

THE SOCIAL SECURITY LAWS (AMENDMENTS) ACT, 2012

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THE UNITED REPUBLIC OF TANZANIA



NO. 5 OF 2012

I ASSENT,

Jayabaya Kikwete
.....
President

[15th June, 2012.....]

An Act to amend social security laws with a view to strengthening regulatory functions and supervisory powers of the Social Security Regulatory Authority on the social security schemes.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Social Security Laws (Amendments) Act, 2012.

Amendment of Social Security Laws

2. The various social security laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

PART II
AMENDMENT OF THE LOCAL AUTHORITIES PENSIONS FUND
ACT, (CAP.407)

Construction
Cap.407

3. This Part shall be read as one with the Local Authorities Pensions Fund Act, hereinafter referred to as the "principal Act."

Amendment of
section 2

3A. The principal Act is amended by repealing section 2 and substituting for it the following new section:

"Application

2. This Act shall apply in Mainland Tanzania in relation to a person who is-

(a) employed in the formal or informal sector; and

(b) self-employed,

other than a person who is registered or insured under any other written law."

Amendment of
section 3
Cap.197

4. The principal Act is amended in section 3, by -

(a) inserting in their appropriate alphabetical order the following new definitions-

"Authority" means the Social Security Regulatory Authority as established under the Social Security Regulatory Authority Act;

"actuarial valuation" means valuation of the assets and liabilities of a scheme made by an actuarial who is an expert in the science of calculations of insurance risks and rates of premiums and contributions;

"actuarial report" means a report prepared by an actuarial who undertakes actuarial valuation under this Act;

Cap.197

"Bank" means the Bank of Tanzania established by the Bank of Tanzania Act;

"beneficiary" means a person entitled to receive benefits under this Act and it includes a member and survivor;

“bonus” means an additional payment to a member or contributor after attaining the compulsory age of retirement and opts not to retire for some years and continue to contribute for the additional years;

“bonus rate” means additional factors multiplied to a beneficiary’s benefit to determine bonus payment as determined by an actuarial; and

“contributing employer” means an employer who has the statutory obligation to make contributions to the Fund under this Act;

“formal sector” means the sector which includes employers and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of employee;

“informal sector” means the sector which includes workers who work informally and who do not work in terms of an employment contract or any other contract contemplated in the definition of employee;

“member” means a person employed in the formal or informal sector within Mainland Tanzania, but does not include a person who has been registered or insured under any other written law;

“self employed” means a person who does not work in terms of contract of employment or apprenticeship or any other contract contemplated in the definition of the term employee.”

(b) deleting the definition of the terms -

(i) “actuarial” and substituting for it the following:

“actuary” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especial those involving uncertain future events

such human mortality and mobility and is a member of an institute, society or association of actuaries approved by the Authority;

- (ii) “employee” and substituting for it the following:

“employee” means an individual who-

- (a) has entered into a contract of employment; or
- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or
- (c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act; or
- (d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act.

- (iii) “salary” and substituting for it the following:

“salary” means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment director’s fees or any other additional emoluments;”

Amendment of
section 4

5. The principal Act is amended in section 4, by deleting the words “Local Authorities Pensions Fund” appearing in subsection (1) and substituting for them the words “LAPF - Pensions Fund”.

Amendment of
section 7

6. The principal Act is amended by repealing section 7 and substituting for it the following:

“Management
of the Fund

7.-(1) The Board shall be responsible for the management and administration of the Fund in accordance with:

- (a) the provisions of this Act and the regulations made thereunder;
- (b) the Social Security Regulatory Authority Act and regulations made thereunder; and
- (c) the guidelines and directives as may be issued by the Authority.

(2) The Board shall submit to the Authority annually, financial and other reports on the activities of the Fund as required by the Social Security Regulatory Authority Act.

(3) Financial reports referred to under subsection (2) shall contain -

- (a) financial position of the Fund at that time;
- (b) entries made day to day of all sums of

money received and expended by the Fund and matters in respect of which receipt and expenditure took place;

(c) the assets and liabilities of the Fund; and

(d) such other information as may be required by the Authority.”

Amendment of section 8

7. The principal Act is amended in section 8 by -

(a) adding immediately after subsection (2) the following new subsection:

“(3) The Director General shall hold office for a term of five years and may, subject to satisfactory performance, be eligible for re-appointment.”

(b) renaming subsection (3) as subsection (4).

Amendment of section 11

8. The principal Act is amended in section 11, by adding immediately after paragraph (f), the following new paragraph:

“(g) to do such things as the Authority may direct for efficient management of the Fund.”

Amendment of section 15

9. The principal Act is amended in section 15, by repealing subsections (4), (5) and (6).

Amendment of section 16

9A. The principal Act is amended in section 16 by-

(a) adding immediately after subsection (2) the following new subsection:

“(3) Every employer who employs a non-citizen shall remit contribution on his behalf in accordance with the provision of this Act.” and

(b) renumbering sub sections (2) and (3) as sub sections (3) and (4).

Addition of
section 18A

10. The principal Act is amended by adding immediately after section 18 the following new provision:

“President
may exempt
from certain
conditions

18A.-(1) An insured person who is a public officer may by application to the President, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

(2) For the purpose of subsection (1), the expression “specified authority means -

- (a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary;
- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary;
- (c) in relation to a public officer serving in an extra-Ministerial Department or public institutions, the Head of the Department or the Public Institution; and

(d) in relation to a public officer serving in a local government authority, the City Director, the Municipal Director or the District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination and recommendation to the President in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) President may grant the exemption if he is satisfied that the application of such condition under the Act to an insured person who is a public officer would unfairly disqualify that insured person from grant of benefits.

Amendment of section 19

10A. The principal Act is amended in section 19, by adding immediately after subsection (3) the following new subsections:

“(4) The employer may opt to contribute a greater rate than the amount stipulated in subsection (1).

(5) Where the employer agrees to contribute at a greater rate, such option shall not apply to a member whose contribution rate at any given time does not exceed fifty percent of his contributions.”

Amendment of section 22

11. The principal Act is amended in section 22, by-

(a) deleting paragraph (a) and substituting for it the following new paragraph:

“(a) on attaining the age of fifty five for voluntary retirement or the age of sixty for compulsory retirement;”

(b) deleting paragraphs (c), (d) and (e) and substituting for them the following new paragraphs:

“(c) on termination by employer after attaining the age of fifty five; and

(d) on retirement after attaining the age of fifty five on the directions in writing by the President.”

Amendment of section 24

12. The principal Act is amended by deleting section 24 and substituting for it the following:

“Evaluation of the Fund

24.-(1) The Board shall, at intervals of three years or at any other intervals as the Authority may direct, cause the assets and liabilities of the Fund to be evaluated by an actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.

(3) Based on the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed by the report.”

Addition of section 27A

13. The principal Act is amended by adding immediately after section 27 the following new section-

“Payment of bonus

27A. A contributing employee who has attained the age of sixty and continues to contribute to the

Fund, shall be entitled to a bonus for years of added service in accordance with subsisting bonus rates.”

Amendment of section 29

14. The principal Act is amended in section 29, by-

- (a) adding the words “or widower” immediately after the word “widow” appearing in paragraphs (a) and (b) of subsection (1);
- (b) deleting a “full stop” appearing at the end of paragraph (b) of subsection (2) and substituting for it a “colon”;
- (c) deleting the phrase “(3) Where an” appearing in subsection (3) and substituting for them the phrase “Provided that, where a notice is not given or an”; and
- (d) renumbering subsections “(4)” and “(5)” as subsections (3) and (4).

Addition of section 29A

15. The principal Act is amended by adding immediately after section 29 the following new section:

“Survivors’
pension

29A. The survivors pension payable to a dependant shall be made on the basis of percentage prescribed herein, namely:

- (a) in the case of a widow or widower, forty per cent of the pension, and where there are more than one widow the amount shall be divided equally amongst the widows;

- (b) in the case of a widow or a widower and where there are no dependant children, the widow or widower shall be paid one hundred per cent of the pension;
- (c) in the case of a dependant child receiving full time education, shall be paid sixty per cent of the pension;
- (d) where there is no widow or widower one hundred per cent of the pension; and
- (e) in the case where there are no dependent children or dependant spouse, parents of the deceased shall be paid one hundred per cent of the pension for the remainder of their life.”

Amendment of
section 30

16. The principal Act is amended in section 30, by-

- (a) deleting a “full stop” appearing at the end of subsection (2) and substituting for it a “colon”; and
- (b) adding a proviso immediately after subsection (2) as follows:

“Provided that, where the insured person has recovered from invalidity the pension shall be

suspended until he attains the age of retirement.”

Amendment of
section 35

17. The principal Act is amended by repealing section 35 and substituting for it the following:

“Service
not
qualifying
for pension

35. Pension or gratuity shall not be awarded under this Act to any insured person in respect of any service while he was absent from duty on leave without salary, unless the employer undertakes to pay into the Fund both the employee’s and the employer’s contributions for the period during which the employee was absent.”

Amendment of
section 38

18.-(1) The principal Act is amended in section 38, by adding immediately after subsection (2) the following new section:

“(3) Where an insured person was at a certain period overpaid or paid pension or gratuity prematurely, the Fund shall recover the pension or gratuity paid prematurely in accordance with the provision of section 43.”

