Zambia Institute of Chartered Accountants

Comments on the National Pension Scheme Amendment Bill N.A.B No. 21 of 2022

ZiCA

1.0Introduction

The Zambia Institute of Chartered Accountants (ZICA) is a professional membership body whose function, among others, is to advise Government on matters of national and economic development. The Institute is also mandated to develop, promote and enforce internationally comparable practice standards in Zambia as well as protect and assist the public in all matters relating to the practice of accountancy. With this mandate in mind, our Comments on the National Pension Scheme Amendment Bill N.A.B No. 21 of 2022 have been made with full cognizance of our obligations as promulgated in the Accountant Act as well as our professional resolve to act in the public interest.

1.1 We are privileged to be invited to make oral and written submissions to the Committee on National Economy, Trade and Labour Matters on the consideration of the National Pension Scheme Amendment Bill No. 21 of 2022.

2.0Objectives of the Bill

The objectives of this Bill are to —

a) revise the penalty rate for delayed payment of contributions;
a) provide for a waiver of penalties arising from delayed payment of contributions;
a) provide for an option to claim for age benefits by a member under pensionable age under the existing fund; and
b) provide for matters connected with, or incidental to, the foregoing.

3.0**Comments on the Bill**

We provide the detailed analysis on the proposed National Pension Scheme Bill No. 21 of 2022 as stated below:

3.1 AMENDMENT OF SECTION 15(A) OF THE PRINCIPAL ACT

I. in subsection (2), by the deletion of the word "twenty" and the substitution therefor of the word "ten"; and

Recommendations

The proposed amendment is welcome but the quantum seems to be too high. Whatever, the amendment is trying to cure may not be cured by reducing the penalty rate from 20 percent to 10 percent, without understanding the problems that have been causing employers to remit NAPSA contributions late.

Without much information, we would assume that the majority cases of late submission were due to financial reasons as most of the business were not doing fine in the past years.

We suggest that the rate be further reduced to 5% or less and the qualifying period for the penalty should only apply after 30 days of the contributions remaining unpaid.

II. by the insertion of the following new subsection immediately after subsection (2):

> ***Despite subsection (2), the Authority may waive a penalty incurred by a contributing employer on conditions that the Minister may, by statutory instrument, prescribe.***

Recommendations

The drafters would have incorporated the conditions required for an employer to qualify and apply for a waiver of penalties. Leaving it to the Minister to issue another statutory instrument (SI) is unnecessary bureaucracy. A leaf could be taken from the tax laws that have put most Ministerial delegated authority to the Commissioner General of ZRA.

This amendment is trying to cure an outcry from employers on the high penalty rate. It has fundamentally ignored how NAPSA will deal with the accumulated past penalties sitting on the employer accounts. The way the NAPSA Act was drafted leaves much powers to the Minister to prescribe on what the Authority can or cannot do, including operational and administrative matters.

Consideration in the statutory instrument (SI) should be given on how to treat outstanding accumulated past penalties on employer accounts. Further Consideration should be made in the SI to give NAPSA authority to carry out periodic Amnesty on penalties ONLY, on conditions that may be prescribed, such as, if the employer pays all outstanding contributions etc.

3.2 REPEAL AND REPLACEMENT OF SECTION 39

I. The principal Act is amended by the repeal of section 39 and the substitution therefor of the following:
(1) Despite section 11 (1), a person, who before the commencement of this Act, was under
Pensionable age and was a member of the existing fund, may be paid a one-off age benefit under the existing fund where that person —

(a)attains a minimum age of thirty-six; and
(b)has made contributions to the existing fund

Recommendations

We welcome the proposal but consideration for the age should be taken seriously and we would propose an age of 40 years as a pre-qualification. Without much debate, it has been observed that when a man (or woman) attains forty years, his/her intellect, understanding and patience reach the level of maturity, with a few exceptions. An individual tends to be more responsible after the age of 40.

II. Subsection 2 proposes that "A person who receives a payment under subsection (1) shall not be entitled to a further payment of a benefit under the existing fund".

