



# LAWS OF MALAYSIA

## Act 662

### RETIREMENT FUND ACT 2007

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**LAWS OF MALAYSIA****Act 662****RETIREMENT FUND ACT 2007**

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**LAWS OF MALAYSIA****Act 662****RETIREMENT FUND ACT 2007**

An Act to incorporate the Retirement Fund (Incorporated), to establish the Retirement Fund and to provide for matters consequential and incidental thereto.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**PART I****PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Retirement Fund Act 2007.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

**Interpretation**

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

“committee” means a committee established under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Retirement Fund (Incorporated) appointed under section 9;

“Fund” means the Retirement Fund established under section 13;

“Retirement Fund (Incorporated)” means the Retirement Fund (Incorporated) established under section 3;

“Board” means the Board of the Retirement Fund (Incorporated);

“Minister” means the Minister charged with the responsibility for finance;

“Investment Panel” means the Investment Panel established under section 7;

“remuneration” includes salary or wages, allowances, medical benefits, free or subsidised housing and other privileges capable of being valued in money;

“securities” means—

- (a) debentures, stocks or bonds issued or proposed to be issued by any government;
- (b) shares in or debentures of a body corporate; and
- (c) unit trusts or prescribed instruments,

and includes any right, option or interest in respect thereof;

“company” means a company incorporated under the Companies Act 1965 [*Act 125*];

“financial year” means a period ending on the thirty-first day of December of each year;

“appointed date” means the date of commencement of this Act appointed by the Minister under subsection 1(2).

## PART II

### THE RETIREMENT FUND (INCORPORATED)

#### **Establishment of the Retirement Fund (Incorporated)**

**3.** (1) A body corporate by the name of Retirement Fund (Incorporated) is established.

(2) The Retirement Fund (Incorporated) shall have perpetual succession and a common seal, and may sue and be sued in its corporate name.

(3) Subject to and for the purposes of this Act, the Retirement Fund (Incorporated), upon such terms as it deems fit, may—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and
- (c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Retirement Fund (Incorporated).

#### **Functions and powers of the Retirement Fund (Incorporated)**

4. (1) The functions of the Retirement Fund (Incorporated) are to administer and manage the Fund in accordance with and for the purposes prescribed in this Act and to do such other things as it may be required or permitted to do under this Act.

(2) The Retirement Fund (Incorporated) shall have the power to perform any or all of its functions, wholly or partly, in or outside Malaysia.

(3) The Retirement Fund (Incorporated) with the approval of the Minister, may—

- (a) enter into any joint venture, undertaking or any other form of co-operation or arrangement for the sharing of profits or carry on its activities in association with, or otherwise, any public authority or government body carrying on or engaging in any such activities;
- (b) by order published in the *Gazette*, establish a corporation by such name as the Retirement Fund (Incorporated) may think fit, to carry out and manage any project, scheme or enterprise which has been planned or undertaken by the Retirement Fund (Incorporated) in furtherance of its functions under this Act, and the corporation may so do either by itself or by entering into partnership or any arrangement for sharing of profits, co-operation, joint venture or otherwise; and

(c) incorporate or acquire a company or other corporation incorporated under the laws of a foreign jurisdiction, to carry on or engage in any activity approved or undertaken by the Retirement Fund (Incorporated).

(4) The provisions of the First Schedule shall apply to a corporation established under paragraph (3)(b).

### **Common seal**

**5.** (1) The common seal of the Retirement Fund (Incorporated) shall bear a device as the Board may approve and the common seal may from time to time be broken, changed, altered and made anew as the Board thinks fit.

(2) The common seal shall be kept in the custody of the Chief Executive Officer and shall be authenticated by either the Chief Executive Officer or by any officer duly authorized by the Board in writing.

(3) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall, until the contrary is proved, be deemed to have been validly executed.

(4) Any deed, document or instrument which, if executed by a person not being a body corporate, is not required to be under seal, may in like manner be executed by a member of the Retirement Fund (Incorporated) or any officer or servant of the Retirement Fund (Incorporated) authorized on that behalf.

(5) The common seal of the Retirement Fund (Incorporated) shall be officially and judicially noticed.

### **Board**

**6.** (1) The Retirement Fund (Incorporated) shall have a board who shall be responsible for the administration and management of the Retirement Fund (Incorporated).

