

PENSION AND PROVIDENT FUNDS ACT
(Cap. 27:03)

**PENSION AND PROVIDENT FUNDS (AMENDMENT) (No. 2)
REGULATIONS, 2008**

(Published on 19th December, 2008)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Substitution of regulation 32 of Cap. 27:03 (Sub. Leg.)
3. Substitution of regulation 33 of the Regulations

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 34 of the Pension and Provident Funds Act, the following Regulations are hereby made –

1. These Regulations may be cited as the Pension and Provident Funds (Amendment) (No. 2) Regulations, 2008. Citation

2. The Pension and Provident Funds Regulations (hereinafter referred to as (“the Regulations”)) are hereby amended by substituting for regulation 32 the following new regulation – Substitution of regulation 32 of Cap 27:03 (Sub. Leg.)

“Cession or pledge of benefits 32. (1) Subject to subregulation (2), a member of a fund may, for the purpose of security for –

(a) a loan referred to in subsection 4 of section 18 of the Act; or

(b) money borrowed from his employer, cede or pledge his rights to any benefits from the fund in writing, as the Registrar shall approve.

(2) A member of a fund shall not cede or pledge rights to any benefits, in terms of subregulation (1), exceeding –

(a) 33 $\frac{1}{3}$ per cent of his benefits payable from a fund in the case of a member who has retired or was retrenched; or

(b) 25 per cent of his benefits payable from a fund in the case of a member who has resigned or whose employment has otherwise been terminated.

(3) Except as is otherwise provided for in subregulation (1) –

(a) no right to a benefit payable from a fund shall be capable of being ceded, pledged or hypothecated or be liable to be attached or be subject to any form of execution under a judgment or order of a court; and

(b) any purported cession, pledge or hypothecation of a right to any benefit payable from a fund shall be disregarded by the fund.

(4) If the estate of any member of a fund or any beneficiary of a former member is sequestrated or assigned, his right from the fund shall not form part of the assets of his insolvent or assigned estate.”.

3. The Regulations are amended by substituting for regulation 33 the following new regulation – Substitution of regulation 33 of the Regulations

“Withholding of benefits in certain circumstances 33. (1) The Registrar may authorize the fund in writing to withhold any benefits payable to a member until such time as any –

(a) outstanding loan from the fund or money borrowed from the employer in terms of regulation 32 (1), together with the interest has been repaid; or

(b) loss suffered by the employer due to the dishonesty of the member, which has resulted in the member being discharged from employment, has been repaid.

(2) Subject to subregulation (3), where any benefits have been withheld in terms of subregulation (1), the Registrar may authorize the fund in writing to utilize the benefits so withheld or such portion thereof as is required for the purpose of making the repayments, or portion thereof, and if the benefit is payable in the form of a pension, he may authorize the commutation of the pension or a portion thereof for that purpose.

(3) The Registrar may authorize procedures between a fund and an employer to facilitate the realization of an employee's indebtedness with a fund."

MADE this 9th day of December, 2008.

B. GAOLATHE,
*Minister of Finance and Development
Planning.*