

PENSION ACT, 2010

(ACT NO. 6 OF 2011)

PENSION (PAYMENT OF BENEFITS FROM PENSION FUNDS)
DIRECTIVE, 2014

ARRANGEMENT OF PARAGRAPHS

PARAGRAPHS

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IN EXERCISE of the powers conferred by section 48 (b) of the Pension Act, 2010, I, CHARLES CHUKA, Registrar of Financial Institutions, hereby issue the following Directive—

PART I—PRELIMINARY

1. This Directive may be cited as the Pension (Payment of Benefits from Pension Funds) Directive, 2014.

Citation

2.—(1) In this Directive, unless the context otherwise requires—

Interpretation

“death benefits” means a deceased member’s benefits from a pension fund and the deceased member’s entitlements under a life insurance policy maintained under section 15 of the Act;

“exit declaration” means a declaration acknowledging receipt of pension benefits or transfer of pension benefits, as the case may be, signed by a trustee and a member or beneficiary who has exited from a pension scheme;

“medical practitioner” means a medical practitioner as defined in the Medical Practitioners and Dentists Act ; and

Cap. 36:01

“statement of pension benefits” means a statement issued by a trustee bearing benefits from a pension fund due to a member or beneficiary of a pension scheme.

Application 3. This Directive shall apply to an administrator, a member or a beneficiary of a pension fund, a trustee, and a pension services company.

PART II—OBJECTIVES OF THIS DIRECTIVE

Objective 4. The objective of this Directive is to provide for procedures for payment of benefits from a pension fund.

PART III—SPECIFIC REQUIREMENTS

Procedure for payment of benefits 5.—(1) Applications for payment and payment of benefits from a pension fund shall be made in accordance with the procedures laid down in this Directive.

(2) A member or a beneficiary of a pension fund applying for payment of benefits shall submit a written application to a trustee of a pension fund.

(3) An application for payment of benefits from a pension fund shall be supported by documents specified in rules of the pension fund

(4) Payment of benefits from a pension fund shall be made in the name of a member or beneficiary except where the payment is a transfer, in which case, it shall be made to the trustee of any approved pension fund chosen by the member.

(5) When making payment of benefits from a pension fund, a trustee shall provide details as prescribed in the Schedule hereto.

(6) A trustee of an unrestricted pension fund shall, on a member's choice, preserve within the pension fund, or transfer to another pension fund, any balance of the pension benefit accruing to the member after making payment.

(7) A trustee of a restricted pension fund shall transfer benefits from a pension fund to another pension fund of a member's choice within six months of the date of exiting a pension fund.

Transfer of pension benefits 6.—(1) On application by a member to transfer pension benefits to another pension fund of the member's choice, a trustee receiving the transferred pension benefits shall credit the pension benefits into the member's account specifying—

- (a) employer contribution;
- (b) employee contribution;
- (c) additional voluntary contribution;
- (d) severance due entitlement; and
- (e) investment income on contributions.

(2) A trustee of a defined pension fund shall calculate, in line with the pension fund rules, and transfer the actuarial fair value of pension benefits accrued in respect of a member who wishes to transfer from the pension fund.

(3) On transfer of pension benefits by a trustee, a member who has been granted the transfer shall sign an exit declaration.

Early payment of benefits 7.—(1) On application by a member for early payment of pension benefits under section 65 of the Act, a trustee shall provide a statement of pension benefits to the member as at the date of application.

(2) If on application by a member under subparagraph (1), the total amount of employer contributions, employee contributions, severance due entitlement, and investment income on these contributions—

(a) does not exceed the amount prescribed in the Schedule hereto, a trustee may, on the choice of the member, pay the total amount to the member; or

(b) exceeds the amount prescribed in the Schedule hereto, a trustee shall only pay employee contributions and investment income on employee contributions.

8. Subject to section 69 of the Act, a trustee of a pension fund shall pay benefits from a pension fund on the basis that a member has left or is about to leave Malawi permanently upon submission by that member, of the following—

Payment of benefits of a member leaving the country permanently

(a) details of the destination country, including town, city or address of residence; and

(b) documentation showing emigration status which shall include—

(i) permanent residence permit or citizenship of the destination country; or

(ii) a letter signed by the Chief Immigration Officer confirming that the member has renounced the Malawian citizenship or permanent residence status in Malawi.

9.—(1) For purposes of payment of pension benefits under section 64 (1) (a) of the Act, a trustee shall—

Payment of benefits on retirement

(a) verify a member's retirement date with the member's employer; and

(b) notify the member in writing of his retirement six months prior to the date of retirement, which shall include a statement of pension benefits.

(2) A member shall only access benefits upon cessation of employment.

10.—(1) For purposes of payment of benefits under section 64 (1) (c) of the Act, a trustee shall—

Payment of benefits on total and permanent disability

(a) verify with the employer on the retirement of the member from employment on the basis of total and permanent disability;

(b) pay benefits upon the member submitting the following—

(i) a medical report issued by a medical practitioner or a legally constituted medical board; and

(ii) a copy of the medical practitioner's registration certificate issued by Medical Council of Malawi.

(2) Where a condition that causes total or permanent disability requires an examination from a specialist and the medical practitioner issuing the medical report in sub-paragraph (1)(b) is not a specialist, the medical report shall include results of the consultation with a specialist.