(2) Notwithstanding subsection (1), all matters pertaining to the investment of the Fund shall, subject to subsection 7(4), be dealt with by the Investment Panel.

(3) The Board shall have powers to perform its duties as are given or imposed by this Act and do all acts which may be exercised or done by the Retirement Fund (Incorporated).

(4) The Board shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman who shall be the Secretary General of the Ministry of Finance;
- (b) a representative from the Central Bank of Malaysia;
- (c) a representative from the Ministry of Finance;
- (d) the Chief Executive Officer who shall be an *ex-officio* member;
- (e) three representatives of the Government of Malaysia;
- (f) three other persons from the private sector with experience and expertise in business or finance; and
- (g) a person who, in the opinion of the Minister, shall fairly represent the contributories to the Fund other than representatives of the Government of Malaysia.

(5) The Board may—

- (a) appoint attorneys or agents and technical advisers including actuaries, advocates and solicitors, bankers, fund managers, stockbrokers, surveyors, valuers or such other experts or professionals to transact any business or to do any act required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this Act; and
- (b) pay from the Fund all charges and expenses so incurred.

(6) On the request of the Investment Panel, the Board shall appoint and pay such persons referred to in subsection (5), in or outside Malaysia, as the Investment Panel may require for the purposes of carrying out its duties and functions under this Act.

(7) The Minister may issue general guidelines consistent with the provisions of this Act with respect to the exercise of the Board's functions and the Board shall give effect to all guidelines issued under this section.

(8) The provisions of the Second Schedule shall apply to members of the Board.

### **Investment Panel**

7. (1) An Investment Panel which shall be responsible for matters pertaining to the investment of the Fund is established.

(2) The Investment Panel shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman who shall be the Chairman of the Board or such other person as may be appointed by the Minister;
- (b) a representative from the Central Bank of Malaysia;
- (c) a representative from the Ministry of Finance;
- (d) the Chief Executive Officer who shall be the secretary;  
and
- (e) three other persons from the private sector with experience and expertise in business or finance.

(3) The Investment Panel may, with the prior approval of the Minister, delegate to its Chairman any of the powers set out in subsection 14(1), for the purposes of carrying out its functions in cases of emergency, as may be determined by the Board. The Chairman shall exercise such powers in accordance with the directions of the Investment Panel.

(4) The Investment Panel shall be subject to such directions as to general policy that may be issued by the Board and approved by the Minister from time to time.

(5) The Investment Panel shall report its activities to the Board in such form and manner as the Board may determine.

(6) The provisions of the Second Schedule shall apply to members of the Investment Panel.

**Committees**

8. (1) The Board may establish such committees to assist it in the performance of its functions under this Act. The Board may determine the chairman, number of members and the terms of reference of each committee so established.

(2) A member of a committee shall hold office for such term as may be specified in the terms of his appointment and shall be eligible for reappointment.

(3) A member of a committee may, at any time, resign by giving a notice in writing to the chairman of the committee.

(4) The Board may revoke the appointment of any member of a committee without assigning any reason for the revocation.

(5) The Board may, at any time, discontinue or alter the constitution of a committee.

(6) A committee may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to the committee by the Board.

(7) Meetings of a committee shall be held at such times and places as the chairman of the committee may determine, subject to any direction of the Board under subsection (6).

(8) A committee shall cause—

(a) minutes of all its meetings to be maintained and kept in a proper form; and

(b) copies of the minutes of all its meetings to be submitted to the Board as soon as practicable.

(9) A committee may invite any person to attend any meeting of the committee for the purpose of advising it on any matter under discussion but that person is not entitled to vote at any meeting.

(10) The members of a committee or any person invited under subsection (9) shall be paid such allowances and other expenses as the Board may determine.

**Chief Executive Officer**

**9.** (1) Subject to the approval of the Minister, the Board shall appoint a Chief Executive Officer on such terms and conditions as the Board may deem fit.

(2) The Board may appoint any member of the Board to act as the Chief Executive Officer if—

(a) there is a vacancy in the office of the Chief Executive Officer under subsection (1); or

(b) the Chief Executive Officer is unable by reason of illness, leave or any other cause to perform the duties of his office.

(3) The Chief Executive Officer shall have such powers and duties as may be conferred or imposed upon him by this Act or as may be conferred or imposed by the Board from time to time in addition to such powers and duties as may be specified in his contract of appointment.

