LEGAL NOTICE NO. 108 OF 1983

Corporate Bodies (Pensions Scheme) Regulations 1983

In exercise of the powers conferred by Section 5(1) of the Pensions Scheme (Corporate Bodies) Act, 1979, I,

Khetla Thabo Joshua Rakhetla

Minister of Finance make the following regulations:

Citation and commencement

1. These Regulations may be cited as the Corporate Bodies Pensions Scheme) Regulations, 1983 and shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

Interpretation

2. In these Regulations, unless the context otherwise requires,

"Actuary" means a person having prescribed actuarial qualifications or a member of a professional actuarial society on institute whom the Minister on application approves;

"Company" means the Lesotho National Insurance Company;

"Corporate body" means any statutory corporation in which the Government has financial interest of fifty per cent or more or any other body in which the said corporation has financial interest of fifty per cent or more or such other body as the Minister may, by notice in the *Gazette*, designate and any other body which is deemed to be a corporate body with the agreement of the Company;

"Financial year" means the period of twelve months ending on the 31st. day of December in each year; and

"Scheme" means the corporate bodies pensions scheme established under regulation 3.

Establishment of Scheme

3. There is established a scheme to be known as the Corporate Bodies Pensions Scheme.

Election

4. A corporate body may elect to join the scheme at any time but shall not withdraw from the scheme except with the consent of the Minister.

Administration

5. The scheme shall be administered by the company.

Records and Accounts

6 The Company shall,

(a) keep proper records of the membership of the scheme; and

(b) keep proper books of account relating to the receipts and disbursements of the scheme in accordance with the Scheme.

Audit

7. As soon as possible after the close of the financial year but not later than three months thereafter, the Company shall submit proper annual accounts for auditing by the Auditor-General.

Revenue account and balanced sheet

8. The Company shall cause to be submitted to the Minister, within six months after the close of the financial year, audited accounts comprising of revenue and expenditure accounts and the balance sheet and shall supply a copy thereof to each corporate body after approval by the Minister.

Receipt into scheme

9. The Company shall receive the following incomes of the scheme:

(a) regular contributions;

(b) special contributions;

(c) transfer contributions;

(d) investment proceeds; and

(e) any other income.

Disbursements

10. The Company shall pay all benefits due from the scheme and debit them to the scheme.

Investment

11. The Company may in the best interests of the scheme make investments on behalf of the scheme in such manner as it deems fit.

Investigation by Actuary

12. The Company shall at intervals of three years, cause the financial condition of the scheme to be investigated by an Actuary, who shall report his findings in writing and make recommendations for the correcting of any surplus that he may have disclosed.

Report to be sent to Minister

13. A copy of the Actuary's report, together with any recommendations that the company may wish to make regarding action on the report shall be submitted to the Minister

Liability of the Company

14. The Company's liability shall be limited solely to the due performance of the functions set out in these Regulations.

Dissolution

15. On the establishment of a general pensions scheme for employees in Lesotho, the scheme shall be closed and its assets and liabilities shall be transferred to the first-mentioned scheme.

Schedule

16. The procedure regarding contributions, disbursements, withdrawals and benefits shall be as laid down in the Schedule.

Repeal of Schedule to L.N. 12 of 1976 and L.N. 58 of 1983

17. The Schedule to the Statutory Bodies Pensions Fund Regulations 1976, and the Corporate Bodies (Pensions Scheme) Regulations, 1983, are repealed.

K. T. J. Rakhetla,
Minister of Finance.

member on his death or on his withdrawal from service or before withdrawal from the scheme by his employer.

Contribution

3. (1) The employer and the employee shall each contribute an amount equal to five per cent of basic salary of the employee to the scheme each month.

(2) The employer shall deduct five per cent of the employee's salary at the end of each month as the contribution due by him and pay the same to the company within ten days after the month to which the salary payment relates.

(3) The employer shall pay to the Company each month,

(a) a management fee calculated at a rate determined from time to time by the company, but not exceeding one fifth of the contributions applicable to that month; and

(b) such additional contributions as the Company may, from time to time, on the advice of the Actuary, determine as being necessary to maintain the solvency of the scheme or to avoid undue subsiding of one employer by another.