Amendment of
section 39

19. The principal Act is amended in section 39, by adding immediately after subsection (4) the following new subsection:

“(5) An insured person referred to under subsection (4) shall be entitled to pension or gratuity, as the case may be, if-

- (a) the insured person has resumed to contribute to the Fund for a period of not less than three years from the date of resumption of contribution to the Fund;

(b) the insured person has paid full cost for back-purchase of the benefits due as may be determined under the Act, and the computation of his pension or gratuity is made by using the highest salary before his account was frozen.”

Addition of section 43A

20. The principal Act is amended by adding immediately after section 43 the following new section:

“Protection of contribution

43A. The sum standing to the credit of an insured person shall, until such time when it is paid out in accordance with the provisions of this Act, remain the property of the Fund and shall not form part of the assets of an insured person in the event of bankruptcy, or insolvency or be liable for attachment in satisfaction of debts, unless such sum relates to home mortgage in which case the mortgagee shall have right to attach any portion of contribution which is the subject of collateral.”

Amendment of section 49

21. The principal Act is amended by repealing section 49 and substituting for it the following-

“Investment of the moneys of the Fund

49.-(1) The Board may, invest money of the fund in any viable economic venture it considers appropriate.

(2) The Board shall, in considering the appropriateness of the venture for investment, take into account the economic and commercial viability of that venture and guidelines as may issued under the Social Security (Regulatory Authority) Act.

(3) Where an investment is made in breach of subsections (1) and (2), each member of the Board of Trustees, director, manager or any officer of the Fund who took part in that decision shall be personally liable to a penalty of fine as prescribed under the Social Security Regulatory Authority Act.

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(4) Notwithstanding the penalty imposed under subsection (3) the Bank shall have power to -

- (c) regulate the Fund to comply with the investment procedures;
- (d) discontinue the investment; or
- (e) take any other measure it considers appropriate.”

Amendment of section 50

22. The principal Act is amended in section 50, by deleting the opening phrase and substituting for it the following:

“The Board may, subject to sections 49 and 58 utilize moneys in the Fund for-”.

Amendment of section 59

23. The principal Act is amended in section 59, by inserting immediately after the designation “Minister” appearing in the where it appears for the second time in that section the following phrase “, the Minister responsible for finance and the Authority”.

Amendment of section 60

24. The principal Act is amended in section 60 by inserting the words “and the Authority” between the word “Minister” and “a copy” appearing in subsection (3).

Repeal of section 65

25. The principal Act is amended by repealing section 65 and substituting for it the following:

“Criminal
proceedings

65.-(1) The Director General, Inspector or any other Officers of the Fund approved by the Board may institute criminal proceedings in the court in accordance with section 71 provided that the Director General, the Inspector or such officer is a public prosecutor appointed by the Director of Public Prosecutions.

(2) Where a case is instituted before the court in relation to recovery of contributions, any person authorized under this section may appear and conduct the case.”

Amendment of
section 78

26. The principal Act is amended in section 78, by deleting the words “uninsured” appearing in the third line of that section and substituting for it the word “insured”.

Amendment of
section 81

27. The principal Act is amended in section 81 by-

(a) deleting the opening phrase and substituting for it the following:

“The Minister may, on the recommendation of the Board and in consultation with the Authority, make regulations providing for-”

(b) deleting paragraphs (b), (f) and the word “and” appearing at the end of paragraph “(f)”;

(c) renaming paragraph (c), (d), (e) and (g) as paragraphs (b), (c), (d) and (e); and

(d) adding immediately after the renamed paragraph (e) the following new paragraphs:

“(f) duration under which benefits shall be paid to a widow or widower; and

(g) payment of maternity and funeral grants.”

Amendment of
First Schedule

by-

28. The principal Act is amended in the First Schedule

(a) deleting paragraph 1 and substituting for it the following new sub items:

“Composition
of the Board

I-(1) The Board
shall be composed
of-

- (a) a Chairman who shall be appointed by the President;
- (b) a member representing the Ministry responsible for local government authorities;
- (c) a member representing the Attorney General;
- (d) two members representing the most representative employers Association;
- (e) a member representing employers' association; and
- (f) a member representing the private sector

appointed from amongst persons with knowledge and experience on matters relating to social security.

(2) The members referred to under paragraph (b) to (f) shall be appointed by the Minister upon recommendation by the respective institutions.

(3) The Minister shall, in appointing members under this paragraph ensure that all members are proper and fit persons for performing advisory functions of the Board under the provisions of this Act and regulations made thereunder and the Social Security Regulatory Authority Act.”

(b) renumbering paragraph 2 as paragraph 4.

PART III
AMENDMENT OF THE NATIONAL HEALTH
INSURANCE FUND ACT, (CAP.395)

Construction
Cap. 408

29. This Part shall be read as one with the National Health Insurance Fund Act, referred to as the “principal Act”.

Amendment
of section 3

30. The principal Act is amended in section 3, by inserting in their respective alphabetical order the following new definitions-

“actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especial those involving uncertain future events such human mortality and mobility and is a member of an institute, society or association of actuaries approved by the Authority;

“actuarial valuation” has the meaning ascribed to it under the Social Security (Regulatory Authority) Act;

“actuarial report” means a report prepared by an actuarial who undertakes actuarial valuation under this Act;

Cap.135

“Authority” means the Social Security Regulatory Authority established under the Social Security (Regulatory Authority) Act;

Cap.197

“Bank” means the Bank of Tanzania established by the Bank of Tanzania Act;

“employee” means an individual who-

- (a) has entered into a contract of employment; or
- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or
- (c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act; or
- (d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act.”

Cap. 366

- “formal sector” means the sector which includes employers and employees who have entered into a contract of employment apprenticeship or any other contract contemplated in the definition of the term “employee”;
- “member” means any person or employee employed in the formal or informal sector or self employed within Tanzania mainland, registered or insured under this Act;
- “salary” means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment, Director’s fees or any other additional emoluments;”
- “voluntary contribution” means any other form of contribution apart from statutory contributions of any person wishing to access supplementary services.”

Amendment
of section 4

31. The principal Act is amended in section 4, by adding immediately after subsection (3) the following new subsection:

“Operations of
fund
Cap.135

(4) Operations of the Fund established under this section shall be subject to the provisions of the Social Security (Regulatory Authority) Act.”

Amendment
of section 6

32. The principal Act is amended in section 6 by repealing subsection (5) and substituting for it the following new provision:

“(5) The Director General shall hold an office for a term of five years and may, subject to satisfactory performance, be eligible for re-appointment.”

Amendment
of section 10

33. The principal Act is amended by repealing section 10 and substituting for it by the following:

“Review of
contributions
rates

10. The Board may review the rates of contributions to the Fund subject to regulations, guidelines or directives issued by the Authority.”

Addition of
section 12A

34. The principal Act is amended by adding immediately after section 12 the following new provision:

“Authority
may exempt
certain
conditions

12A.-(1) A member may, by application to the Authority, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

(2) For the purpose of subsection (1), the expression “specified authority” means -

- (a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary;
- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary;
- (c) in relation to a public officer serving in an extra-Ministerial Department or Public Institution, the Head of the Department or the Public Institution; and
- (d) in relation to a public officer serving in the local government authority, the City, Municipal or District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) Authority may grant the exemption if it is satisfied that the application of such condition under the Act to a member would unfairly disqualify that member from benefit package”.

Amendment
of section 16

35. The principal Act is amended in section 16 by adding immediately after subsection (3), the following new subsection:

“(4) Notwithstanding the subsections (1) and (2), the benefit package may be reviewed by the scheme subject to regulations guidelines or directives issued by the Authority.

Addition of
section 39A

36. The principal Act is amended by adding immediately after section 39 the following new section:

“Actuarial
report

39A.-(1) The Board shall, at intervals of three years or at any other intervals as the Authority may direct, cause the assets and liabilities of the Fund to be evaluated by an actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.

(3) Based on the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed by the report.”

Amendment
of section 33

- 37.** The principal Act is amended in section 33 by -
- (a) re-designating section 33 as section 33(1); and
 - (b) adding immediately after the re-designated subsection (1) the following new subsection:

(2) Where an investment is made in breach of subsections (1) and (2), the Member of Board, Director, manager or any officer of the Fund who took part in the decision to invest shall be personally liable to a penalty or fine of as prescribed under the Social Security (Regulatory Authority Act).

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(3) Notwithstanding the Penalty imposed under subsection (3) the Bank shall have power to-

- (a) require the Fund to comply with the procedures for investment;
- (b) discontinue the investment; or
- (c) take other measures as may be appropriate.”

Amendment
of section 37

37A. The principal Act is amended in section 37, by adding immediately after subsection (3) the following new subsections:

“(4) The Board shall submit annually to the Authority financial report and other reports on the activities of the Fund as required by the Social Security (Regulatory Authority) Act.

(5) The financial reports referred to under subsection (4) shall contain-

- (a) financial position of the Fund at that time;
- (b) day to day entries of all sums of money received and expended by the Fund and matters in respect of which receipt and expenditure took place;

- (c) the assets and liabilities of the Fund; and
- (d) such other information as may be required by the Authority.”

