18. Any penalties waived on unpaid contributions under this Act shall be net of the interest due to a member's account and expenses incurred.

19. In relation to daily paid workers, the employer shall deduct and remit their contributions in accordance with the provisions of the Act.

20. Where a contract of service provides for gratuity, the employer shall deduct and remit contributions in accordance with the Act, Provided that an employer may deduct its portion of contribution from the gratuity amount payable to the employee.

21. Except as otherwise prescribed, any notice or document required or authorized to be given to any person by the Board under these Regulations, shall be deemed to have been given or sent if it was sent by post or electronic mail to that person at the last known address of that person.

PART III – MANAGEMENT OF VOLUNTARY CONTRIBUTORS

22. No penalty may be levied on late payments received from the self-employed and voluntary contributors.

23. No contributions may be credited into a voluntary member’s account in arrears.

Made on the 10th June, 2014.

KAZUNGU KAMBI,
Cabinet Secretary for Labour, Social Security and Services.

LEGAL NOTICE NO. 81

THE NATIONAL SOCIAL SECURITY FUND ACT
(No. 45. of 2013)

IN EXERCISE of the powers conferred by section 68 of the National Social Security Fund Act, 2013, the Cabinet Secretary for Labour, Social Security and Services makes the following Regulations—

THE NATIONAL SOCIAL SECURITY FUND (MANDATORY REGISTRATION) REGULATIONS, 2014

PART I – PRELIMINARY

1. These Regulations may be cited as the National Social Security Fund (Mandatory Registration) Regulations, 2014.

2. These Regulations shall apply to any person, including—
(a) all employers; and
(b) all employees.
3. In these Regulations, unless the context otherwise requires—

"approved form" means such forms as the Managing Trustee may, from time to time, approve for the purposes of making application for registration.

4. A member of the Previous Fund other than a member making voluntary contributions shall at the commencement of these Regulations be deemed to be a registered member of the Pension Fund.

5. (1) Subject to the provisions of the Act, an employee who, on or after the commencement of these Regulations, is employed by an employer who operates business in Kenya and;

(a) is working in Kenya;
(b) is a citizen of or ordinarily resident in Kenya;
(c) ordinarily resident in Kenya and is employed outside Kenya
(d) has attained the age of eighteen years; and
(e) has not attained the age of sixty years on the appointed date,

shall register with the Fund and contribute as an employee in accordance with the provisions of the Act and these Regulations.

(2) Subject to the provisions of the Act, an employer who operates business in Kenya, on or after the commencement of these Regulations, shall register with the Fund and contribute as an employer in accordance with the provisions of these Regulations.

PART II—REGISTRATION OF EMPLOYERS AND EMPLOYEES

6. (1) An employer eligible to be registered under regulation 5(2) shall apply for registration not later than thirty days of becoming an employer by completing and forwarding to the Managing Trustee an application in the prescribed and approved form.

(2) The Managing Trustee shall issue the employer with a registration number.

(3) All documents prepared by the employer shall bear the employer’s registration number.

(4) An employer who before or on the commencement of these Regulations was registered as an employer under the Previous Fund shall be deemed to be registered under these Regulations.

(5) A business entity or organization which consists of several branches, departments, sections, sub-offices, depots, sites, stores or other units, whether situated in the same place or in different places, under single management, shall for the purpose of the Act and these Regulations be deemed to be one management and control.

(6) A business entity or organization which consists of several branches, departments, sections, sub-offices, depots, sites, stores or other units, whether situated in the same place or in different places,
under independent management, shall for the purpose of the Act and these Regulations shall be deemed to be separate employers.

7. The employer applying for membership shall furnish the Fund, in writing, with the information required in the application form.

8. (1) An employer shall, immediately after registration and also on taking on any new employee, direct every employee or the new employee including a daily paid worker to complete an application in the prescribed form.

(2) An employer shall sign or stamp every application form completed by an employee under regulation 8(1) and forward it to the Managing Trustee.

(3) The Managing Trustee may, with the approval of the Board, require the registration of employees in a manner other than that specified in these Regulations and may among other things—

(a) prescribe forms for recording particulars of employees;

(b) direct preparation; and

(c) issue identification documents and require submission of returns by employers.

9. An employee applying for membership shall furnish the Fund in writing, with the information required in the application form.

10. (1) The Managing Trustee shall cause membership card in the prescribed form, to be prepared and issued to the member or forwarded to the member through the employer.

