Statutory Instrument No. 101 of 1988

INCOME TAX ACT
(Cap. 52:01)

INCOME TAX (SUPERANNUATION FUNDS) REGULATIONS, 1988

(Published on 23rd September, 1988)

ARRANGEMENT OF REGULATIONS

REGULATION

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 131 of the Income Tax Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Income Tax (Superannuation Funds) Regulations, 1988. Citation

2. (1) An "Approved Superannuation Fund or Scheme" means a fund or scheme, as the case may be, that meets with the following criteria and has been approved by the Commissioner — Definition of approved superannuation fund

(*a*) the "Fund" shall be registered as a pension or retirement annuity fund under the Pensions and Provident Funds Act when that Act is brought into force and shall be a legal person whose assets are separate from the assets of any employer or any member of the Fund;

(*b*) the "Scheme" must —

(i) where it permits participation by persons who fall within the meaning of the term "residents" in the Exchange Control Act, be a scheme established and administered by a Long Term Insurer as defined by the Insurance Industry Act, and

(ii) where it is a scheme for "temporary residents" within the meaning of that term in the Exchange Control Act, be a scheme established and administered by and insurer approved by the Commissioner:

Provided that the criteria stated in this paragraph shall not apply to contributions already authorised by the Commissioner to foreign based funds or schemes;

(*c*) any annuities purchased by a retirement annuity fund on behalf of a "resident" within the meaning of that term in the Exchange Control Act, shall unless it is purchased from itself be purchased from a Long Term Insurer registered under the Insurance Industry Act;

(*d*) subject to paragraph (*f*), the rules of a fund or scheme shall not except in cases of proven ill health, permit the retirement of a member before he or she has reached the age of 55;

(*e*) the rules for a fund or scheme may —

(i) allow a member to commute up to 25 per cent of his pension on retirement,

(ii) provide for the payment of a death benefit (inclusive of any funeral benefit) to the dependants or estate of a member, so however that where the deceased member is a member of an occupational pension fund or scheme the benefit does not exceed four times the annual eligible emoluments of the member at the date of his death or four times his anual pension in the case of a pensioner or, where the death benefit is provided by the fund or scheme other than an occupational pension fund or scheme, by purchase of life insurance, the premium paid by the fund does not exceed 7,5 percent of the total annual contributions made to the said fund or scheme,

(iii) permit the payment to the dependants or the estate of a deceased member, other than to the dependants or the estate of a deceased pensioner, of all the contributions made by him or on his behalf together with any return on the investment of such contributions,

(iv) provide for the payment of widow's or widower's pension of up to 50 per cent, an orphans pension of up to 25 per cent per child and a dependants pension of up to 10 per cent per dependant of the pension which the deceased member would have been entitled to had he retired at the date of his death or was receiving at the time of his or her death, so however, that the total benefits paid shall not exceed 100 per cent of such deceased member's pension,

(v) not permit the return of contributions to a member or former member except as provided for in sub-paragraphs (i) and (ii) above or of a sum not exceeding P2000, by way of a return of contributions with interest payable under the rules, to a member of an occupational pension fund or scheme who leaves the employment of a contributing employer, so however that, where such member is entitled to a greater sum, he may only on retirement or approve the transfer of the said sum to another approved fund or scheme or authorise the utilisation of such sum towards the purchase of a pension under another approved fund or scheme,

(vi) where the pension payable to a pensioner, a widow, widower, orphan or dependant is less than P500 per annum, provide for the commutation, with the approval of the Commissioner, of the entirety of such pension to a single lump sum payment.

(*f*) where the fund or scheme is a fund or scheme created for the provision of pension benefits for the employees of a particular employer, employment under whom is the sole criterian for membership, and the employer contributes a minimum of 51 per cent of the total contributions made to the said fund or scheme (hereinafter referred to as an "occupational fund or scheme"), the employee may with the consent of the employer, retire at any time after he reaches the age of 50.

Cessation of approval of superannuation fund

3. An approved superannuation fund or scheme shall cease to be an approved fund or scheme, as the case may be, if its rules are amended and such amendment is not approved by the Commissioner.

MADE this 14th day of September, 1988.

P.S. MMUSI,
Vice-President and Minister of Finance and Development Planning.

L2/7/113 III