirement benefits prior to retirement. This would invariably lead to an improvement in their livelihoods. Further, once accessed, the funds were likely to encourage members to undertake entrepreneurial activities which would in turn contribute to the economic development of the country.

3.0 Objects of the Bill

The objects of the Bill were to amend the *National Pension Scheme Act* of 1996, so as to provide for ï

(a) members to access a pre-retirement benefit; and
(b) matters connected with, or incidental to, the foregoing.

4.0 Salient Provisions of the Bill

The salient provisions of the Bill were as set out hereunder.

Clause 1 – Short title
This clause made a provision for the short title. The Bill did not have a commencement date, the implication of which was that the Act would come into force immediately it was assented to by the President and published in the *Gazette.*

Clause 4 – Amendment of Section 19
Clause 4 sought to amend section 19 of the principal Act, which provided for the amount of money that a pensioner would receive per month after retirement. This amount was prescribed in a Statutory Instrument and was calculated by the Authority based on statistics gathered by the Zambia Statistics Agency.

Clause 6 – Insertion of new section 21A

This clause sought to amend the principal Act by the insertion of a new section immediately after section 21 which set out the requirements that must be met before a member was eligible to access the pre-retirement lump sum benefit.

It provided that the amount payable as a pre-retirement lump sum would be the equivalent of 20 per cent of the sum of that memberôs monthly contributions plus accrued interest. It further provided that when a member reached retirement age, if he or she had obtained a pre-retirement lump sum, they would receive retirement benefits based on what was left, together with the subsequent contributions after the withdrawal.

5.0 Concerns Raised by Stakeholders

Many stakeholders who appeared before the Committee supported the Bill and expressed their concerns as set out hereunder.

5.1 Clause 2 – Amendment of Section 2

The stakeholders observed that clause 2 provided for the amendment of section 2 of the principal Act which provided for the definition of terms used in the Act. Clause 2 amended Section 2 by including definitions of the following terms ñpre-retirement lump-sumò, ñresidual contributionsò and ñZambia Statistics Agencyò.

In this regard, the stakeholders submitted that for purposes of consistency, wherever there was reference to ñpre-retirement benefitò, it should be replaced by the terms ñpre-retirement lump-sum benefitò.

5.2 Clause 5 – Insertion of Section 19A

The stakeholders submitted that clause 5 amended the principal Act by the insertion of a new section 19A, immediately after section 19. The new section provided that members who accessed a pre-retirement lump sum would only be entitled to a minimum retirement pension of 80 per cent of the minimum monthly pension.

While appreciating this provision stakeholders contended that pension schemes were designed to protect workers in old age by cushioning them from the loss of income after leaving employment. In this regard emphasis needed to be placed on addressing challenges such as the weak economy; unsustainable debt levels; and weak institutions, which collectively contributed to financial exclusion; low wages; and high unemployment levels, which provided a fertile ground for intergenerational poverty.

The stakeholders, therefore, recommended a complete overhaul of the entire pension system and deal with the deteriorating labour market position, in line with the Eighth National Development Plan which committed to reforming the pensions system with a view to:

(a) increase coverage;
(b) enhance its effectiveness as a social safety net; and
(c) make it financially sustainable.

5.3 Clause 6 – Insertion of new Section 21A

(a) One-Off Pre-Retirement Lump Sum Benefit (new Section 21A) and Age Requirement under proposed Section 21A(1)(b)

The stakeholders noted that the proposed new section 21A, outlined the conditions under which a member would be eligible to access a pre-retirement lump sum benefit, namely that; the member should: (i) consent in writing to access such benefits; (ii) be below pensionable age; and (iii) have made a minimum of sixty (60) monthly contributions or attained the age of 45.

They contended that although the general effect of section 21A(1)was easily discernible, the option stated under sub-section 21A(1)(b) might prove to be problematic in practice, unless qualified by a further condition. This was because the age of 45 years specified under subsection 21A(1)(b), was not linked to any minimum number of monthly contributions, which the member would be required to make before accessing the pre-retirement lump sum benefits.

