

**REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR ON THE NATIONAL PENSIONS SCHEME (AMENDMENT) BILL, N.A.B. NO.8 OF 2015 FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON TUESDAY, 23<sup>RD</sup> SEPTEMBER, 2014**

Consisting of:

Mr K K Hamudulu, MP (Chairperson); Mr G G Nkombo, MP; Dr S Musokotwane, MP; Mr V Lombanya , MP; Mr F Mutati, MP; Mr W Simuusa, MP; Mr N Chilangwa, MP; and Mrs M Miti, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA**

Sir,

Your Committee has the honour to present its Report on the National Pensions Scheme (Amendment) Bill, N.A.B. No. 8 of 2015, referred to it by the House.

**Functions of the Committee**

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House.

**Meetings of the Committee**

3. Your Committee held ten (10) meetings to consider the National Pensions Scheme (Amendment) Bill, N.A.B. No. 8 of 2015, referred to it by the House.

**Procedure adopted by the Committee**

4. In order to acquaint itself with the Bill, your Committee requested written and oral submissions from various relevant stakeholders.

**Object of the National Pension Scheme (Amendment) Bill, N.A.B No. 8 of 2015**

5. The object of the Bill is to amend the National Pension Scheme Act so as to revise the retirement age.

**Background**

6. The *National Pension Scheme Act, Chapter 256* of the Law of Zambia provides for a pensionable age of fifty-five years. This age presents a challenge for the financial

sustainability of the pension scheme from an actuarial perspective in light of the long post-retirement life expectancy. In addition, this age is among the lowest in the Southern African Development Community (SADC) region. The National Pension Scheme (Amendment) Bill, N.A.B No. 8 of 2015, therefore, seeks to amend the *National Pension Scheme Act* so as to revise the retirement age upwards and provide for early and late retirement. This will ensure the sustainability of the pension scheme and in accord with the general trends in the SADC region.

### **Salient Provisions of the Bill**

7. The salient provisions of the National Pension Scheme (Amendment) Bill, N.A.B. No.8 of 2015 are set out hereunder.

#### **Clause 2: Amendment of Section 2**

This clause seeks to revise the meaning of pensionable age. Whereas pensionable age currently means the age of fifty-five years, it is proposed to revise this to sixty years.

#### **Clause 3: Amendment of Section 9**

This clause seeks to revise the provisions regarding entitlement to benefits. The clause specifically entitles persons who retire at fifty-five years (early retirement) or sixty-five years (late retirement) to benefits payable under the pension scheme.

#### **Clause 4: Repeal and Replacement of Section 18**

The clause requires a member to retire upon attaining pensionable age, which is the age of sixty years (normal retirement). Notwithstanding the requirement for normal retirement, the clause also provides for early or late retirement upon giving requisite notice and subject to the approval of a contributing employer. In the case of early retirement, the notice must be given by the member, twelve months prior to attaining the age of fifty-five years. The notice for late retirement must be given by the member twelve months prior to attaining the age of sixty years.

### **CONCERNS RAISED BY STAKEHOLDERS**

8. The stakeholders who appeared before your Committee raised some concerns as outlined below.

#### **Clause 2: Amendment of Section 2**

Stakeholders noted that in the Bill, the words pensionable age and retirement age were being used interchangeably when the two may not necessarily mean the same thing. Whilst pensionable age has been defined as age sixty years, retirement age has not been defined. They stated that the Bill needed to be clear that any reference to retirement age actually refers to pensionable age to avoid any possible misunderstanding.

#### **Clause 4: Repeal and Replacement of Section 18**

Many stakeholders submitted that Clause 18(2) makes the employee's decision to retire subject to the approval of the employer. They submitted that this provision is not necessary as the Scheme would already have made provision for the member to enjoy the benefits whether that member's employer is ready for them to retire or not. In any event, the employer has absolutely no say over the management of the Scheme, and as such it was unnecessary for a member to seek the employer's approval before retiring. Further, stakeholders noted that the Bill does not differentiate entitlement to full pension between early retirement and late retirement. This means that there would be no incentive for someone to continue working beyond the normal retirement age. This could defeat the aim of securing the viability of the pension scheme.