Amendment
of section 43

38. The principal Act is amended in section 43 (2), by inserting the phrase “provided that the Director General, the Inspector or such officer is a public prosecutor appointed by the Director of Public Prosecutions” immediately after the word “Board.”

Amendment
of the
Schedule

39. The principal Act is amended in the Schedule by deleting paragraph (c) and substituting for it the following:
“(c) one member representing the Organisation of employees the majority of whom are members to the Fund;”

PART IV

AMENDMENT OF THE NATIONAL SOCIAL SECURITY FUND ACT, (CAP.50)

Construction
Cap.50

40. This part shall be read as one with the National Social Security Fund Act, hereinafter referred to as the “principal Act”.

Amendment
of Section 2

41. The principal Act is amended in section 2 by-
(a) inserting in their respective alphabetical order the following new definitions:

“actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problems especial those involving uncertain future events and that person is a member of an instate, society or association of actuaries approved by the Authority;

“actuarial valuation” means valuation of assets and liabilities of a scheme made by an actuarial who is an expert in the science of calculations of insurance risks and rates of premiums and contributions;

“actuarial report” means a report prepared by an actuarial who effected actuarial evaluation under this Act;

“administration expenses” means all cost incidental or in relation to registration of members, collection of members’ contributions and disbursement of members’ benefits;

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“Authority” means the Social Security Regulator Authority established under the Social Security Regulatory Authority Act;

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“Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;

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“contract of service” has a meaning ascribed to it under the Employment and Labour Relations Act; and

“employee” means an individual who has entered into a contract of employment; or has entered into any other contract in which:

- (i) the individual undertakes to work personally for the other party to the contract; and
- (ii) the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or
- (iii) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act;
- (iv) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act.

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- “formal sector” means the sector which include employers and employees who have entered into contract of employment or apprenticeship or any other contract;
- “informal sector” means the sector which include workers who work informally and who do not work in terms of an employment contract or any other contract;
- “inspector” means a compliance officer or any other person duly appointed by the Board of Trustees;
- “medical board” means a Board appointed by the Minister;
- “member” means any person or employee employed in the formal or informal sector or self employed within mainland Tanzania insured or registered under this Act;
- “Minister” means the Minister responsible for social security matters;
- “salary” means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment, Director’s fees or any other additional emoluments;
- “self employed” means a person who does not work in terms of contract of employment or apprenticeship or any other contract contemplated in the definition of the term employee;
- “special lump sum” means an average amount of the last sixty months contributions times the number of months of contributions paid to the Fund:

Provided that, where contributions so paid are less than sixty months, the insured person shall be paid his accumulated balance as a lump sum plus accrued interest as may be prescribed by the Social Security Regulatory Authority from time to time;

- (b) deleting the definitions of the terms, employee's share, insured person, wages, and minimum wages and substituting for them the following new definitions:

“employee's share” means that portion of a statutory contribution set out in the First Schedule to this Act to be employees share to such contribution;

“insured person” means an employee or a worker registered by the Fund and includes a person entitled to or receiving benefits under the Fund;

“minimum salary” means the amount determined annually by the minimum wage Board as the rates of average gross monthly earnings for persons employed locally in Tanzania.

Amendment
of section 4

42. The principal Act is amended in section 4 by adding immediately after subsection (2) the following new subsection:

(3) The Director General shall hold office for a term of five years and may, subject to satisfactory performance, be eligible for re-appointment.”

Amendment
of section 6

43. The principal Act is amended by repealing section 6 and substituting for it the following new provision:

“Insured
person

6.-(1) This Act shall apply in Mainland Tanzania in relation to a person who is:

- (a) employed in the formal or informal sector; and
 - (b) self-employed,
- other than a person who is registered or insured under any other written law.

(2) Every insured person shall be issued with a registration number upon registration.”

Repeal of section 8

44. The principal Act is amended by repealing section 8.

Amendment of section 9

45. The principal Act is amended in section 9, by -

- (a) deleting paragraph (a);
- (b) renaming paragraph (b) as paragraph (a); and
- (c) adding immediately after the renamed paragraph (a) the following new paragraph-
 - “(b) his employer has been restructured, sold or leased

Amendment of section 12

46. The principal Act is amended by repealing section 12 and substituting for it the following:

“Statutory contributions by contributing employers

12.-(1) A contributing employer shall, for every contribution period following the date of appointment of an insured person, pay to the Fund a contribution that consist of the employer’s and employee’s share at the rate stipulated in the First Schedule.

(2) The employer may opt to contribute a greater rate than the amount stipulated in subsection (1).

(3) Where the employer agrees to contribute at a greater rate or the whole contribution rate, such option shall not apply to a member whose contribution rate at any given time does not exceed fifty percent of his contributions.

(4) No contribution shall be paid under this section in respect of an insured person who dies during the contribution period, unless the employer deducts the employee's share of contribution from the salary payable in respect of any part of such period to the estate of the deceased member.

(5) A voluntary contributing employer of an insured person shall remit to the Fund contribution at the percentage stipulated in the First Schedule or a higher contribution rate or segmentation of benefit rate to be regulated by the Minister following the results of actuarial valuation.

(6) An employer of a non-citizen shall remit contribution for such employee in accordance with the provision of this Act.

(7) Every contribution shall be paid to the Fund within one month after the end of the month to which the contribution relates."

Addition of
section 15A

47. The principal Act is amended by adding immediately after section 15 the following new section-

"Non remittance
by the employer

15A.-(1) Where the Director General is satisfied that there is

evidence of non remittance of the member's contribution to the Fund by an employer as required under this Act, he shall report such default to the Authority.

(2) Without prejudice to subsection (1), the Director General shall report to the Authority any unusual occurrence which in his opinion, is likely to jeopardize interests or rights of members of the Fund.”

Amendment
of section 18

48. The principal Act is amended by repealing section 18 and substituting for it the following new section-

“Recovery
of
contribution
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18.-(1) Every statutory contribution due to the Fund may be recovered by way of a summary suit under Order XXXV of the Civil Procedure Code at any time after the date on which it is due.

(2) Where an offence is committed by reason of non-payment of statutory contribution, no prosecution shall be commenced without consent of the Director of Public Prosecutions”.

Amendment
of section 20

49. The principal Act is amended in section 20, by adding immediately after subsection (3) the following new subsections:

“(4) Without prejudice to subsections (1), (2) and (3), benefit for entitled person may be used as collateral for home mortgage for a member who has not attained the age of retirement.

(5) The amount to be considered as the value out of collateral for home mortgage shall be determined and set at the rate prescribed under regulations and guidelines made under the Social Security (Regulatory Authority) Act.”

Addition of section 20A

50. The principal Act is amended by adding immediately after section 20 the following new provision:

“President may exempt from certain conditions

20A.-(1) A member who is a public officer may by application to the President, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

(2) For the purpose of subsection (1), the expression “specified authority means -

(a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary;

(b) in relation to a public officer serving in a Ministry, the Permanent Secretary;

(c) in relation to a public officer serving in an extra-Ministerial Department or public institution, the Head of the Department or the public institution; and

(d) in relation to a public office serving in a local government authority, the City Director, Municipal Director or District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination and recommendation to the President in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) President may grant the exemption if he is satisfied that the application of such condition under the Act to a member who is a public officer would unfairly disqualify that member from grant of benefits.

Amendment
of section 21

- 51.** The principal Act is amended in section 21, by-
- (a) re-designating section 2 1 as section 21(1); and
 - (b) adding immediately after subsection (1) as re-designated the following new subsection:
“(2) The benefits payable under this Act may be segmented in accordance with the provisions of this Act.”

Amendment
of section 24

- 52.** The principal Act is amended in section 24, by deleting subsection (3) and substituting for it the following new subsection:

“(3) The minimum monthly pension may be recommended by the Board upon consultation with the Authority and based on actuarial valuation.”

Amendment
of section 27

53. The principal Act is amended in section 27, by adding the phrase “for each completed month less than the pensionable age” immediately after the word “earnings” appearing in subsection (2).

Repeal of
sections 31
and 32

53A. The principal Act is amended by repealing sections 31 and 32.

Amendment
of
section 49

53B. The principal Act is amended by repealing section 49 and substituting for it the following:

“Penalty
for
payment
of
benefits

49.-(1) An employer shall, within six months before the date of retirement of his employee, notify the Fund in writing about the date of retirement of his employee.

(2) The Fund shall ensure that, within sixty days following the date of notification of retirement, pay to the member the due retirement benefits.

(3) Where the Fund fails to pay retirement benefits to a member within a period specified under sub-section (2), and the member is not responsible for that failure, the Fund shall pay the member the principal sum that is due for payment as retirement benefits plus a penalty of fifteen percent of that sum per annum.”

Amendment
of section 42

54. The principal Act is amended in section 42, by deleting subsection (2) and substituting for it the following new subsection-

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“(2) Subject to the provisions of the Social Security (Regulatory Authority) Act, medical benefits to be granted shall include preventive and curative care including but not limited to essential drugs, clinical pathology and X-rays, laboratory tests, hospitalization, minor and major surgery or any other benefits as may be determined by the Board.”