(4) The Chief Executive Officer shall be responsible for the day to day administration and management of the affairs of the Retirement Fund (Incorporated), including the implementation of the decisions made by the Board and the investment decisions made by the Investment Panel in accordance with section 14 and the administrative control of the employees, officers and servants.

(5) The Chief Executive Officer shall be answerable and accountable to the Board for the exercise of his powers and the performance of his duties.

(6) The Chief Executive Officer shall be paid such remuneration as the Board may determine, with the approval of the Minister.

**Appointment of officer, servant, attorney, agent, etc.**

**10.** (1) Subject to any regulations made under section 12, the Board may from time to time appoint and employ such officers and servants on such terms and conditions as the Board may think fit for carrying out the purposes of this Act and exercise disciplinary control over such officers and servants.

(2) The Board may delegate to any member of the Board, member of a committee or officer, comprising such members or officers or both such members and officers, appointed by it, any of its powers under subsection (1) and that member of the Board, member of a committee or officer shall exercise those powers under the direction and control of the Board.

(3) The officers and servants of the Retirement Fund (Incorporated) shall hold office for such period, receive such remuneration subject to such terms and conditions of service including retirement benefits as may be determined by the Board.

(4) The Board may, by an instrument under its seal, appoint any person in or outside Malaysia to be the attorney or agent of the Retirement Fund (Incorporated) for such purposes and with such powers as the Board deems fit to confer by the instrument.

**Disclosure of interest**

**11.** (1) Any member of the Board, Investment Panel or committee who has or acquires a direct or indirect interest by himself, a member of his family or his associate in relation to any matter under discussion by the Board, Investment Panel or committee shall disclose to the Board, Investment Panel or committee, as the case may be, the fact of his interest and the nature of that interest.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board, Investment Panel or committee, as the case may be, in which the matter is discussed and, after the disclosure, the member—

(a) shall not be present or take part in any discussion or decision of the Board, Investment Panel or committee, as the case may be, about the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board, Investment Panel or committee, as the case may be,

when the matter is discussed or decided upon.

(3) A member of the Board, Investment Panel or committee who fails to disclose his interest as required under subsection (1)

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(4) No act or proceedings of the Board, Investment Panel or committee shall be invalidated on the ground that any member of the Board, Investment Panel or committee has contravened this section.

(5) For the purposes of this section—

“a member of his family”, in relation to a member of the Board, Investment Panel or committee, includes—

- (a) his spouse;
- (b) his parent (including a parent of his spouse);
- (c) his child (including an adopted child or stepchild);
- (d) his brother or sister (including a brother or sister of his spouse); and
- (e) a spouse of his child, brother or sister;

“associate”, in relation to a member of the Board, Investment Panel or committee, means—

- (a) a person who is a nominee or an employee of the member;
- (b) a firm of which the member or any nominee of his is a partner;
- (c) a partner of the member;
- (d) a trustee of a trust under which the member or a member of his family is a beneficiary; or
- (e) any corporation within the meaning of the Companies Act 1965, of which the member or any nominee of his or a member of the member’s family is a director or has a substantial shareholding in the corporation.

**Power of the Board to make regulations**

**12.** (1) The Board may, with the approval of the Minister, make regulations as may be necessary or expedient for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

- (a) with respect to financial and accounting matters, including the keeping, closing and auditing of the accounts of the Retirement Fund (Incorporated) and the creation of its own financial and accounting procedures;
- (b) to prescribe the responsibilities of officers and servants of the Retirement Fund (Incorporated) including matters in respect of remuneration, terms and conditions of service, period of service and leave of its officers and servants;
- (c) with respect to the conduct and discipline of the officers and servants of the Retirement Fund (Incorporated), the establishment of appropriate disciplinary authorities for the different categories of officers and servants. Regulations made under this section may create such disciplinary offences and provide for such disciplinary punishment as the Board may deem appropriate, and the punishment so provided may extend to dismissal or reduction in rank, and may include provisions for the interdiction with reduction in remuneration or the suspension without remuneration of such officer or servant during the pendency of disciplinary proceedings against him;
- (d) with respect to the establishment of committees and the procedure of such committees;
- (e) to regulate its own procedures including the procedure relating to operational matters;
- (f) to prescribe the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Retirement Fund (Incorporated);
- (g) to prescribe the circumstances of emergency as envisaged by subsection 7(3);

- (h) to regulate its own procedures with respect to unclaimed moneys subject to section 15; and
  - (i) to provide for all matters which are required to be prescribed or which are necessary or expedient to give effect to and for the purposes of carrying into effect the provisions of this Act.
- (3) Regulations made under this section—
- (a) may provide that any act or omission in contravention of any provisions shall be an offence; and
  - (b) may provide for the imposition of a fine not exceeding five thousand ringgit or a term of imprisonment not exceeding one year or both for such offence.