#### **Other Concerns**

Stakeholders also expressed concern with regard to the piece-meal approach being used by the Government in dealing with the many challenges facing the pension scheme sector. They contend that this approach may not yield the much needed results if the pension reforms are not implemented in a holistic manner. For instance, stakeholders were of the view that the high penalty fees being charged by the National Pensions Scheme Authority to defaulting institutions is a matter that requires urgent attention and should, therefore, be part of the current amendment to the National Pension Scheme Act.

Some stakeholders explained that it was important for the issue of accrued rights to be addressed when effecting the changes to the pensionable age. This would ensure that any member that would have joined the pension scheme prior to the amendment of the National Pension Scheme Act would effectively and legally still be entitled to the same benefits currently obtaining.

#### **COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

9. Having considered the submissions by stakeholders, your Committee makes the following observations and recommendations listed hereunder:

- a) Under Clause 4 (1) of the Bill, your Committee observes that the proposed subjection of the pensionable age to both the Act, **or any other written law**, may result in unnecessary problems in the administration and viability of the Scheme. Your Committee recommends that the phrase 'or any other written law' be deleted. Clause 4 should, therefore, read as follows:

*"Subject to the provisions of this Act, a Member shall retire upon attaining pensionable age".*

- b) Under Clause 4, your Committee observes that the Member's right to retire has been left at the absolute discretion of the employer, which is not only a recipe for subjectivity, but could be subject to abuse. Your Committee, therefore,

- recommends that a proviso be included in the Bill to provide for recourse to the aggrieved party in the event that the employer does not accept the application for early or late retirement as the case may be.
- c) Your Committee observes that the absence of the operational definitions of early retirement and late retirement in the Bill may be a source of conflict in the implementation process. Your Committee recommends that the definitions for early retirement and late retirement be included in order to avoid ambiguity in the interpretation of the Bill.
  - d) Your Committee observes that the piece-meal approach in addressing the pension scheme challenges will merely offer temporal solutions to the many issues affecting the sector. Your Committee recommends that the pension scheme challenges be addressed in a holistic manner so as to foster sound and progressive long term solutions to the sector. However, your Committee acknowledges the progress that has been made so far with regards pension reforms, but urges the Government to expedite the process.
  - e) Your Committee notes that while the bigger pension reform process is underway, the issue of the National Pension Authority penalty rates is of grave importance and should not be left out in the current piecemeal amendment. Your committee, however, notes with gratitude that the amendment to change the penalty will be moved at second reading in the house.
  - f) Your Committee notes that while amendments are being proposed in the current bill, they do not address the critical financial burden of National Pension Scheme Authority. While these amendments are noted, there is need to devise appropriate financial solutions to address the prevailing problems in the pensions sector and these should move in tandem with the legal reform process.
  - g) Your Committee notes that the Bill does not address the transitional arrangement of Members of the Scheme. Your Committee therefore, recommends that transitional arrangement be put under regulations to avoid administrative problems at implementation stage and that the funds should be transferable across Schemes.

## **CONCLUSION**

10. Your Committee supports the Bill in its entirety subject to the observations and recommendations above. Your Committee further wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. Your Committee also wishes to thank you, Mr Speaker, for affording it the opportunity to study the Bill. Your Committee also appreciates the services rendered by the office of the Clerk of the National Assembly.

We have the Honour to be, Sir, your Committee on Economic Affairs, Energy and Labour mandated to consider the National Pension Scheme (Amendment) Bill, N.A.B. No 8 of 2015.