In this regard the stakeholders recommended that a member qualifying for a pre-retirement lump sum benefit under the proposed section 21A(1)(b) of the Act, must be subjected to a further condition of having made at least 36 monthly contributions to the scheme before being rendered eligible to access the pre-retirement benefit. This was to avoid a situation where members who, despite having met the age requirement under the proposed section 21A(1)(b), had not made the prescribed number of monthly contributions that would allow them to acquire adequate financial resources.

The stakeholders further submitted that consideration be given to the treatment of tax on the pre-retirement lump sum benefits, considering that this would be accessible by members while in employment and not at the end of service as would ordinarily be the case. There was need to clearly state if the pre-retirement lump sum benefit would, for tax purposes, be treated like retirement or other final benefits payable on termination of employment.

(b) Indexed Monthly Contributions -Proposed Section 21A(2)
The stakeholders noted that the pre-retirement lump sum benefit would be 20 percent of the óindexedô monthly contributions and the accrued interest thereon. However, óindexedô had not been defined or used elsewhere in the Bill.
In view of this, the stakeholders recommended that the word óindexedô used in the proposed section 21A(2) should be defined for clarity.

5.4 Clauses 7, 8 and 9 amendment of Section 24,34 and 53(2) of the principal Act
The stakeholders observed that clauses 7, 8 and 9 of the Bill proposed the amendment of sections 24, 34 and 53(2) of the principal Act respectively and related to issues that dealt with improving the regulations of the pension schemes by the regulator and the management of the pension scheme. Among the issues addressed related to members that suffered invalidity after accessing a pre-retirement lump sum benefit.

The stakeholders noted that notwithstanding the benefits that the Bill envisaged, there was a risk associated with early withdrawals which might impact on the banking sector, the Treasury and the Scheme. They contended that early withdrawals would entail pulling out funds from banks and/or breaking up existing financial assets for purposes of pay-outs to members. They observed that this situation had the potential to destabilise financial markets and affect mobilisation of domestic resources. In view of this,the stakeholders called for the application of prudent management skills by the National Pension Scheme Authority to mitigate the situation.

6.0 Committee's Observations and Recommendations

The Committee notes that in as much as the Bill has progressive amendments, it equally has some ramifications which need to be addressed. The Committee therefore makes observations and recommendations as outlined below.

6.1 Clause 5 – Insertion of Section 19A

The Committee observes that clause 5 amends the principal Act by the insertion of a new section 19A, which provides that members who access a pre-retirement lump sum shall only be entitled to a minimum retirement pension of 80 per cent of the minimum monthly pension.

While appreciating the provision, the Committee notes that pension schemes are designed to protect workers in old age by cushioning them from loss of income after leaving employment. In this vein, the Committee is of the view that more emphasis must be placed on addressing challenges such as the weak economy; unsustainable debt levels; and weak institutions, which collectively contribute to financial exclusion; low wages; and high unemployment which in turn are a fertile ground for intergenerational poverty.

The Committee, therefore, recommends that an entire overhaul of the pension system be undertaken in order to deal with the deteriorating labour market position. This is in line with the Eighth National Development Plan which commits to reforming the pensions system.
The 8NDP also commits to create a statutory pension and an occupational pension, especially for public sector employees.

In addition, the Committee recommends that NAPSA establishes other modalities in which individuals can use their pension savings for other purposes. One such model which can be used is where pensions are used as collateral. In this instance, pension funds essentially provide a third-party institution with a guarantee that the memberĉs pension savings will secure a loan or part of a loan from the lending institution (usually banks). This will allow members of the scheme to access lower cost loans.

6.2 Clause 6 – Insertion of new Section 21A: One-Off Pre-Retirement Lump Sum Benefit

The Committee notes that the proposed new section 21A, outlines the conditions under which a member would be eligible to access a pre-retirement lump sum benefit
The Committee observes that although the general effect of this provision is easily discernible, the option stated under the proposed section 21A(1)(b) might problematic in practice unless qualified by a further condition. The Committee notes that the age of 45 years is not linked to any minimum number of monthly contributions which the member would be required to make before accessing the pre-retirement lump sum benefits.

In this regard the Committee recommends that this provision bedeleted so that the only criteria which will ascertain the eligibility for members to access the 20 percent lump-sum benefit remains one who has made a minimum of 60 monthly contributions. This is to avoid a situation where a member who, despite having met the age requirement,has made very minimal monthly contributions that will allow them to acquire adequate financial resources.