### PART III

#### FINANCE

#### **The Retirement Fund**

**13.** (1) A fund to be known as the Retirement Fund is established.

(2) There shall be paid or transferred from time to time into the Fund—

- (a) moneys appropriated from the Consolidated Fund to and for the purposes of the Fund;
- (b) such sums as may be paid from time to time by the Employees Provident Fund Board to the Fund under section 56 of the Employees Provident Fund Act 1991 [*Act 452*];
- (c) all monthly contributions made by employers and organizations to the Fund under section 8 of the Statutory and Local Authorities Pensions Act 1980 [*Act 239*];
- (d) moneys and such other property earned or arising from any investment of the Fund; and
- (e) contributions from pensionable officers as may be prescribed in any law relating to pensions.

(3) The moneys and property referred to in paragraph (2)(d) shall include—

- (a) moneys earned by the operation of any project, agency, scheme or enterprise undertaken by the Retirement Fund (Incorporated);
- (b) any property, investment, mortgage, lease, tenancy, charge or debenture acquired by or vested in the Retirement Fund (Incorporated) and moneys earned or arising therefrom; and
- (c) all other sums or property which may in any manner become payable to or vested in the Retirement Fund (Incorporated) in respect of any matter incidental to its functions, powers or duties.

(4) Notwithstanding subsections (2) and (3), there shall be paid to or vested in the Fund such moneys and property from any source or under any law or as the Minister may approve.

(5) The Fund shall be applied towards the cost of payment of any pension, gratuity or other benefit granted under any written law for officers of the public service and employees of statutory and local authorities in such manner and at such times as shall be authorized by the Minister.

(6) The Fund may be applied towards—

- (a) meeting all payments required to be made under this Act;
- (b) any investment authorized under this Act;
- (c) payments to satisfy any judgment, decision or award by any court or tribunal against the Retirement Fund (Incorporated);
- (d) defraying the expenses, costs or expenditure properly and necessarily incurred by the Board in carrying out its duties;
- (e) the costs and expenses incurred for the establishment, incorporation or acquisition of a corporation or company under paragraph 4(3)(b) or (c);
- (f) remuneration, termination benefits of and the granting of loans and advances to employees, officers or servants of

the Retirement Fund (Incorporated) in accordance with any regulation made under this Act or on such terms as the Board may decide; and

- (g) any administrative cost, expense, expenditure or other payment attributable or incidental to or in connection with the administration and management of the Fund and for carrying into effect the provisions of this Act.

(7) Any person who causes moneys or any property to be paid or transferred out of the Fund in contravention of subsections (4), (5) and (6) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two million ringgit or to imprisonment for a term not exceeding ten years or to both.

### **Investment of the Fund**

**14.** (1) The Investment Panel shall, subject to such restriction or limitation as may be imposed in any direction issued under subsection 7(4), invest the Fund—

- (a) on deposit in the Central Bank of Malaysia, any duly licensed bank or financial institution as defined under the Banking and Financial Institutions Act 1989 [*Act 372*], any development financial institution as defined under the Development Financial Institutions Act 2002 [*Act 618*], any Islamic bank under the Islamic Banking Act 1983 [*Act 276*] and any duly licensed bank or financial institution outside Malaysia in any currency including the ringgit;
- (b) in money market instruments, including treasury bills, bankers' acceptances and certificates of deposit in any currency including the ringgit;
- (c) in loans, on terms remunerative to the Retirement Fund (Incorporated), to the Federal Government or the Government of any State in Malaysia subject to Article 111 of the Federal Constitution;
- (d) in loans, on terms remunerative to the Retirement Fund (Incorporated), in respect of any public authority or corporation in which the Federal Government has an interest;