Mr K K Hamudulu, MP  
**Chairperson**

Mr G G Nkombo, MP  
**Member**

Dr B S Musokotwane, MP  
**Member**

Mr V Lombanya, MP  
**Member**

Mr F Mutati, MP  
**Member**

Mr W Simuusa, MP  
**Member**

Mr N Chilangwa, MP  
**Member**

Mrs M Miti, MP  
**Member**

July, 2015  
**LUSAKA**

K K Hamudulu, MP  
**CHAIRPERSON**

## **APPENDIX I**

### **LIST OF OFFICIALS**

#### **National Assembly**

Mr S C Kawimbe, Principal Clerk of Committees  
Mr M K Sampa, Deputy Principal Clerk of Committees  
Mr C Musonda Acting Committee Clerk (FC)  
Mr F Chikambwe, Assistant Committee Clerk  
Mrs M E Z Banda, Assistant Committee Clerk  
Mr S Samuwika, Assistant Committee Clerk  
Mrs D Mukwanka, Assistant Committee Clerk  
Mr A Chilambwe, Assistant Committee Clerk  
Mr F Hamakalu, Typist  
Mr R Mumba, Committee Assistant  
Mr M Chikome, Parliamentary Messenger

## **APPENDIX II**

### **LIST OF WITNESSES**

#### **Ministry of Justice (Permanent Witness)**

Mr F.Chilunga, Assistant Commissioner Law Revision  
Mr M Chola, Senior Parliamentary Counsel  
Ms K M Ndulo, Parliamentary Counsel

#### **Lusaka City Council**

Mr A Mwansa, Town Clerk  
Mr Z Mbao, Director of Finance  
Mr G M N Kanyanta, Acting Assistant Director of Human Resources

#### **Public Service Pensions Fund Board**

Dr R Mwiinga, Chief Executive Officer  
Ms E M Kapuka  
Mr A Chileshe

#### **Zambia Congress of Trade Unions**

Mr N Chishimba, President  
Mr C Mukuka, Secretary General  
Mr O Mwanza, Regional Coordinator Lusaka  
Mr K Fanwell, Director- Finance

#### **Federation of Free trade Unions**

Mr L Mando, National Executive

#### **Chongwe Council**

Mr Fred Moya, Council Secretary

#### **Zambia Association of Pension Fund**

Mr S C Nakalowa, Consultant  
Mr B Kamphata, Councilor  
Ms F Twila, Councilor  
Mr M Kasongola, Councilor  
Mr C C Kampamba, Chairman  
Mr A Chashale, Councilor  
Mr B Hamazuka, Councilor

### **National Pensions Scheme Authority**

Mr C Mpundu, Director General  
Ms K D Chiwele, Director -Finance  
Ms C K Tembo, Director- Project  
Mr G C Nsofu, Director -Information Technology  
Mr Y Kachanda, Director- Contributions and Benefits  
Mr D Chewe, Director -Investment  
Ms B C Meleki, Director- HRM and Administration

### **Local Authorities Superannuation Fund**

Mr R M Pepala, Managing Director  
Mr A C Kabwe, Director -Corporate Services  
Mr G Chileshe, Director- Finance Pensions

### **Pensions and Insurance Authority**

Mr B M Musenga, Deputy Registrar Pensions  
Mr G Kapaso, Manager  
Mr E Mvula, Analyst-Pensions  
Mr S Bowa, Analyst-Pensions

### **Ministry of Finance**

Mrs. P C Kabanda, Permanent Secretary  
Mr M Masiye, Director -Budget  
Mr J Phiri, Analyst -Expenditure

### **Ministry of Labour and Social Security**

Mr T Kaunda, Permanent Secretary  
Mr A Dumingo, Director  
Mr K Chivunda, Director  
Ms P Mulewa, Director  
Mr E Sichembe, Chief Productivity Officer  
Ms C M Kamanga, Labour Commissioner  
Mr F Mwansa, Senior Planner  
Mr D Banda, Principal Planner  
Mr J Banda, Senior Social Security Officer

### **Cabinet Office**

Mr P.L Kasanda, Acting Secretary to the Cabinet  
Mr J Mwila, Director -Special Duties