6.3 Tax Consideration for Pre-Retirement Lump Sum Benefit

The Committee observes that the *Income Tax Act, Chapter 323 of the Laws of Zambia*, provides that pension benefits will be tax exempt. In view of the fact that the Bill is providing for pre-retirement lump-sum benefits which will be accessible by members while in employment and not at the end of service as would ordinarily be the case, there is need to clearly state whether this would be treated like a final retirement benefit for tax purposes. In this regard, the Committee recommends that the Bill must make it clear how the pre-retirement lump-sum benefit, will be treated for tax purposes

6.4 Clause 6 – Proposed Section 21A (2): Indexed Monthly Contributions

The Committee notes the use of the term 'indexed' in the description of pre-retirement lump sum benefit of 20 percent. However, the term has not been defined in the Bill.
In view of this, the Committee recommends that the word 'indexed' used in the proposed section 21A(2) be defined for clarity.

6.5 Clauses 7, 8 and 9: amendment of Section 24, 34 and 53(2) of the principal Act

The Committee notes that clauses 7, 8 and 9 of the Bill propose the amendment of sections 24, 34 and 53(2) of the principal Act respectively, relating to improving the regulations of the pension schemes by the regulator and improvement of the management of the pension scheme.

While the Committee appreciates the benefits of the Bill, it notes that there are risks that will arise when all members who qualify for the pre-retirement lump sum benefit apply for it at the same time. The Committee is concerned that this will lead to a situation where NAPSA will need to withdraw funds from banks and other investments for purposes of pay-outs to members.

In view of this, the Committee calls for the application of prudent management skills and collaboration between the Ministry of Labour and Social Security and NAPSA to mitigate the situation. There is need for leadership to be demonstrated as failure to manage the withdrawals may adversely affect not only NAPSA but the banking sector as well.
The Committee, therefore, further recommends that NAPSA works with the Banking sector to carefully manage the withdrawals using a phased approach to avert disruptions in the financial sector.

The committee also recommends that NAPSA considers increasing the percentage that has been prescribed for members at access the pre-retirement lump-sum benefit given that most workers earn low wages and salaries.

7.0 Conclusion

The motivation behind the proposal Bill to allow for partial withdrawal is driven by a genuine need to enable citizens to invest by increasing access to finance. The National Pension Scheme (Amendment) Bill, once enacted, will improve the economy because more people will have disposable income to invest in economically productive activities. Further, members will be at liberty to access some of their money before attaining the retirement age which will ultimately improve their livelihood. The Bill is, therefore, progressive. The Committee is, therefore, hopeful that the Bill will receive the support of the House.

We have the honour to be, Madam Speaker, the Committee on National Economy, Trade and Labour Matters mandated to consider the National Pension Scheme (Amendment) Bill, N.A.B. No. 30 of 2023.

Mr Mutotwe L Kafwaya, MP	March 2023
CHAIRPERSON	**LUSAKA**

APPENDIX I

LIST OF NATIONAL ASSEMBLY OFFICIALS

Mr Charles Haambote, Principal Clerk of Committees (FC)
Mrs Doreen N C Mukwanka, Deputy Principal Clerk of Committees (FC)
Mr Charles Chishimba, Senior Committee Clerk (FC 1)
Mrs Chitalu R Mulenga, Acting Senior Committee Clerk (FC2)
Mr Emmanuel Bwalya, Committee Clerk
Ms Anita Mulale, Administrative Assistant
Mr Daniel Lupiya, Committee Assistant
Mr Muyembi Kantumoya, Parliamentary Messenger

APPENDIX II

LIST OF WITNESSES

Honourable Minister of Labour and Social Security
Ministry of Labour and Social Security Ministry of Justice
National Pension Scheme Authority
Local Government Service Commission
Bank of Zambia
National Water Supply and Sanitation Council
Zambia Institute for Policy Analysis and Research
Law Association of Zambia
Pensions and Insurance Authority
Chapter One Foundation
Saturnia Regna
Zambia Federation of Employers
Zambia Congress of Trade Unions
Zambia Association of Manufacturers
Zambia Union of Financial Institutions and Allied Workers