- (e) in loans, on terms remunerative to the Retirement Fund (Incorporated), in respect of any company;
- (f) in bonds, commercial notes, private debt securities, promissory notes and bills of exchange within the meaning of the Bills of Exchange Act 1949 [Act 204] and other negotiable instruments of similar nature on terms remunerative to the Retirement Fund (Incorporated), in respect of any company or corporation;
- (g) in bonds, commercial notes, private debt securities, promissory notes and bills of exchange within the meaning of the Bills of Exchange Act 1949 and other negotiable instruments of similar nature on terms remunerative to the Retirement Fund (Incorporated), in respect of any public authority or corporation in which the Federal Government has an interest;
- (h) in the acquisition or subscription for shares or debentures in any public company whose securities are listed or have been approved for listing on a stock exchange in Malaysia, the issue or sale of which has been approved under the Securities Industry Act 1983 [Act 280];
- (i) in the securities of companies or corporations which are not listed and quoted on any stock exchange established in Malaysia provided that the total amount of moneys so invested in any one such company or corporation shall not exceed thirty per centum of the total amount of shareholders' funds of that enterprise at the time of the investment unless prior written approval of the Minister is obtained to invest in excess of such percentage;
- (j) in the acquisition of movable or immovable property and interests therein; and
- (k) in any other investment with the approval of the Minister.

(2) In granting any approval under paragraph (1)(i), the Minister may impose such terms or conditions as he may consider necessary.

(3) Any person who causes moneys or any property to be invested in contravention of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two million ringgit or to imprisonment for a term not exceeding ten years or to both.

**Unclaimed moneys**

**15.** (1) Subject to the exemption made under section 18 of the Unclaimed Moneys Act 1965 [*Act 370*], all unclaimed moneys held by the Retirement Fund (Incorporated) shall be entered in a register kept by the Chief Executive Officer.

(2) Notwithstanding any law to the contrary, all unclaimed moneys shall be held under the Fund until those moneys are paid to the persons entitled thereto, being, in respect of an individual person, that individual's heirs, executors, personal representatives, administrators, assigns, lawful attorney or agent.

**Statutory Bodies (Accounts and Annual Reports) Act 1980**

**16.** The provisions of the Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Retirement Fund (Incorporated).

**Annual estimates**

**17.** The Chief Executive Officer shall, not later than one month before the commencement of each financial year, lay before the Board an estimate of the expenditure of the Retirement Fund (Incorporated) including capital expenditure, for the ensuing year in such detail and in the form as the Board may determine.

## PART IV

## GENERAL

**Government's guarantee of payments**

**18.** (1) If any debt or liability of the Retirement Fund (Incorporated) cannot be met out of the Fund, it shall be charged to and payable out of the Consolidated Fund.

(2) Any payment out of the Consolidated Fund under subsection (1) shall as soon as practicable be repaid by the Retirement Fund (Incorporated) to the Consolidated Fund and until such repayment has been made, any such sums outstanding shall be a debt due to the Government and secured by a first charge over the assets of the Fund.

**Attempts and abetments punishable as offences**

**19.** (1) Any person who—

- (a) attempts to commit any offence under this Act or any regulation made under this Act;
- (b) does any act preparatory to or in furtherance of the commission of any offence under this Act or any regulation made under this Act; or
- (c) abets or is engaged in a criminal conspiracy as defined in the Penal Code [Act 574] to commit any offence under this Act or any regulation made under this Act, whether or not the offence is committed in consequence thereof,

shall be guilty of that offence and shall, on conviction, be liable to the penalty provided for the offence.

**Liability of managers, etc.**

**20.** (1) Where any offence under this Act has been committed by a person, who in this section is referred to as the “principal”, any person who at the time of the commission of the offence was in any manner or to any extent responsible for the management of the business or affairs of the principal or was assisting in such management shall be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he has taken all reasonable precautions as he ought to have taken, having regard to the nature of his functions in that capacity, to prevent the commission of the offence.

(2) Where any principal would be liable under this Act or any regulation made under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any of his servants or agents if such act, omission, neglect or default was committed by such servant in the course of his employment or by the agent when acting on behalf of the principal.

**Public servant and protection**

**21.** (1) All members of the Board, Investment Panel, committee, officers and servants of the Retirement Fund (Incorporated) shall be deemed to be public servants within the meaning of the Penal Code.

(2) The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against any member of the Board, Investment Panel, committee, officer and servant of the Retirement Fund (Incorporated) in respect of any act, omission, neglect or default committed by him in such capacity.