Repeal of
section 46

55. The principal Act is amended by repealing
section 46.

Amendment
of section 47

56. The principal Act is amended by repealing
section 47 and substituting for it the following new section-

“Restriction
on double
payment

47.-(1) An insured person or
his dependant shall not be entitled to
receive more than one benefit paid out
in respect of the same contingency.

(2) The provision of
subsection (1) shall not apply to an
insured person who is a member of
both mandatory and supplementary
schemes.

(3) Subject to the provision of
subsection (1), an insured person or
his dependant who qualifies for more
than one benefit in respect of the same
contingency shall be entitled to be
paid the benefit which is the highest or
greater.”

Amendment
of section 48

57. The principal Act is amended by repealing
section 48 and substituting for it the following -

“Adjustment
of benefits

48.-(1) The rates of benefit payable
shall be determined and be set in
conformity with standards and
guidelines issued in accordance with
the provisions of the Social Security
(Regulatory Authority) Act.

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(2) Benefit rates shall be
received from time to time by the
Board and adjusted in line with
actuarial valuation of the Fund as may
be directed by the Authority.”

Repealing
of section
49

57A. The principal Act is amended by repealing section 49 and substituting for it the following:

“Penalty for
payment of
benefits

49.-(1) An employer shall, within six months before the date of retirement of his employee, notify the Fund in writing about the date of retirement of his employee.

(2) The Fund shall ensure that, within sixty days following the date of notification of retirement, pay to the member the due retirement benefits.

(3) Where the Fund fails to pay retirement benefits to a member within a period specified under sub-section (2), and the member is not responsible for that failure, the Fund shall pay the member the principal sum that is due for payment as retirement benefits plus a penalty of fifteen percent of that sum per annum.”

Amendment
of section 53

58. The principal Act is amended in section 53, by-

- (a) deleting the reference to the “Third Schedule” appearing in subsection (3) and substituting for it the reference to the “Second Schedule”; and
- (b) inserting the phrase “which shall be registered by the Authority” immediately after the word “Fund” appearing in subsection (1).

Amendment
of section 55

59. The principal Act is amended in section 55, by deleting paragraph (a) and substituting for it the following new paragraph-

“(a) to formulate, implement and review policies relating to the Fund in accordance with this Act and the Social Security (Regulatory Authority) Act.”
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Amendment of section 56

60. The principal Act is amended in section 56, by-

- (a) deleting a full stop appearing at the end of paragraph (c) and substituting for it a semi-colon;
- (b) adding immediately after paragraph (c) the following new paragraph:
 - “(d) to submit accounts of the Fund in respect of each financial year for auditing by the Controller and Auditor-General;

Amendment of section 61

61. The principal Act is amended in section 61 by -

- (a) adding immediately after subsection (2) the following new subsection-
 - “(3) The Board shall maintain a reserve account into which accumulated revenues not needed to meet the costs of the current financial year shall be deposited”;
 - and
- (b) renumbering subsections (3) to (5) as subsections (4) to (6) respectively;
- (c) deleting subsection (5) as renumbered and substituting for it the following new subsection-
 - “(5) The Board shall use, disburse, administer and manage funds subject to guidelines issued under the Social Security Regulatory Authority Act.”

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Amendment of section 62

62. The principal Act is amended by repealing section 62 and substituting for it the following new section:
“Investment of the moneys of the Fund **62.-(1)** The Board may, invest money of the fund in any viable economic venture it considers appropriate.

(2) The Board shall, in considering the appropriateness of the venture for investment, take into account the economic and commercial viability of that venture and guideline as may issued under the Social Security (Regulatory Authority) Act.

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(3) Where an investment is made in breach of subsection (1), each member of the Board of Trustee, director, manager or any officer of the Fund taking part of the decision to invest shall be personally liable to a penalty of fine as prescribed under the Social Security Regulatory Authority Act.”

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(4) Notwithstanding the penalty imposed under subsection (3) the Bank shall have power to -

- (a) regulate the Fund to comply with the investment procedures;
- (b) discontinue the investment; or
- (c) take any other measure it considers appropriate.

Amendment
of section 63

63. The principal Act is amended in section 63 by deleting the phrase “section 67” appearing in the first line and substituting for it the phrase “sections 62 and 67”.

Amendment
of section 68

64. The principal Act is amended in section 68, by inserting immediately after the word “may” appearing in the first line the words “subject to the approval by the Minister, Minister responsible for Finance and the Authority”.

Amendment
of section 69

65. The principal Act is amended in section 69 by -

- (a) deleting subsection (2) and substituting for it the following new subsection:

“(2) The accounts of the Fund including the balance sheet relating to that financial year shall, not later than six months after the closure of every financial year, be audited by the Controller and Auditor- General and the audited accounts shall be submitted to the Authority and the Bank.”

- (b) deleting subsection (5) and substituting for it the following new subsections:

“(5) The Board shall publish annual audited accounts report in such a manner as the Minister may, in consultation with the Authority, prescribe.

(6) The Board shall, subject to the provisions of the Social Security Regulatory Authority Act, submit to the Authority and to the Bank a copy of the audited statement of accounts together with a copy of the report of the auditor.”

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Addition of sections 71A and 71B

66. The principal Act is amended by adding immediately after section 71 the following new sections:

“Management of the Fund

71A.-(1) The Board shall be responsible for the management and control of the Fund, and preparation of financial reports in accordance with the provisions of this Act and regulations made thereunder and directives and guidelines issued by Authority.

- (2) Financial reports referred to under subsection (1) shall contain-
- (a) financial position of the fund at that time;
 - (b) entries made day to day of all sums of money received and expended by the Fund and matters in respect of which receipt and expenditure takes place;
 - (c) the assets and liabilities of the Fund; and
 - (d) such other information as may be required by the Authority.

Actuarial reports to be furnished to the Bank

71B.-(1) The Board shall, for the purpose of supervision, at the interval of three years or at such other interval as may be determined by the Authority cause the assets and liabilities of the Fund to be evaluated by the actuarial and submit a copy of such report to the Authority and the Minister.

(2) The Authority may, upon the receipt of the report under subsection (1) and after scrutinizing that report, direct the Board to rectify any anomalies identify in that report”.

Amendment
of section 72

67. The principal Act is amended in section 72 by-

(a) adding immediately after paragraph (i) of subsection (1) the following new paragraph:

“(j) assault, intimidate or brawls an inspector in the course of his duties.”

(b) repealing subsection (3) and substituting for it the following new subsection:

“(3) Where the Director General is of the opinion that an offence has been committed or is about to be committed under this Act, he shall commence investigations and institute criminal proceedings upon obtaining the consent of the Director of Public Prosecutions.”

Amendment
of section 74

68. The principal Act is amended by repealing section 74 and substituting for it the following new section:

“Recovery
of
contribution

74.-(1) An action for the recovery of contributions may be instituted before any court by the Director General, an inspector, or any other officer of the Board appointed by the Board on that behalf.

(2) The Director General or any other authorised Officer of the Fund approved by the Board may institute criminal proceedings in the court in accordance with section 72 provided that the Director General or

such officer is a public prosecutor appointed by the Director of Public Prosecutions.”

Amendment
of section 76

69. The principal Act is amended by repealing section 76 and substituting for it the following new section:

“Protection of
contributions

76. The sum standing to the credit of an insured person shall, until such time when it is paid out in accordance with the provisions of this Act, remain the property of the Fund and shall not form part of the assets of an insured person in the event of bankruptcy, or insolvency or be liable for attachment in satisfaction of debts, unless such sum relates to home mortgage referred to under section 20(4) of this Act in which case the mortgagee shall have right to attach any portion of contribution which is the subject of collateral.”

Amendment
of section 77

70. The principal Act is amended by deleting section 77 and substituting for it the following new section-

“Protection
against
attachment

77. Notwithstanding anything to the contrary contained in any other written law, where an order has been obtained against a contributory insured person and subject to the provision of subsection (4) of section 20, no execution, attachment or process of any nature shall be issued against contributions of the contributory insured person, except in accordance with the terms of the Fund, such

contributions shall not form part of the contributory assets of the insured person in the event of bankruptcy.”

Amendment
of section 81

71. The principal Act is amended in section 81, by repealing subsection (3) and substituting for it the following:

“(3) Where the Director General or any other person is dissatisfied with the decision made by the Medical Board, he may refer the decision to the Authority.”

Amendment
of section 82

72. The principal Act is amended in section 82, by repealing -

(a) subsection (3) and substituting for it the following new subsection:

“(3) Where person is dissatisfied with the decision on a claim to benefits or a question as to liability, he may apply to the Authority for review.”

(b) subsection (6) and substituting for it the following new subsection:

“(6) All applications for review under this Act shall be made in writing within thirty days from the date of the decision complained about.”

Repeal of
sections 83,
84 and 85

73. The principal Act is amended by repealing sections 83, 84 and 85.

Amendment
of section 89

74. The principal Act is amended in section 89 by -

(a) inserting immediately after the word “may” appearing in the first line of subsection (1) the following phrase “in consultation with the Authority” ;

- (b) deleting a full stop appearing at the end of paragraph (g) and substituting for it a semi-colon;
- (c) adding immediately after paragraph (g) of subsection (1) the following new paragraph-
 - “(h) prescribing benefits segmentation following recommendation of actuarial valuation.”

