THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, 1999

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THE UNITED REPUBLIC OF TANZANIA

No. 2 of 1999

I ASSENT

....
President

14th April, 1999.

An Act to establish the Public Service Pensions Scheme, to provide for contributions to and payment of pensions, gratuities and other benefits in respect of the Service of officers in the Government and to provide for the related matters.

[ ]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

1.-(I) This Act maybe cited as the Public Service Retirement Benefits Act, 1999. Short title and commencement

(2) This Act shall come into operation on the First day of July, 1999.

2. This Act shall apply to all Government employees employed in Tanzania as well as to employees employed by Executive Agencies established under an Act of Parliament. Application

Interpretation

3. In this Act unless the context otherwise requires -

"annual pensionable emoluments" means the emoluments which would be taken for the purposes of computing any pension or gratuity granted to -the member under this Act if he had retired from the Service in circumstances described in section 16.

"benefit" means a retirement benefit payable under this Act;

"Board" means the Board of Trustees of the Public Service Pensions Fund established by section 32;

"child" includes a step-child, a child born out of wedlock and an adopted child;

"Constitutional office" means an office which is established by or under the Constitution of the United Republic of Tanzania of 1977-

"contract terms" in relation to employment means the terms whereby a person is employed on contract for a period of service with an eligibility for payment of a sum of money upon satisfactory completion of that period of service;

"commencement date" means the first day of July, 1999;

"commuted pension gratuity" means the gratuity which might have been granted to the member under section 22 if he had retired from the Service at the date of his death in circumstances described in paragraph (e) of section 16;

"compulsory retirement age" means the age referred to in subsection (3) of section 17, upon the attainment of which an officer shall retire;

"dependant" in relation to a deceased officer, means -

(a) where the deceased officer was a male, his widow or if he was married to two or more wives, his widows;

(b) where the deceased officer was a female, the husband of such deceased officer;

(C) every child of the deceased officer who was wholly or substantially dependent upon the deceased officer's income for his livelihood immediately preceding the death of the deceased officer;

(d) the immediate parents of the deceased officer, who satisfies the deceased officer's employer that they were wholly or substantially dependent upon the deceased officer's income for their livelihood;

"Director General" means the Director General of the Public Service Pensions Fund appointed under section 34;

"employee" means any person who -

(a) is employed in

Tanzania under contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise and howsoeverpaid;

(b) is permanently resident in Tanzania and is employed under a contract of service;

(c) is permanently resident in Tanzania and is employed outside

Tanzania under a contract of Service with an employer in Tanzania by whom he is paid, but does not include any person of eighteen years and twenty one years receiving full time education or receiving full time training in respect of which he does not receive salaries, or any person under the apparent age of eighteen years;

"employee's contribution" means that portion of a statutory contribution declared under section 41 to be the employee's contribution;

"employer" means the person with whom the employee entered into a contract of service or apprenticeship, and who is responsible for the payment of salaries of the employee;

"employer's contribution" means the fifteen percentum of the employee's salary which is provided under section 40 to be the employer's contribution;

"Fund" means the Public Service Pensions Fund established by section 3 1;

"incapable of work " and cognate expressions mean, in relation to any person, incapacity for work by reason of some specific disease or bodily or mental disablement, and also includes references to any person deemed to be so incapable under this Act;

"member of the family when.

used in relation to a person not generally subject to local customary law means the wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, child, grandchild, brother, sister, half-brother or half-sister, and when used in relation to a person generally subject to local customary law means such persons as local customary law recognizes as. members of the family;

"member of the Fund" means. an employee who is a member of the Public Service Pensions Fund or a person registered as a member of the Fund -9

"Minister" means the Minister responsible for Finance;

11 month" means a period of consecutive thirty days;

it non-pensionable office" means an office which is not a pensionable office-I

"paid" means paid in money or money's worth, and where it has reference to a date of payment means the date on which the payment was made in cash, or as the case may be, the bills of exchange or promissory note was met;

"pensionable emoluments" -

(a) in respect of Service in the Public Service includes salary in terms of the

(b) in respect of other public service, means emoluments which count for pension in accordance with the laws or regulation in force in that

Service;

(c) when used in relation to an officer not holding a pensionable office, means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office -

"pensionable office" means -

(a) in respect of service in Tanzania, an office in the

Service to which any person has been appointed or promoted on pensionable terms and that office shall be deemed to be a pensionable office for so long as the person who is appointed or promoted thereto on pensionable terms continues to hold the office-