**Power to amend Schedules**

**22.** The Minister may by order published in the *Gazette* amend, revoke, add to or vary any Schedule to this Act.

## PART V

## REPEAL, SAVINGS AND TRANSITIONAL

**Repeal of the Pensions Trust Fund Act 1991**

**23.** On the appointed date—

- (a) the Pensions Trust Fund Act 1991 [*Act 454*], which is referred to as the “repealed Act” in this Act, shall cease to have effect and shall be repealed; and
- (b) the Pensions Trust Fund, the Pensions Trust Fund Council and the Investment Panel established under the repealed Act shall cease to exist.

**Continuance of laws, etc.**

**24.** (1) Subject to this Act, all written laws affecting or for the protection of the Pensions Trust Fund and in force immediately before the appointed date shall, until amended or revoked by the authority having power so to do, continue in force on and after the appointed date and be construed as if this Act had not been enacted.

(2) Any reference in any written law to the repealed Act, the Pensions Trust Fund Council or the Pensions Trust Fund shall, unless the context otherwise requires, be construed as references to this Act, the Retirement Fund (Incorporated) or the Fund, as the case may be, and expressions importing such a reference shall be construed accordingly.

#### **Transfer of powers, etc.**

**25.** Subject to this Act, all powers, rights, privileges, duties, liabilities or obligations which immediately before the appointed date were those of the Pensions Trust Fund Council shall as from that date devolve on the Retirement Fund (Incorporated).

#### **Transfer of land and property**

**26.** (1) Subject to this Act, all lands immediately before the appointed date vested in the Pensions Trust Fund Council shall on that date vest in the Retirement Fund (Incorporated).

(2) Subject to this Act and any direction of the Minister, all choses in action, assets and other property whatsoever other than land which immediately before the appointed date were vested in the Pensions Trust Fund Council or in any person on behalf of the Pensions Trust Fund Council shall on that date vest in the Retirement Fund (Incorporated).

#### **Existing contracts**

**27.** Subject to this Act, all deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed date and affecting any of the property transferred under section 26 shall be of full force and effect against or in favour of the Retirement Fund (Incorporated) and enforceable as fully and effectually as if, instead of the Pensions Trust Fund Council, the Retirement Fund (Incorporated) had been named therein or had been a party thereto.

#### **Continuance of civil and criminal proceedings**

**28.** (1) Subject to this Act, neither the repeal of the repealed Act nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under

the repealed Act before the appointed date, or any proceedings brought or sentence imposed before that date in respect of such offence.

(2) Subject to this Act, any proceedings whether civil or criminal, or cause of action pending or existing immediately before the appointed date by or against the Pensions Trust Fund Council or any person acting on its behalf may be continued or instituted by or against the Retirement Fund (Incorporated) as it might have been by or against the Pensions Trust Fund Council or such person as if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the appointed date against a decision given in any legal proceedings before that date to which the Pensions Trust Fund Council was a party may be brought by or against the Retirement Fund (Incorporated).

### **Transfer of Fund**

**29.** Subject to this Act, all moneys standing in, and due to be paid to, the Pensions Trust Fund established under the repealed Act shall on the appointed date be transferred to the Fund.

#### FIRST SCHEDULE

[Paragraph 4(3)(b)]

### **Regulations in respect of corporation**

**1.** The Retirement Fund (Incorporated) shall, on or before the date on which any corporation is established under paragraph 4(3)(b), make regulations in respect of such corporation providing for—

- (a) the purposes and objects for which such corporation is established;
- (b) the rights, powers, duties and functions of such corporation;
- (c) the system of management of such corporation;
- (d) the proceedings and meetings of the corporation, including the quorum required for, and the manner of voting at meetings;
- (e) the finances of the corporation, the accounts to be kept and the audit of the accounts;
- (f) the terms and conditions of service of officers and servants of the corporation;

- (g) the relationship between such corporation and the Retirement Fund (Incorporated) and its rights of control over such corporation; and
- (h) any matters relating to winding up and dissolution of such corporation.

**Effect of regulations**

2. Subject to the provisions of this Act and the order made under paragraph 4(3)(b), any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.

**Amendment of regulations**

3. The Retirement Fund (Incorporated) may, at any time with the approval of the Minister, amend, revoke, add to or vary any regulations made in respect of any corporation under paragraph 1.

**Winding up**

4. (1) The Retirement Fund (Incorporated) may, with the approval of the Minister, by order published in the *Gazette*, direct any corporation established by it be wound up and dissolved.