(2) The Board may adopt the Universal Government Identification Card number to be the membership number.

(3) The Managing Trustee shall provide a membership number for the applicant which shall be entered on the membership card.

(4) An employer to whom such membership card is sent shall forthwith hand it or cause it to be handed over to the employee concerned, or, if the employee is no longer in his employment, the employer shall return it to the Fund without delay.

(5) All membership cards shall remain the property of the Fund.

11. An employee who is already a member of the Fund shall produce the membership card to every new employer, or where the card is lost, the employer shall produce such other evidence of the membership and registration number as he may possess.

12. An employer to whom the Act applies shall, sixty days before ceasing to be an employer inform the Managing Trustee of the date of cessation.

13. The Managing Trustee may, upon receipt of notice under regulation 12 or upon being satisfied that a person has ceased to be an employer, cancel the registration of that person as an employer.
14. A person shall not deliberately destroy, deface, amend or erase any membership card

15. Where a membership card of any member is destroyed, lost or defaced the member shall apply to the Managing Trustee for a new card and the Managing Trustee, on being satisfied as to such destruction, loss or defacement, shall issue a new card upon payment of a fee of two hundred shillings and which may be revised by the Managing Trustee from time to time.

16. (1) An employer shall without delay notify the Managing Trustee of any change of physical address, postal address and telephone contacts.

   (2) An employer shall notify the Fund when a contributing member first enters or ceases to be in his employ and such further information as the Managing Trustee may require for the purpose of tracing such member.

17. A person who has a membership card containing any particulars which are to his knowledge incorrect shall forthwith inform the Managing Trustee so that a fresh membership card may be issued.

18. A person in possession of more than one membership card relating to the same person shall forthwith surrender both cards to the Managing Trustee provided that the Managing Trustee shall forthwith issue a new card.

19. On the death of a member, any membership card in the custody or possession of any person including an employer shall immediately be forwarded to the nearest office of the Fund.

20. Any person who finds a membership card shall forthwith deliver it to a responsible officer at a police station, post office or the nearest office of the Fund.

PART IV – OBLIGATIONS OF EMPLOYEES AND EMPLOYERS

21. (1) An employee shall provide his employer, on request, with such personal particulars as may be required for the purpose of these Regulations and the employee shall be responsible for the accuracy of the particulars so provided.

   (2) An employee shall be responsible for the safety of his membership card and shall secure replacement from the Managing Trustee if the card is destroyed, lost or defaced.

22. (1) An employer shall ensure that every employee in his employment who is eligible to register is registered not later than thirty days of the date of commencement of the employment.

   (2) An employer shall, notify the Managing Trustee of the happening of any event which the Board may, from time to time, specify.

23. (1) Every contributing employer shall keep a written record of Fund membership number and records of earnings of each of his contributing employees.
(2) The Fund shall keep a record of an employee for a period of ten years after the Fund fully discharges its obligations to the member.

Made on the 10th June, 2014.

KAZUNGU KAMBI,
Cabinet Secretary for Labour,
Social Security and Services.

LEGAL NOTICE NO. 82

THE NATIONAL SOCIAL SECURITY FUND ACT

(No. 45. of 2013)

IN EXERCISE of the powers conferred by section 68 of the National Social Security Fund Act, 2013, the Cabinet Secretary for Labour, Social Security and Services makes the following Regulations—

THE NATIONAL SOCIAL SECURITY FUND (VOLUNTARY REGISTRATION) REGULATIONS, 2014

PART I – PRELIMINARY

1. These Regulations may be cited as the National Social Security Fund, (Voluntary Registration) Regulations, 2014.

2. These Regulations shall apply to the self-employed and voluntary contributors.

PART II – REGISTRATION OF VOLUNTARY MEMBERS

3. A person is eligible to be registered as a voluntary member if the person—

   (a) is self employed;

   (b) retires from employment, or otherwise ceases to be an employee within the meaning of the Act other than by attaining pensionable age;

   (c) is ordinarily resident in Kenya but is employed outside Kenya under a contract of service entered into by an employer who does not reside in or has no place of business in Kenya;

   (d) is employed in Kenya by a person who is not an employer within the meaning of the Act;

   (e) is a member of an organized group of persons invited by the Board to become members of the Fund pursuant to an agreement under regulation 5 below;

   (f) is a citizen of Kenya who lives and works outside Kenya; or

   (g) is an exempt person under the Act.

4. A person applying for membership shall be required to furnish the Fund in writing with the information detailed in the application form.