

CHAPTER 178
SUPERANNUATION AND OTHER TRUST FUNDS (VALIDATION)

ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 178

**SUPERANNUATION AND OTHER TRUST FUNDS
(VALIDATION)**

**An Act to amend the law relating to perpetuities
as respects certain benefit trust funds.**

*5 cf 1967
E L A O, 1974*

[Commencement 7th April, 1967]

1. This Act may be cited as the Superannuation and other Trust Funds (Validation) Act.

Short title.

2. In this Act, unless the context otherwise requires —
“actuary” and “auditor” mean persons having such qualifications as may be approved by the Minister;

Interpretation.

“Minister” means the Minister responsible for National Insurance;

E L A O, 1974

“Registrar” means the Registrar General; and “trust”, for the purpose of any application made or intended to be made for the registration under this Act of any fund or proposed fund, includes any trust which before such registration may be void by reason of the rule of law relating to perpetuities, and the expression “trustee” may be construed accordingly.

3. The rule of law relating to perpetuities shall not apply, and shall be deemed never to have applied, to the trusts of any fund registered under this Act (hereinafter referred to as a “registered fund”).

Registered funds not subject to rule against perpetuities.

4. Subject to the provisions of this Act, any fund established under trusts subject to the laws of The Bahamas, or of any country of the Commonwealth or of the United States of America, in connection with an undertaking or combination of undertakings carried on wholly or partly in The Bahamas, being a fund of which the main purpose is either —

Qualifications for registration.

(a) the provision of superannuation allowances on retirement to persons employed in that undertaking or combination; or

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- (b) the provision of pensions during widowhood to the widows of persons who are or have been so employed and of periodical allowances to or for the children of such persons; or
 - (c) the assurance of capital sums on the death of persons who have been so employed,

shall be qualified for registration under this Act if the rules of the fund comply with the requirements specified in the Schedule to this Act.

Schedule

Procedure on
registration

5. (1) Applications for the registration of any fund under this Act shall be made in writing to the Registrar, signed by the trustees of the fund, and shall specify the address of the fund where communications may be sent to the secretary or, in the case of a fund where the secretary is resident outside The Bahamas, an address within The Bahamas where communications may be sent and shall be accompanied by two copies of the rules of the fund and a list of the trustees thereof with their addresses.

(2) Upon receipt of an application duly made, the Registrar shall, if he is satisfied that the fund is qualified for registration, register the fund by entering in the register the address of the fund and the names and addresses of the trustees.

(3) A fee of twenty dollars shall be payable upon the registration of a fund.

(4) The registration of a registered fund shall not be cancelled unless and until the fund is wound up, but, within fourteen days after the completion of the winding up of any such fund, trustees shall send notice thereof in writing to the Registrar, and upon receiving such notice the Registrar shall, if he is satisfied that the fund has been duly wound up, cancel the registration of the fund.

(5) Upon the registration of any fund, the Registrar shall issue a certificate of registration and any document purporting to be a certificate issued under this subsection and to be signed or sealed by the Registrar shall be received in evidence and be deemed to be so issued, signed or sealed without further proof unless the contrary is shown, and shall be conclusive evidence of the fact certified.

6. (1) No amendment in the rules of a registered fund shall be valid until it has been registered, and it shall be the duty of the trustees, within twenty-one days of the making of a proposed amendment in the rules, to apply for the registration of the amendment by sending an application in writing to the Registrar signed by the secretary of the fund and accompanied by two copies of the proposed amendment signed by a trustee.

Amendment of
roles of registered
fund

(2) The Registrar shall register the amendment if he is satisfied that the rules as thereby amended would not have disqualified the fund for registration under this Act.

7. It shall be the duty of the secretary of a registered fund to notify the Registrar in writing of any change in the address of the fund or in the names or addresses of any trustees and the Registrar shall, on receipt of any such notification, amend the register accordingly.

Changes of
address of fund
or of trustee

8. (1) The trustees of every registered fund shall, once in every year, cause to be prepared a statement of accounts and balance sheet of the fund which shall be audited by an auditor, and shall at least once in every five years cause an investigation and report to be made by an actuary as to the financial condition of the fund.

Accounts and
reports of
registered funds

(2) A copy of every statement, balance sheet and report prepared in accordance with this section and signed by the auditor or actuary, as the case may be, and by the secretary of the fund shall be sent to the Registrar within twelve months after the close of the period to which it relates.

9. The Registrar may require any person being a trustee, secretary or officer of any registered fund or any fund in respect of which application for registration has been made, to furnish any information or explanation which may be necessary for the proper exercise of his functions under this Act.

Supplementary
powers of
Registrar

10. The Registrar shall in every year prepare a report of his proceedings under this Act and a copy of such report shall be laid by the Minister before each of the Houses of Parliament.

Reports to
Legislature

11. (1) If default is made in respect of any registered fund in complying with any of the requirements of this Act, every trustee and the secretary of such fund shall be

Penalties for
defaults

guilty of an offence unless he proves that the default occurred without his consent or connivance and was not facilitated by any neglect on his part.

(2) If any person lawfully required by the Registrar under this Act to furnish any information or explanation which could with reasonable diligence be furnished by him, makes default in complying with such requirement within thirty days after written notice thereof has been delivered to him, he shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding twenty dollars and in the case of a continuing default to a further fine not exceeding twenty dollars for each week during which the default continues.

SCHEDULE (Section 4)

The rules of a fund qualified for registration under this Act must provide for all the following matters —

1. The whole of the objects for which the fund is established.
2. The appointment and removal of trustees and a secretary.
3. The vesting in the trustees of all the property of the fund.
4. The investment in the names of the trustees of all capital monies belonging to the fund and for authorising the investments, if any, in addition to those authorised by law, in which the trustees may invest such monies.
5. The making of contributions to the fund by the employers of persons employed on the undertaking or combination of undertakings in connection with which the fund is established.
6. The contributions payable to the fund, and the rates of benefit payable thereout or the method of calculating the benefits so payable.
7. The conditions upon which persons may become and may cease to be respectively contributors to and entitled to benefits from the fund.
8. The circumstances in which the fund may be wound up and the manner in which the assets are in that event to be applied.
9. The method by which the rules may be amended.
10. The preparation of all statements of account, balance sheets and reports required by this Act to be prepared.
11. The supply on demand to any person having any rights in the fund, of a copy of the rules and of all amendments thereto and of the latest statement of account, balance sheet and report prepared in accordance with the provisions of this Act.