Amendment
of section 91

75. The principal Act is amended by repealing section 91 and substituting for it the following new section-

“Establishment
of supplement-
ary schemes

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91.-(1) The Board may establish supplementary schemes in accordance with provisions of the Social Security (Regulatory Authority) Act.

(2) The Board may manage supplementary schemes established by the employer or employee who is insured person under separate account.”

Amendment
of the Second
Schedule

76. The principal Act is amended in the Second Schedule by deleting sub-paragraph 1 and substituting for it the following new sub-paragraph:

- “(1) The members of the Board shall be -
 - (a) a Chairman who shall be appointed by the President;
 - (b) two members representing the most representative employers organization;
 - (c) two members representing organizations of employees the majority of whom are members to the Fund;
 - (e) a representative of the Ministry responsible for labour;
 - (f) a member representing the Ministry responsible for finance; and

- (g) one member representing the private sector appointed from amongst person with knowledge and experience on social security matters.
- (h) one representative from the Attorney General's Office.

Amendment
of Second
Schedule

77. The Second Schedule to the principal Act is amended in paragraph 2 by-

- (a) adding immediately after sub-item (3) the following new sub-items:
 - “(4) The Minister shall, in appointing members, ensure that all members are proper and fit persons for performing advisory functions of the Board under the provisions of this Act and regulations made thereunder and the Social Security Regulatory Authority Act.”
- (b) renumbering subparagraphs (4) and (5) as paragraphs (6) and (7) respectively.

PART V

AMENDMENT OF PARASTATAL ORGANIZATIONS PENSIONS SCHEME ACT, (CAP. 372)

Construction
Cap.372

78. This Part shall be read as one with the Parastatal Organizations Pensions Scheme Act, hereinafter referred to as the “principal Act.”

Amendment
of Section 1

79. The principal Act is amended in section 1, by -

- (a) deleting the phrase “Parastatal Organizations Pensions Scheme Act” and substituting for it the phrase “the PPF Pensions Fund Act.”
- (b) re-designating section 1 as section 1(1); and

- (c) adding immediately after the re-designated subsection (1) the following new subsection:
 “(2) This Act shall apply to any person employed in the formal or informal sector or self employed within mainland Tanzania and shall not apply to a person who has been registered or insured under any other written laws.

Amendment
of section 2

80. The principal Act is amended in section 2, by-

- (a) inserting in their respective alphabetical order the following new definitions:

“actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problems especial those involving uncertain future events and that person is a member of an instate, society or association of actuaries approved by the Authority;

“actuarial valuation” means valuation of assets and liabilities of a scheme of the Fund made by an actuarial;

“actuarial report” means a report prepared by an actuarial who effected actuarial evaluation under this Act;

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“Authority” means the Social Security Regulatory Authority established under the Social Security (Regulatory Authority) Act;

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“Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;

“employee” means an individual who-

- (a) has entered into a contract of employment; or

- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or
- (c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act;
- (d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act;

“administration expenses” means all costs incidental to or in relation to registration of members, collection of members contributions and disbursement of members’ benefits;

“annual pensionable emoluments” means an average of five years highest salary of a member earned during his pensionable services;

“Board” means the Board of Trustees of the PPF Pensions Fund;

“Director” means the Director General appointed under section 7A of the Act;

“formal sector” means the sector which includes employers and employees who have entered into a contract of employment apprenticeship or any other contract contemplated in the definition of the term “employee”;

“Fund” means the PPF Pension Fund established under section 6;

“informal sector” means the sector which includes workers who work informally and who do not work in terms of an employment of contract or any other contract contemplated in the definition of the term “employee”;

“Medical Board” means the Board appointed by the Minister responsible for health matters for the purpose of determining medical issues under this Act;

“retirement age” means the age which when attained by a member, qualifies that member for pension benefits and entitles him to receive; payment of the benefit immediately after retirement from service or from the scheme established by the Board under section 18(e) to which the member belongs;

“retirement” means cessation of employment upon attainment of the age of fifty five or above or any age set under the specific scheme as provided for under paragraph (e) of section 18;

“self employed” means a person who does not work in terms of a contract of employment or apprenticeship or any other contract contemplated in the definition of the term “employee”.

(b) deleting paragraph (a) in the definition of the term “pensionable service” and substituting for it the following paragraph:

(a) any period of service for which contributions are remitted to the scheme by the employer since his becoming a member;”

(b) by deleting the definitions of the word “service”, “member” and substituting for it the following:

“member” means any person employed in the formal or informal sector within Mainland Tanzania, excluding a person who has been registered or insured under any other written law;

“salary” means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment, Director’s fees or any other additional emoluments;”

“service” means service with one or more employers”.

Amendment
of section 3

81A. The principal Act is amended in section 3 by adding the following new sections:

“Penalty for
payment of
benefits

3A.-(1) An employer shall, within six months before the date of retirement of his employee, notify the Fund in writing about the date of retirement of his employee.

(2) The Fund shall ensure that, within sixty days following the date of retirement, pay to the member the due retirement benefits.

(3) Where the Fund fails to pay retirement benefits to a member within a period specified under subsection (2), and the member is not responsible for that failure, the Fund shall pay the member the principal sum that is due for payment as retirement benefits plus a penalty of fifteen percent of that sum per annum.”

Amendment
of section 3

81. The principal Act is amended in section 3 by-

(a) deleting the marginal notes and substituting for it the following:

“Pension, gratuity and other benefits”

(b) repealing subsection (1) and substituting for it the following new subsection:

Cap. 135 “(1) Pensions, gratuities and other benefits shall be granted by the Board in accordance with the provisions of this Act; and the provisions of the Social Security (Regulatory Authority) Act.”-

(c) adding immediately after subsection (2) the following new subsection:

Cap.135 “(3) Notwithstanding subsections (1) and (2) the pension, gratuities and other benefits to be granted under this section shall be computed at such rates as may be prescribed by the Authority under the Social Security (Regulatory Authority) Act.”

Amendment of section 4

82. The principal Act is amended by repealing section 4 and substituting for it the following:

“Establishment of the scheme

4.-(1) There is established a scheme to be known as the PPF Pensions Scheme.

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(2) The operation of the scheme shall be subject to the provisions of this Act and the Social Security (Regulatory Authority) Act.”

Amendment of section 5

82A. The principal Act is amended in section 5(1), by deleting paragraph (d) and substituting for it the following new paragraph:

“(d) any person who ceases to be a member due to any reasons in which he does not attain the retirement, may upon employment resume membership:

Provided that this provision shall not apply to members who cease to be members under circumstance referred to in paragraphs (a) and (b) of section 26(1) of the Act.”

Amendment
of section 6

83. The principal Act is amended in section 6, by deleting the phrase “Parastatal Pensions Fund” and substituting for it the phrase “PPF Pensions Fund.”

Amendment
of section 7

84. The principal Act is amended by repealing section 7 and substituting for it the following:

“Management
of the Fund

7.-(1) The Board shall be responsible for the Management and control of the Fund in accordance with the provisions of this Act and Regulation made under this Act and directives, guidelines and Regulations issued under the Social Security (Regulatory Authority) Act.

(2) The Board shall submit to the Authority annually, financial and other reports on the activities of the Fund as required by the Authority for efficient management of the Fund, regulation and monitoring of the activities of the Fund.

(3) Financial reports under subsection (1) shall contain-

- (a) financial position of the Fund at that time;
- (b) entries made day to day of all sums of money received and expended by the Fund and matters in respect of which the receipt and expenditure takes place;

- (c) the assets and liabilities of the Fund; and
- (d) other information as may be required by the Authority.”

Addition of section 7A

85. The principal Act is amended by adding immediately after section 7 the following new section:

“Appointment of the Director General

7A.-(1) There shall be a Director General to be appointed by the President.

(2) The Director General shall be the Chief Executive Officer of the Fund and be responsible for overseeing the daily operations of the Fund and shall be the Secretary to the Board.

(3) The Director General shall hold office for a term of five years and may subject to satisfactory performance, be eligible for re-appointment.

(4) The Board may, with the consent in writing of the Minister, appoint such other officers and employees of such designation as it considers necessary for the efficient conduct of the business of the Fund and upon the salaries and other terms and conditions as may be determined by the Board.”

Amendment of section 8
Cap 434

86. The principal Act is amended in section 8 by-

- (a) repealing subsections (1) and (2) and substituting for them the following new subsections:

“(1) The rate of a member’s contribution to the Fund shall be determined by the

Cap. 135 Board subject to the provisions of the Social Security (Regulatory Authority) Act.

Cap. 135 (2) An employer of a member shall, contribute to the Fund the amount of money as may be determined by the Board subject to the provisions of the Social Security (Regulatory Authority) Act in respect of the member.”

(b) adding immediately after the word “shall” appearing in subsection (3) the phrase “ subject to the rules as may be prescribed by the Authority”.

(c) adding immediately after subsection (3) the following new subsections:

“(4) The employer shall remit contributions based on the basic salary of an employee who is on suspension or interdiction.”

Amendment of section 10

87. The principal Act is amended in section 10, by deleting the word “parastatal” wherever it appears in subsection (2) and substituting for it the word “employer.”