11. For purposes of calculating the maximum annuities and pensions that may be commuted into lump sums under section 68 of the Act, an annuity or pension payable to a member at retirement may be commuted into a lump sum if the lump sum calculated does not exceed the amount prescribed in the Schedule hereto, at the respective retirement ages.

Commutation of pension benefits

12.—(1) On retirement, a member shall have the option of purchasing an annuity from a licensed insurer of his choice.

Payment of annuities

(2) A member may elect to receive an annuity directly from a licensed insurer or through a pension fund.

Payment of
death benefits

13.—(1) A trustee shall pay death benefits upon receipt of an application for payment of death benefits supported by—

(a) a death certificate or report from the Registrar General's office or a certified medical practitioner registered with the Medical Council of Malawi; or

(b) a letter signed and stamped by a District Commissioner or a Traditional Authority from the deceased member's home district.

(2) A trustee may independently verify the authenticity of the documents in paragraph (1).

(3) A trustee shall verify the death or missing status of a member with the member's employer.

(4) A trustee shall make available copies of nomination forms, signed by a member, to the beneficiaries on payment of death benefits.

Fraud,
deterrent
measures

14.—(1) A trustee shall put in place control measures to curb fraud in the payment of benefits.

(2) A trustee shall verify the identity of a member, beneficiary or person acting on behalf of the member or beneficiary before making payment of benefits.

Period for
payment of
benefits

15.—(1) A trustee shall pay benefits from a pension fund within fourteen days of a member signing an exit declaration.

(2) A trustee who contravenes subparagraph (1) shall be liable to pay to a member or beneficiary, penalty interest on the amount of benefit due compounded each day at the prevailing Reserve Bank of Malawi base rate.

PART IV—ADMINISTRATIVE PENALTIES AND SANCTIONS

Administrative
penalties

16. Where the Registrar determines that an administrator, a pension services company or a trustee has not met the requirements of this Directive, the Registrar shall impose administrative penalties in accordance with the provisions of the Financial Services Act, 2010 to correct the situation, including—

(a) a monetary penalty as may be determined by the Registrar;

(b) a written warning; or

(c) a direction to the administrator or the trustee to compensate any person who has suffered loss due to the contravention.

Administrative
sanctions

17 —(1) The Registrar may, in addition to administrative penalties, impose any one or more of the following sanctions against an administrator, a pension services company or a trustee of a pension fund—

(a) prohibition from declaring or paying dividends;

(b) prohibition from declaring or paying bonuses, salary incentives or other discretionary compensation to directors, trustees or managing officers;

(c) suspension of acquisition of fixed assets; and

(d) suspension or cancellation of licence where the administrator or trustee persistently fails to comply with this Directive.

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2010

(2) The Registrar may, in addition to administrative sanctions under subparagraph (1), give written directions according to section 39 of the Financial Services Act, to the administrator, pension services company or trustee of a pension fund.

SCHEDULE

(Para. 5,7,11)

THRESHOLDS FOR PAYMENT OF LUMP SUM PENSION BENEFITS AND DETAILS FOR EXIT DECLARATION

PART 1

A trustee of a pension fund shall provide the following details when making a payment of benefits from a pension fund—

- (a) name of the fund;
- (b) the business address of the fund;
- (c) names of trustees;
- (d) name of a member;
- (e) date of employment of a member;
- (f) final pensionable emoluments;
- (g) employer contributions;
- (h) income on employer contributions;
- (i) member contribution;
- (j) income on member contributions;
- (k) severance due entitlement;
- (l) income on severance due entitlement;
- (m) additional voluntary contributions;
- (n) income on additional voluntary contributions;
- (o) total pension benefits;
- (p) death benefits (where applicable);
- (q) withdrawal option; and
- (r) exit declaration.

PART 2

The prescribed amount which a trustee may pay to the member without seeking prior approval of the Registrar shall be Five Hundred Thousand Kwacha (K500, 000)

PART 3

The amounts of the calculated lump sums which a member of a pension fund may commute all of his annuities or pensions into a lump sum in respect of paragraph 11 of this Directive at the respective retirement ages shall be as follows:

<i>Age of a member at retirement</i>	<i>Amount of lump sum (in Kwacha)</i>
≥ 50.	5,440,000.00
51.	5,343,000.00
52.	5,245,000.00
53.	5,146,000.00
54.	5,045,000.00

*Age of a member
at retirement*

*Amount of lump sum
(in Kwacha)*

55..	---	---	---	---	4,944,000.00
56..	---	---	---	---	4,843,000.00
57..	---	---	---	---	4,742,000.00
58..	---	---	---	---	4,640,000.00
59..	---	---	---	---	4,538,000.00
60..	---	---	---	---	4,436,000.00
61..	---	---	---	---	4,334,000.00
62..	---	---	---	---	4,232,000.00
63..	---	---	---	---	4,131,000.00
64..	---	---	---	---	4,030,000.00
65..	---	---	---	---	3,930,000.00
66..	---	---	---	---	3,831,000.00
67..	---	---	---	---	3,733,000.00
68..	---	---	---	---	3,638,000.00
69..	---	---	---	---	3,544,000.00
↳ 70..	---	---	---	---	3,453,000.00

Issued this 29th day of July, 2014.

C. S. R. CHUKA
*Registrar of Financial
Institutions*

(REF. NO. PED/01/02)