(4) Where an employee who becomes a member in terms of rule 2(1) had been employed by a corporate body continuously for a period of one year prior to the date of election by the corporate body to join the scheme, he may contribute a lump sum to the scheme equivalent to the total amount of the contributions which he would have paid had the scheme been operating during that period of one year and the employer shall make an equivalent contribution to the scheme.

(5) The contribution referred to in sub-rule (4) shall be made at the date of commencement of membership or such later date as the Company may allow and shall continue to be paid until retirement or prior cessation of membership.

(6) Where an employer had previously maintained a retirement fund of his staff and wishes to transfer to the scheme the assets accumulated under that fund, the company may, at its discretion, agree to the transfer and shall, in consultation with the Actuary, determine the benefits to be granted therefor, which benefits shall be additional to those provided for in these rules and be specified in a detailed schedule issued by the company to the employer.

Benefits on retirement

4. (1) Subject to these rules, the annual amount of pension payable to a retiring member shall be equal to two per centum of his final average salary, multiplied by the number of years of his pensionable service.

(2) In determining the amount payable under sub-rule (1), fractions of a year of pensionable service shall be taken into account pro rata.

(3) A member shall retire on attainment of the normal retirement date except where he and his employer agree that he may continue in service and retire at the end of any month thereafter.

(4) On retirement a member shall become entitled to a pensionable calculated in accordance with sub-rules (1) and (2).

(5) Notwithstanding subrule (3), a member who has attained the age of 55 years may elect to retire from his employer's service at the end of any month, in which event he shall be entitled to pension payable to a retiring member under subrules (1) and (2) reduced by one quarter per centum for each complete month between the date he actually retires and the normal retirement date.

(6) A member who has not attained the normal retirement date but who, on account of ill-health, has, in the opinion of the company, been compelled to retire shall be entitled to pension payable to a retiring member under subrules (1) and (2):

Provided that that member may, in writing prior to the commencement of payment of the pension elect to receive in lieu thereof a lump sum equal to twice the total amount of contributions he has paid to the scheme plus two per centum of such total amount for each complete year of payment of such contributions.

(7) A member retiring on account of ill-health shall, on re-commencement of work with the employer, be regarded as a new entrant to the scheme and he shall retain any benefits already paid under subrule (6) but he shall not be entitled to any further payments of ill-health pension unless the company directs that such pension may be continued in whole or in part.

(8) Notwithstanding anything to the contrary in sub-rules (1) to (7) where a member has attained the age of 50 years prior to the date of commencement of his membership, the pension referred to in subrule (1), (2), (3), (4), (5), (6) or (7) shall, as the case may be, be payable subject to a maximum of the amount of pension that may be purchased by the accumulation with interest of twice the contributions paid to the scheme by the member.

(9) The amount of pension referred to in sub-rule (8) shall be calculated by the actuary at a rate of interest to be determined by the company on the advice of the actuary.

Payment of pension

5. (1) Payments equal to one twelfth of the annual amount of pension shall be paid monthly.

(2) Subject to rule 6(1) the first payment shall be made at the end of the month following the month in which a member retires and the last payment shall be made at the end of the month in which his death occurs:

Provided that where the death of a member occurs before sixty monthly payments of pension have been made, the deceased member's legal representative shall continue to receive the pension until sixty monthly payments have all been made.

(4) On retirement a member shall become entitled to a pensionable calculated in accordance with sub-rules (1) and (2).

(5) Notwithstanding subrule (3), a member who has attained the age of 55 years may elect to retire from his employer's service at the end of any month, in which event he shall be entitled to pension payable to a retiring member under subrules (1) and (2) reduced by one quarter per centum for each complete month between the date he actually retires and the normal retirement date.

(6) A member who has not attained the normal retirement date but who, on account of ill-health, has, in the opinion of the company, been compelled to retire shall be entitled to pension payable to a retiring member under subrules (1) and (2):

commencement of payment of the pension elect to receive in lieu thereof a lump sum equal to twice the total amount of contributions he has paid to the scheme plus two per centum of such total amount for each complete year of payment of such contributions.