(2) The extent of the liability of a corporation to its creditors shall be limited to the value of its assets at the time the order of winding up and dissolution comes into force.

(3) Upon the dissolution of any corporation under this paragraph, the assets of the corporation after discharging all its liabilities shall be transferred to and shall vest in the Retirement Fund (Incorporated).

(4) The Retirement Fund (Incorporated) shall not be called upon at any time to meet the liabilities of a corporation in the event that the assets of the corporation are insufficient to meet its liabilities.

**Status of corporation**

5. Every corporation established under paragraph 4(3)(b) shall be a body corporate by such name as the Retirement Fund (Incorporated) shall assign to it. The corporation shall have perpetual succession and a common seal, and may sue and be sued in such name, and may enter into contracts and may hold and deal with any movable or immovable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and shall be subject to such restrictions or limitations as may be prescribed by the Retirement Fund (Incorporated) in each case.

**Common seal**

6. (1) Every corporation shall have a common seal, which shall bear such device as the corporation, with the approval of the Retirement Fund (Incorporated), may approve and such seal may from time to time be broken, changed, altered and made anew by the corporation as the corporation thinks fit.

(2) Until a seal is provided by the corporation under this paragraph, a stamp bearing the name of the corporation encircling the words “Retirement Fund (Incorporated)” may be used as a common seal.

(3) The common seal or the stamp referred to in subparagraph (2) shall be kept in the custody of such person as the corporation shall direct and shall be authenticated by such person.

(4) All deeds, documents and other instruments purporting to be sealed or stamped, authenticated as provided in subparagraph (3), shall until the contrary is proved, be deemed to have been validly executed.

(5) Any deed, document or instrument which, if executed by a person not being a body corporate, is not required to be under seal, may in like manner be executed by the corporation or any officer or servant of the corporation authorized on that behalf.

(6) The common seal of every corporation shall be officially and judicially noticed.

**SECOND SCHEDULE**

[Subsections 6(8) and 7(6)]

**Appointment, revocation and resignation**

1. (1) A member of the Board or the Investment Panel shall, subject to such conditions as may be specified in his instrument of appointment, hold office for a term not exceeding three years and on the expiry thereof, shall be eligible for reappointment.

(2) The appointment of any member may at any time be revoked by the Minister without assigning any reason therefor.

(3) A member may at any time resign his office by a letter addressed to the Minister.

(4) Every member shall devote such time to the business of the Board and the Investment Panel respectively, as is necessary to discharge his duties effectively.

**Vacation of office**

2. (1) The office of a member of the Board or the Investment Panel shall be vacated if—

- (a) he dies;
- (b) there has been proved against him, or he has been convicted on, a charge in respect of—
  - (i) an offence involving fraud, dishonesty or moral turpitude;
  - (ii) an offence under any law relating to corruption; or
  - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) he becomes bankrupt;
- (d) he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) he absents himself from three consecutive meetings without leave of the Chairman of the Board or the Chairman of the Investment Panel, as the case may be; or
- (f) his resignation is accepted by the Minister.

(2) Where any person ceases to be a member by reason of any other provisions of this Act, another person shall be appointed in his place.

**Remuneration**

3. Subject to the approval from the Minister, the members of the Board and the Investment Panel shall be paid such remuneration as the Board from time to time may determine.

**Meetings**

4. (1) The Board shall meet at least once in every quarter of the calendar year.

(2) The Investment Panel shall meet as and when required.

(3) The Chairman and two other members of the Board or the Investment Panel shall form a quorum at any meeting of the Board and the Investment Panel respectively.

(4) The Chairman or, in his absence, the member elected by the members present shall preside over the meetings.

(5) If the votes on any question are equal, the Chairman shall have the casting vote in addition to his original vote.

(6) Any minutes made of meetings of the Board and the Investment Panel shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting in respect of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

(7) Subject to subparagraphs (1), (2), (3), (4) and (5), the Board and the Investment Panel may determine its own procedure.

#### **Investment Panel may invite others to meetings**

5. The Investment Panel may invite any person not being a member of the Investment Panel to attend any of its meeting or deliberation for the purpose of advising it on any matter under discussion but that person shall have no right to vote at the said meeting or deliberation.

#### **Minutes**

6. The Board and the Investment Panel shall cause minutes of all its meetings to be maintained and kept in a proper form.