Amendment of section 11

88. The principal Act is amended in section 11, by-

(a) re-designating section 11 as section 11(1); and

(b) adding immediately after the re-designated subsection (1) the following new subsection:

“(2) The officer of the Fund authorized by the Director General shall have the power to demand and

inspect the records of the employer and the employer shall be obliged to give access to the records.

(3) A refusal by the employer to allow an officer of the Fund to access records shall constitute an offence”.

Amendment
of section 12

89. The principal Act is amended in section 12, by deleting the phrase “this Act” appearing at the end of that section and substituting for it the phrase “of this Act and Social Security (Regulatory Authority) Act.”

Amendment
of section 13

90. The principal Act is amended in section 13, by deleting the phrase “any directions of the Minister” appearing in the first line of subsection (1) and substituting for it the phrase “investment guidelines issued by the Bank under the Social Security (Regulatory Authority) Act.”

Addition of
section 13A

91. The principal Act is amended by adding immediately after section 13 the following new section:

“Investment
procedure

13A.-(1) The Board shall, subject to the provisions of section 13 of this Act, regulations and investment guidelines or directions issued by the Bank under the Social Security (Regulatory Authority) Act, invest the money of the Fund in any economically viable venture it considers appropriate.

(2) The Board shall, in determining the appropriateness of the venture to invest in, take into account the economic and commercial viability of that venture.

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(3) Where an investment is made in breach of subsection (1), the Board Director or manager of the Fund who took part in the decision to invest shall be personally liable to a penalty or fine of as prescribed under the Social Security (Regulatory Authority Act).

(4) Notwithstanding a penalty which may be imposed in terms of subsection (3), the Bank shall have power to-

- (f) require the Fund to comply with the procedures and prudential guidelines for investment;
- (b) discontinue the investment; or
- (c) take other measures as may be appropriate.”

Amendment
of section 14

92. The principal Act is amending in section 14, by-

- (a) deleting the phrase “balance sheet” appearing at the closing statement of subsection (1) and substituting for it the phrase “statement of net assets available for benefits”.
- (b) repealing subsection (2), and substituting for it the following new subsection:

“(2) The accounts including the statement of net assets available for benefits of the Fund relating to the financial year shall, not later than

three months after the close of every financial year, be audited by the Controller and Auditor-General.”

- (c) adding immediately after subsection (4) the following new subsection:

“(5) The scheme shall, subject to the provisions of the Social Security (Regulatory Authority) Act, submit to the Authority and to the Bank a copy of the audited statement of accounts together with a copy of the report made by the auditor”.

Amendment of section 16

93. The principal Act is amended by repealing section 16 and substituting for it the following:

“Evaluation of the Fund

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16A.-(1) The Board shall, at intervals of three years or at any other intervals as the Authority may direct, cause the assets and liabilities of the Fund to be evaluated by an actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.”

(3) Based on the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed by the report.”

Amendment of section 17

94. The principal Act is amended in section 17, by deleting the phrase “the Parastatal Pensions Fund” appearing in subsection (1) and substituting for it the phrase “PPF Pensions Fund”.

Amendment
of section 18

95. The principal Act is amended in section 18, by adding immediately after paragraph (f) the following new paragraph:

“(g) to do such acts and things as the Authority may direct for efficient management of the Fund.”

Amendment
of section 20

96. The principal Act is amended in section 20, by-

- (a) re-designating section 20(1) as section 20; and
- (b) repealing subsection (2).

Amendment
of section 22

97. The principal Act is amended in section 22, by adding the phrase “and the Social Security (Regulatory Authority) Act” at the end of paragraph (d).

Amendment
of section 24

98. The principal Act is amended in section 24, by-

- (a) repealing subsections (1) and (2) and substituting for them the following new subsections:

“(1) A member may elect to retire from the service after he has attained the age of fifty-five years which is the age of voluntary retirement.

(2) Notwithstanding subsection (1), a member shall not be permitted to continue in the service on pensionable terms after attaining the age of sixty years which is the age of compulsory retirement.”

- (b) adding immediately after subsection (3), the following new subsection:

“(4) An employer may remit the members’ contributions at least six months in advance before the date of the member’s compulsory

retirement and to ensure that arrears of contributions or additional contributions are paid to the Fund prior to the member's retirement date."

Amendment
of section 25

99. The principal Act is amended by repealing section 25 and substituting for it the following:

"Pension as
of right

25. Except for collateral, home mortgage or an order of any competent court for the periodical payment of sums of money towards the maintenance of dependants of the member to whom the periods or gratuity has been awarded, pension, gratuity, survivor's benefit or any other benefits conferred to a member or his dependants under this Act shall be payable as a matter of right and no person or authority may reduce, withhold or freeze such benefits."

Amendment
of section 27

100. The principal Act is amended in Section 27(1), by renaming paragraph (c) as paragraph (b).

Amendment
of section 28

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101. The principal Act is amended in section 28, by adding the phrase "and the provisions of the Social Security (Regulatory Authority) Act," immediately after the word "Act" appearing in the first line of subsection (1).

Repealing of
section 30

102. The principal Act is amended by repealing section 30 and substituting for it the following provision:

“Pension where service is terminated on public interest

30. Where an officer’s service is terminated and having regard to the conditions of the Public Service, the usefulness of the officer and all the circumstances of the case, such termination is desirable for public interest, the Officer whose service is terminated shall be granted benefits not exceeding the amount which the officer would be eligible of if he retired from Public Service in the circumstances described in paragraph (e) of section 26”

Amendment of section 31

103. The principal Act is amended in section 31, by deleting the proviso to that section and substituting for it the following new proviso:

“Provided that his pensionable emoluments for the purposes of this section shall be those which are taken for computing his pension in the public service.”

Amendment of section 33 Cap. 135

104. The principal Act is amended in section 33, by -

- (a) re-designating section 33 as section 33(1); and
- (b) adding immediately after the re-designated subsection (1) the following new subsection-
 - “(2) Where a member has consented in writing, the pension or gratuity shall be used-
 - (a) as a collateral security in accordance with the provisions of section 38 of the Social Security (Regulatory Authority) Act; and
 - (b) in discharging a debt due to the employer.”

Amendment
of section 34

105. The principal Act is amended by deleting proviso to section 34 and substituting for it the following-

“Provided that the payment under this section shall not be less than the aggregate of the member’s and employer’s contributions to the Fund with interest at the rate to be determined by the Authority”.

Amendment
of section 39

105A. The principal Act is amended in section 39 by-

- (a) deleting the definition of “annual pensionable emolument” and
- (b) deleting the words “ten thousand” appearing in subsection (3) and substituting for them the words “hundred thousand.”

Repealing of
section 35

106. The principal Act is amended by repealing sections 35 and substituting for it the following provisions:

“President
may exempt
from certain
conditions

35.-(1) A member who is a public officer may by application to the President, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

(2) For the purpose of subsection (1), the expression “specified authority means -

- (a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary;

- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary;
- (c) in relation to a public officer serving in an extra-Ministerial Department, the Head of the Department; and
- (d) in relation to a public office serving in a local government authority, the City Director, Municipal Director or District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination and recommendation to the President in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) President may grant the exemption if he is satisfied that the application of such condition under the Act to a member who is a public officer would unfairly disqualify that member from grant of benefits.”

Repealing of
section 37 and
44

Amendment
of section 38

107. The principal Act is amended by repealing sections 37 and 44.

108. The principal Act is amended in section 38, by deleting paragraphs (b), (c), and (d) and substituting for them the following new paragraphs-

- “(b) where the deceased member was a female, the husband of such deceased member;
- (c) any legitimate or legally adopted child who is unmarried and is not gainfully employed and has not attained the age of eighteen years;
- (d) being of the age of eighteen years or above, but is incapable of self support due to mental or physical disability; and
- (e) immediate parents of the deceased member.”

Amendment
of section 40

109. The principal Act is amended in section 40, by repealing subsection (4) and substituting for it the following:

“(4) The payment of survivors benefit shall cease upon expiry of three years from the date following the date of death of the deceased member or on the recipient’s death, except in the case of any dependant child, the payment shall cease upon such child attaining the age of eighteen.”

Amendment
of section 45

110. The principal Act is amended in section 45, by-

- (a) adding immediately after paragraph (e) the following new paragraph:
“(f) fails without lawful excuse to fill and submit to the Fund the claim form in respect of a member whose benefits are due;” and
- (b) renaming paragraphs (f), (g) and (h) as paragraphs (g), (h) and (i).

Amendment
of section 46

111. The principal Act is amended in section 46, by -

- (a) deleting the word “magistrate” which appears in of subsection (1) and substituting for it the phrase “court of competent jurisdiction; and

- (b) numbering the contents of second paragraph of subsection (1) as subsection (2).

Amendment
of section 47

112. The principal Act is amended by repealing section 47 and substituting for it the following-

“Recovery of
contributions

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47.-(1) Any action for recovery of contributions under section 45 may be instituted by the Board of Trustees, and where an action is instituted before any court, any officer of the Fund or an advocate appointed by the Fund in that behalf may appear and conduct the proceedings.

(2) Every statutory contribution due to the Fund may be recovered by a summary suit under order XXXV of the Civil Procedure Code at any time within twelve years after the date on which it is due.