Recommendations

This provision is currently not clear as it implies that once a person draws down the lump sum pension, they are not entitled to any other further benefit, whether another partial drawdown or pension benefit at retirement, unless clarified elsewhere in the Act or statutory instrument (SI).

The bill is silent and not clear as to whether a person who has made a drawdown will continue to make a contributions to the fund after thereby entitling them or expecting a further benefit in future either by way of another lumps drawdown before retirement or a pension benefit after retirement. This GREY AREA NEEDS CLARIFICATION before enactment into law.

The bill is again silent as to how much or proportion of the contributions can a member apply to drawdown and whether or not there are any restrictions or not and what the restrictions would be.

Furthermore, what are the member's rights in exercising their option to make a drawdown? e.g. if a member wants to withdraw everything they have contributed or if they wish to no longer be part of the fund after the drawdown?

III. The Minister may, by statutory instrument, precribe —

(a) the conditions for qualification of entitlement for a benefit under this Part in respect of a member who is above a prescribed age on the day the Act comes into force;

Recommendations

As pointed out in above, the bill has again left it to the Minister to prescribe the conditions for qualification for entitlement to a benefit for partial drawdown as well as how much a person can withdraw. In the current form, the bill has caused emotional excitement despite not being privy to the method of calculating the minimum and maximum amount that can be withdrawn and conditions attached.

3.3 OTHER COMMENTS ON THE PENSION REFORMS

There has generally being some form of discontent with the current NAPSA retirement benefit scheme and mostly it stems from the formula for determining the final benefit which has been viewed by many people as falling short of people's expectations of a getting a decent living wage after retirement. Additionally;

a) It is ZICA's considered view that an opportunity has arisen to address most of the issues surrounding NAPSA Pension Scheme. To focus on amending only **Section 11 and 39** of the Principal Act seems to fall short of stakeholder expectations who are desirous to see robust reforms regarding NAPSA pension administration in Zambia. Therefore, a holistic approach towards pension reforms was required after careful review of the existing fund bottlenecks, operational challenges, benefit calculations, investment strategy and corporate governance issues surrounding NAPSA.

b) The second matter has had to do with lack of public financial disclosures of NAPSA's financial statements. Lack of this transparency has resulted in a lot of speculation from the public including unwarranted attacks on the institution. This opportunity to amend the Act would have been the best time to address the issue of NAPSA's publication of financial statements, a similar move as provided for in the Public Finance Act that govern other government wings.

c) The third issue has to do with how ready is NAPSA management to implement this amendment if passed into law?
    i. How will the institution's current and future investment strategy be impacted by this? Will it require to amend the Investment guidelines?
    ii. Has NAPSA done any internal analysis or scenarios on how they will meet the immediate cash outflow, if say 40%, 50% or 60% of members opt for immediate drawdown?
    iii. How will existing pension payments be impacted by this new set of beneficiaries and not pose operational challenges to the existing long waiting list of accessing the retirement benefits?

d) Financial literacy will be key to reduce the risk of wastage of early withdrawals. From experience during ZCCM Privatization we know that future search program had its failures. Hence we advise that the financial literacy program be implemented before the early withdrawals option is launched. We should not rush or under estimate this risk.

e) The actuarial deficit was about K31bn according to the 2018 Audited reports. It is not clear what impact these changes will have on this deficit. It should be clarified.

f) Government needed to provide a paper to support its rationale to introduce the NAPSA amendment bill and NAPSA reforms.

When fundamental changes are made to labour policies it is expected that it should be accompanied by a public paper with an analysis of the social-economic impact of the changes. This would include analysis on:

a. actuarial deficit,
b. financial impact on NAPSA,
c. Financial and social impact on NAPSA members,
d. scenario analysis on different levels of withdrawals and associated risk analysis,
e. change management strategy and financial literacy strategy,
f. how will investment strategy change to avoid past bad investment decisions

4.0 Conclusion

We appreciate the opportunity to provide the Institute's position on the National Pension Scheme Amendment Bill N.A.B No. 21 of 2022. Our view as ZICA is that Much more consultation is required if pension reforms are meant to address current real or perceived problems at NAPSA. In the current form, it appears to offer a short sighted solution and not futuristic solution. We trust that the submissions have been insightful and will be favourably considered.