(7) A member retiring on account of ill-health shall, on re-commencement of work with the employer, be regarded as a new entrant to the scheme and he shall retain any benefits already paid under subrule (6) but he shall not be entitled to any further payments of ill-health pension unless the company directs that such pension may be continued in whole or in part.

(8) Notwithstanding anything to the contrary in sub-rules (1) to (7) where a member has attained the age of 50 years prior to the date of commencement of his membership, the pension referred to in subrule (1), (2), (3), (4), (5), (6) or (7) shall, as the case may be, be payable subject to a maximum of the amount of pension that may be purchased by the accumulation with interest of twice the contributions paid to the scheme by the member.

(9) The amount of pension referred to in sub-rule (8) shall be calculated by the actuary at a rate of interest to be determined by the company on the advice of the actuary.

Payment of pension

5. (1) Payments equal to one twelfth of the annual amount of pension shall be paid monthly.

(2) Subject to rule 6(1) the first payment shall be made at the end of the month following the month in which a member retires and the last payment shall be made at the end of the month in which his death occurs:

Provided that where the death of a member occurs before sixty monthly payments of pension have been made, the deceased member's legal representative shall continue to receive the pension until sixty monthly payments have all been made.

Right of widow or windower on death of member

6. (1) Where a male member receiving a pension dies leaving a widow, she shall be entitled to,

(a) a monthly pension equal to one half of the monthly pension payable to the member; and

(b) monthly payments payable under the proviso to rule 5.

(2) The first payment of the widow's pension shall be made at the end of the month following the month in which the member's death occurred or, if later, the end of the month following the month in which the sixtieth monthly payment was made.

(3) The last payment of the widow's pension shall be made at the end of the month in which she dies or remarries but in the event of either the death or remarriage taking place before the youngest surviving child of the deceased member has attained the age of eighteen years, the widow's pension shall continue to be paid to the legal guardian of that child until the end of the month in which the child attains the eighteenth birthday or dies, whichever is earlier.

(4) Where the child referred to in subrule (3) dies before attaining the age of eighteen years but another child of the deceased member who is under the age of eighteen years exists, the pension which would have been payable had the first mentioned child survived shall be payable to the legal guardian of the second-mentioned child.

(5) The legal guardian of the child shall apply any payments of the widow's pension payable under this rule for the benefit of all surviving children of the deceased member for so long as they are under the age of eighteen years.

(6) Where the deceased member is survived by more than one widow, the benefits payable to a widow under this rule shall be apportioned equally among all the widows.

(7) The amount so apportioned to a widow shall be paid to her and in respect of her children as if she were the sole widow in terms of this rule.

(8) Where a female member receiving a pension dies and is survived by a widower, the provisions of this rule shall apply *mutatis mutandis*.

Election to commute pension for lump sum

7. (1) A retiring member may elect to commute up to one-third of his pension for a lump sum or the whole of his pension if it amounts to less than M240 per annum.

(2) A retiring member wishing to commute his pension for a lump sum may apply in writing to the company not later than the end of the month following the date of his retirement or such other date as the company may, in its discretion allow, and such lump sum shall be calculated by the Actuary.

Benefits on death in Service

8. (1) Where a member dies while in the service of an employer but prior to the normal retirement date there shall be paid to his legal representative a lump sum equal to 4 times his annual rate of salary applicable at the date of his death or if greater, twice the amount of benefit referred to in rule 9(1).

Withdrawal of employer

11. Where an employer ceases participation in the scheme, the company shall, with the advice of the actuary, determine the portion of the assets of the scheme attributable to the members employed by that employer and apply it for the benefit of those members in such manner as it sees fit, having due regard to rule 9(7).

Unforseen Circum-stances

12. Where a contingency otherwise not provided for in these rules arises, the decision of the company if not inconsistent with these rules shall be final and binding on all parties.

Non-assignabi-lity of benefits

13. A member shall not assign, transfer, pledge, hypothecate or cede his benefits or his rights to benefit in the scheme but where a member attempts to do so the benefit may be withheld, suspended or discontinued by the company.

Provided that the company may pay the whole or part of the benefit to one or more of the member's dependants during that period.

Khetha Joshua T. Rakhetla,
Minister of Finance.