(3) Where an offence is committed by reasons of non-payment of statutory contribution, no prosecution shall be commenced without the consent of the Director of Public Prosecutions.”

Amendment
of section 50

113. The principal Act is amended by repealing section 50 and substituting for it the following new provision:

“Protection of
Contributions

50. Notwithstanding anything to the contrary contained in any other written law, where any judgment or Order is made against a member subject to the provision of section 33, no execution, attachment or process of any nature shall be issued against contributions of that member.”

Amendment
of section 51

114. The principal Act is amended in section 51, by repealing subsection (5).

Amendment
of section 55

115. The principal Act is amended in section 55, by deleting the word “one” appearing in the third line and substituting for it the word “done”.

Repeal of
section 56

116. The principal Act is amended by repealing section 56.

Amendment
of section 57

117. The principal Act is amended in section 57, by inserting immediately after the word “may” appearing in the first line the words “in consultation with the Authority.”

Amendment
of the
Schedule

118. The Schedule to the principal Act is amended by -

(a) deleting item 1 and substituting for it the following new item:

“1.-(1) The Board shall consist of -

- (a) a Chairman who shall be appointed by the President;
- (b) two members representing organizations of employees the majority of whom are members to the Fund;
- (c) two members representing the most representative employers organization;
- (d) a representative of the Ministry responsible for finance;
- (e) a representative of the Attorney General; and
- (f) a member representing private sector appointed amongst persons with knowledge and expense in Social Security.

- “(2) Subject to sub-item (1) the Minister shall in appointing members of the Board, ensure that all members are proper and fit persons for performing advisory functions of the Board under the provisions of this Act, regulations made thereunder.
- (b) deleting paragraph 6 and substituting for it the following new paragraph:
- “Secretary
to the
Board 6.-(1) The
Director General the
Fund shall be the
secretary to the Board.
(2) The
Secretary to the Board
may take part in the
proceedings of the
Board but shall not
have the right to vote.”
- (e) inserting the words “and the Secretary” immediately after the word “Chairman” appearing in the second line of paragraph 10.

PART VI

AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, (CAP 371)

Construction
Cap.135

119. This Part shall be read as one with the Public Service Retirement Benefits Act, hereinafter referred to as the “principal Act.”

Amendment
of section 2

120. The principal Act is amended in section 2 by repealing that section and substituting for it the following new section:

“Application

2. This Act shall apply to a person employed in formal or informal sector who has not been

registered or insured under any other written law.”

Amendment
of section 3

121. The principal Act is amended in section 3, by-

(a) inserting in their respective alphabetical order the following new definitions:

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“Authority” means the Social Security Regulatory Authority established by section 4 of the Social Security (Regulatory Authority) Act;

“actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especial those involving uncertain future events such human mortality and mobility and is a member of an institute, society or association of actuaries approved by the Authority.

“actuarial valuation” means valuation of assets and liabilities of a scheme of the Fund made by an actuarial;

“actuarial report” means a report prepared by an actuarial who effected actuarial evaluation under this Act;

“administration expenses” means all cost incidental or in relation to registration of members, collection of members’ contributions and disbursement of members’ benefits;

Cap.197

“Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;

“formal sector” means the sector which include employers and employees who have entered into contract of employment or apprenticeship or any other contract;

“informal sector” means the sector which include workers who work informally and who do not work in terms of an employment contract or any other contract;

(b) deleting the definition of the words “employee”;

“member” means a person employed in the formal or informal sector within Mainland Tanzania, but does not include a person who has been registered or insured under any other written law.”

“employee” means an individual who-

- (a) has entered into a contract of employment; or
- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or
- (c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act;
- (d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act;

“member” means any employee employed in the formal or informal sector within Mainland Tanzania, excluding any person who has been registered or insured under any other written law;

“salary” means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment, Director’s fees or any other additional emoluments;”

“self employed” means a person who does not work in terms of contract of employment or apprenticeship or any other contract contemplated in the definition of the term employee”.

(c) deleting the word “Civil” appearing in the definition of the word” Service.

Amendment of section 5

122. The principal Act is amended in section 5, by repealing that section and substituting for it the following:

“Membership of the scheme

5. An employee in formal and informal sector who is not registered as a member or insured person under any other scheme may become a member of the Fund under this Act.”

Amendment of section 6

123. The principal Act is amended by repealing section 6 and substituting for it the following provisions:

“Compulsory contribution

Cap.135

6.-(1) The rate of a member’s contribution to the Fund may be recommended by the Board subject to the provisions of section 25 of the Social Security (Regulatory Authority) Act.

(2) An employer of a member shall, contribute to the Fund the amount of money as may be determined by the Board subject to the provisions of section 25 of the Social Security (Regulatory Authority) Act in respect of the member.

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(3) The contribution of a member and of the employer to the pension, gratuity or other benefits shall, to the extent that a member retires in accordance with the provisions of section 16, be of right.

(4) An employer of a non-citizen shall remit contribution for that employee in accordance with the provision of this Act.”

Amendment
of
section 11

124. The principal Act is amended in section 11, by repealing subsection (3):

Amendment
of
section 12

125. The principal Act is amended in section 12, by repealing subsection (2) and substituting for it the following new subsection-

“(2) Where a member dies in service, his dependants shall be entitled to a funeral grant at a rate prescribed in the Regulations made under this Act.”

Amendment
of section 16

125A. The principal Act is amended in section 16, by adding the following new section:

“Penalty
for
payment
of benefits

16A.-(1) An employer shall, within six months before the date of retirement of his employee, notify the Fund in writing about the date of retirement of his employee.

(2) The Fund shall ensure that, within sixty days following the date of notification of retirement, pay to the member the due retirement benefits.

(3) Where the Fund fails to pay retirement benefits to a member within a period specified under sub-section (2), and the member is not responsible for that failure, the Fund shall pay the member the principal sum that is due for payment as retirement

benefits plus a penalty of fifteen percent of that sum per annum.”

Amendment
of section 18

126. The principal Act is amended in section 18, by-

- (a) deleting the “semi-colon” and the word “or” appearing item (ii) of in paragraph (b) and substituting for it a “full-stop.”
- (b) deleting paragraph (c).

Amendment
of section 27

127. The principal Act is amended by repealing section 27 and substituting for it the following new provisions:

“President
may
exempt
from
certain
conditions

27.-(1) A member who is a public officer may by application to the President, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

(2) For the purpose of subsection (1), the expression “specified authority means -

- (a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary;
- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary;
- (c) in relation to a public officer serving in an extra-Ministerial Department or public

institution, the Head of the Department or the public institution; and

- (d) in relation to a public officer serving in a local government authority, the City Director, Municipal Director or the District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination and recommendation to the President in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) President may grant the exemption if he is satisfied that the application of such condition under the Act to a member who is a public officer would unfairly disqualify that member from grant of benefits.

Amendment
of section 33

128. The principal Act is amended by repealing section 33 and substituting for it the following -

“Management
of the Fund

33. The Board shall be responsible for the management and administration of the Fund in accordance with the provisions of this Act, regulations made under the Act, the Social Security (Regulatory Authority) Act, and regulations made by the Minister

responsible for Social Security under the Social Security (Regulatory Authority) Act and any guidelines and directives as may be prescribed by the Authority for better regulation and monitoring of the activities of the Fund.”

Amendment of section 34

129. The principal Act is amended in section 34 by adding immediately after subsection (3) the following new subsection:

“(4) The Director General shall hold office for a term of five years and may, subject to satisfactory performance, be eligible for re-appointment.”

Amendment of section 36

130. The principal Act is amended in section 36, by deleting the opening phrase and substituting for it the following:

“The Minister may, in consultation with the Authority make regulations.”

Amendment of section 37

131. The principal Act is amended in section 37, by inserting immediately after paragraph (d) the following new paragraph:

“(e) any other lawful income.”

Amendment of section 39

132. The principal Act is amended in section 39, by deleting the word “wages” appearing in the first line of subsection (1) and substituting for it the word “salary.”

Amendment of section 41

132A. The principal Act is amended in section 41 by-

(a) adding immediately after subsection (2) the following new subsections:

“(3) The employer may opt to contribute a greater rate than the amount stipulated in subsection (2).

(4) Where the employer agrees to contribute at a greater rate, such option shall not apply to a member whose contribution rate at any given time does not exceed fifty percent of his contributions.” and

(b) renumbering subsections (3) and (4) as subsections (5) and (6).

Amendment of section 48

133. The principal Act is amended in section 48, by inserting the words “and the Authority” immediately after the word “Minister” appearing in subsection (3).

Amendment of section 50

134. The principal Act is amended in section 50, by-

- (a) re-designating section 50 as subsection 50(1);
- (b) adding immediately after the re-designated subsection (1) the following new subsections:

(2) The Board shall annually or at such other times as the Authority may require submit to the Authority financial report and other reports on the activities of the Fund, as necessary for better management of the Fund, regulation and monitoring of the activities of the Fund.

(3) Financial reports referred to under subsection (1) shall contain-

- (a) financial position of the Fund at that time;
- (b) assets and liability;
- (c) results of the fund’s operations;
- (d) statement of cash flow;
- (e) other information as may be required by the Authority.”

Amendment
of section 51

135. The principal Act is amended by repealing section 51 and substituting for it the following new provision:

“Evaluation
of the Fund

24A.-(1) The Board shall, at intervals of three years or at any other intervals as the Authority may direct, cause the assets and liabilities of the Fund to be evaluated by an actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.”

(3) The Authority may, upon the received of the report submitted to it under subsection (2) and after sensinising that report, direct the Fund to take necessary measure to rectify an anomaly discovered in the report.

Amendment
of section 52

by-

136. The principal Act is amended in section 52,

(a) repealing subsection (1) and substituting for it the following new subsections:

“(1) The Board shall consist of the following members:

- (a) a Chairman who shall be appointed by the President;
- (b) a representative of the Public Service Management;
- (c) a representative of the Attorney General;
- (d) a representative of the Ministry responsible for Finance;
- (e) two members representing organizations of employees the majority of whom are members to the Fund; and

(f) two members representing the most representative employers organization;”

(2) A member of the Board shall hold office for a term of three years and shall be eligible for re-appointment for another one term only.”

- (b) renumbering subsections (2) to (4) as subsections (3) to(5).
- (c) deleting figure “(g)” appearing in subsection (3) as renumbered and substituting for it the following new figure (b) to (f).”
- (d) adding immediately after subsection (5) as renumbered the following new subsection:

“(6) The Minister shall, in appointing members ensure that all members are proper and fit persons for performing advisory functions of the Board under the provisions of this Act and regulations made there under and the Social Security (Regulatory Authority) Act.”

Amendment
Section 53

137. The principal Act is amended in section 53, by adding immediately after paragraph (e) the following new paragraph:

“(f) to do all such acts or thing as the Authority may direct for the purpose of efficient management of the Fund.”

Amendment
of section 71

138. The principal Act is amended in section 71, by inserting the phrase “provided that the Director General, Inspector or such other officer is a public prosecutor appointed by the Director of Public Prosecutions” between the words “behalf” and “and”.

Amendment
of section 71

139. The principal Act is amended by -

- (a) re-designating section 71 as section 71(1); and
- (b) adding immediately after the re-designated subsection (1) the following new subsection:
 - “(2) Any criminal proceedings shall not be instituted under this section without the consent of the Director of Public Prosecutions.”

PART VII

AMENDMENT OF THE SOCIAL SECURITY (REGULATORY AUTHORITY) ACT, (CAP. 135)

Construction
Cap. 135

140. This Part shall be read as one with the Social Security (Regulatory Authority) Act, hereinafter referred to as the “principal Act”.

Amendment
of section 3

140A. The principal Act is amended in section 3, by inserting in its alphabetical order the following new definition:

“administrator” means a person appointed to administer a scheme in accordance with such terms and conditions of service as may be specified in the instrument of appointment”.

Amendment
of section 5

140B. The principal Act is amended in section 5, by-

- (a) deleting paragraph (e) and substituting for it the following:
 - “(e) register, regulate and supervise administrators;”
- (b) deleting the word “all” appearing in paragraph (f).

Amendment
of section 16

140C. The principal Act is amended in section 16(1), by inserting the words “or administrator” between the words “custodian” and “shall”.

Amendment
of section 17

140D. The principal Act is amended in section 17(1), by inserting the words “,administrator” between the words “managers” and “and”.

Amendment
of section 19

140E. The principal Act is amended in section 19, by-

- (a) inserting the words “or administrator” between the words “custodian” and “if” appearing in subsection (1); and
- (b) inserting the words “, administrator” between the words “managers” and “or” appearing in subsection (2).

Amendment
of section 20

140F. The principal Act is amended in section 20, by inserting the words “,administrator” between the words “managers” and “or” whenever those words appear in that section.

Amendment
of section 6

141. The principal Act is amended in section 6, by adding immediately after subsection (2) the following new subsection:

“(3) The Authority shall, in exercising its powers under this section, issue directions in the form of notices, letters, orders or circulars.”

Amendment
of section 7

142. The principal Act is amended by -

- (a) deleting subsection (1) and substituting for it the following new subsection:

“(1) There is established the Board of Directors of the Authority to be composed of-

- (a) a chairman who shall be appointed by the President;
- (b) the Treasury Registrar;
- (c) the Labour Commissioner;

- (d) a representative from the Attorney General;
 - (e) one member representing the most representative employers organization;
 - (f) two members representing the most representative employees organisation;
 - and
 - (g) one member from amongst persons who possess knowledge and experience in social security matters.
- (b) adding immediately after subsection (2) the following new subsection (3);
- “(3) The Director General shall be the Secretary to the Board.”

Repealing of section 8

143. The principal Act is amended by repealing section 8.

Amendment of section 12

144. The principal Act is amended in section 12 by adding immediately after subsection (2) the following new subsection:

“(3) The Director General shall hold office for a term of five years and may, subject to satisfactory performance, be eligible for re-appointment.”

Amendment of section 28

145. The principal Act is amended in section 28 by deleting the word “three” appearing in subsection (4) and substituting for it the word “six”.

Amendment of section 36

146. The principal Act is amended by repealing section 36 and substituting for it the following -

“Minimum benefits packages

36.-(1) Subject to the provisions of this Act, a member of the scheme shall have the right to receive and enjoy minimum benefits or package to be prescribed by the Authority in line with his contributions.

(2) A member of any of the mandatory schemes shall be entitled to short or long term or both benefits to be determined and reviewed by the Authority in consultation with the respective schemes.

(3) The Authority shall, in discharging its regulatory and supervisory powers with regards to technical matters on the provisions of health services, consult with the Minister responsible for health.”

Addition of section 38A

147. The principal Act is amended by adding immediately after section 38 the following new section:

“Retirement Benefits Committee

Cap.407, 375, 50, 372 and 371

38A.-(1) There is established a Committee to be known as a Retirement Benefits Committee whose functions shall be to advise the President on matters relating to exemption of application of certain conditions on payment or award of terminal benefits under the Local Authorities Pensions Fund Act, the National Health Insurance Fund Act, the National Social Security Fund Act, the Parastatal Organizations Pensions Scheme Act and the Public Service Retirement Benefits Act.

(2) The Committee shall be composed of -

- (a) the Permanent Secretary (Establishment), who shall be the Chairman;
- (b) the Deputy Attorney General;

- (c) the Director General;
- (d) the Labour Commissioner;
and
- (e) a member representing an organization of employees.

(3) The application made in terms of subsection (1) shall be supported by recommendations by a specified authority or the last employer of the applicant.

(4) The Committee shall, within thirty days from the date of receipt of an application convene and determine that application and make recommendations to the President about whether or not, within the circumstances, the application be granted.

(5) Where the President has received recommendations from the Committee, he may order that the applicant be granted terminal or any other benefits which would otherwise be lawfully withheld in accordance with the relevant law governing such terminal or any other benefits.”

Amendment of
section 49

148. The principal Act is amended in section 49, by -

- (a) inserting immediately after paragraph (b) the following new paragraph-

“(c) annual social security levy charged from the schemes;”

- (b) renaming paragraph (d) as paragraphs (e).

Addition of
section 49A

149. The principal Act is amended by adding immediately after section 49, the following sections:

“Social
security
levy

49A.-(1) There shall be a levy payable to the Fund by the schemes.

(2) A levy imposed under this section shall be based on the total income of each scheme at a rate to be determined by the Minister upon consultation with the Minister responsible for Finance and the Bank and shall be specified in an order published in the *Gazette* by the Minister.

(3) The total income prescribed under sub-section (2) shall be derived out of the administrative costs of the scheme.

(4) An order made by the Minister shall contain provisions as to the time during which any amount payable by way of levy shall become due.

(5) Where the levy imposed is not paid into the Fund on or before the date prescribed in the order, the amount due shall become a civil debt recoverable summarily by the Authority under Order XXXV of the Civil Procedure Code.

(6) The Authority may deposit with the Bank or banks as it may determine, any monies not immediately required for the purposes of the Authority.”

Amendment of
section 53

150. The principal Act is amended in section 53, by deleting the word “September” appearing in subsection (1) and substituting for it the word “December”.

PART VIII
AMENDMENT OF THE INSURANCE ACT,
(CAP.394)

Construction
Cap.394

Amendment of
section 13

151. This Part shall be read as one with the Insurance Act, hereinafter referred to as the “principal Act”.

152. The principal Act is amended in section 13, by -

- (a) repealing subsections (2) and (3) and substituting for them the following provisions:

“(2) The Board shall consist of seven members, the Chairman of which shall be appointed by the President and not more than other six members appointed by the Minister, at least two of whom shall hail from either part of the United Republic.

(3) Six members shall be appointed from amongst persons of ability, integrity and standing who have knowledge and experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy or administration and who, in the opinion of the Minister, would be useful and beneficial to the Authority.

(4) In appointing members of the Board hailing from Tanzania Zanzibar, the Minister shall make prior consultation with the Minister of the Revolutionary Government of Zanzibar responsible for finance.

(5) For the purpose of subsection (3), a person who may be appointed as a member of the Board shall not be a director, an employee, a shareholder or an agent of any insurance registrant.”

- (b) renumbering subsections (4) and (5) as subsections (6) and (7).

Passed in the National Assembly on the 13th April, 2012.



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Clerk of the National Assembly