(b) in respect of other public service, an office which is a pensionable office under the laws or regulations in force in that Service;

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"Pensions Ordinance" means the Pensions Ordinance;

"Public Service" means service in the Government;

"qualifying pensionable service" means -

(a) any period of continuous service rendered by a member since his becoming a member of the scheme and includes periods of absence from duty or leave with not less than half salary; and

(b) any period of continuous Service rendered by a member immediately prior to his becoming a member of the scheme during which he was employed by a Government on contract terms or on other than temporary terms, daily paid or casual basis and during which he was governed by any employees' terminal benefits scheme under which the terminal benefit or retirement took the form of payment of a pension, and includes any periods of absence from duty or leave with not less than half salary;

"Reserve Account" means the Reserve Account established under section 64-9

"salary" means salary attached to a pensionable office, or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office, including cost of living allowance, incentive allowance, or any other additional emoluments as may be determined by the appropriate authority;

"Scheme" means the Public Service Pensions Scheme established by section 4;

"Service" means the Civil Service of the United Republic;

"Service of Tanganyika" means Service in a civil capacity under the Government of

Tanganyika or under the then East African Community before the I st day of July, 1977 on permanent and pensionable terms under the General Fund Service and being a citizen of Tanganyika;

"specified amount" means -

(a) in relation to the period of service an annual amount equal to one five hundred and fortieth of the member's annual pensionable emoluments for each completed month of his pensionable service;

(b) in relation to the period of service an annual amount equal to the pension computation factor (which is applied to the member under the employee's, terminal, benefit scheme by which he was governed prior to his becoming a member under this Act) of the member's annual pensionabIe emoluments for each completed month of his pensionable service.

"specified office" means any office which the Minister for Finance may, by order published in the *Gazette*, specify for the purposes of this Act;

"survivor" means any person who on the death of a member is entitled to a survivor's benefit under this Act;

"transition period" means the period between I st July, 1999 to 30th June, 2004-,

"trustee" means a member of the Board including the Chairman-,

"year" means a period of consecutive twelve months.

PART 11

THE PENSION SCHEME

4. There is hereby established a Scheme to be known as the Public Service Pensions Scheme.

Establishment of the Scheme

5. All employees who are confirmed in a pensionable office in the Service shall become members of the Scheme with effect from the date of commencement of this Act.

Membership of the scheme

PART III

BENEFITS CONFERRED UNDER THE SCHEME

6.-(I) A pension, gratuity or other benefits which may be granted under this Act shall consist of -

Employees contributions to pension and gratuity as of right

(a) contribution of a member-,

(b) contribution of an employer;

(c) other grants or interests which may be received by the Fund or which may accrue from the investments made by the Scheme.

(2) The contribution of a member and the contribution of an employer to the pension, gratuity or other benefits shall, to the extent that a member retires in accordance with the provisions of section 16 or is otherwise made to cease to becoming an employee in the service in circumstances which does not injure or lower the esteem of or render, the public service in disrepute, be of right.

Exemption from Income tax Act No.33 of 1973

7. The pension, gratuity allowance or any other additional retirement benefits granted under this Act shall be exempted from income tax.

Benefits in respect of age, invalidity survivors etc.

8. Subject to the provisions of this Act, the following classes of benefits shall be payable under the Scheme -

(a) benefits in respect of

retirement age, survivorship and invalidity;

(b) benefits in respect of sickness and funeral;

(c) benefits in respect of marriage, maternity or in re8pect of emigration or withdrawal of any member which are withdrawaI benefits.

Benefit as to compulsory age of retirement

9. Subject to section 17 of this Act retirement benefit shall be payable to any person who being a member attains the age of sixty years and satisfies the Director General that he has retired from regular employment.

Death gratuity

10.-(l) Where a member dies while in the service, the Board shall grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater.

(2) Where a deceased member does not leave a widow, widower, or if no pension is granted to his widow, widower and if his parents were wholly or mainly dependent on him for support and without adequate means of

support, the Board shall grant an amount not exceeding the pension which might have been granted to his widow.

(3) Where a deceased member leaves a child who is or children who are, wholly or mainly dependent upon him for support at the time of his death, a pension in respect of each child, until such child attains the age of twenty-one year's the Board shall grant to a child or children the amount not exceeding the pension which might have been granted to his widow.

(4) Where a member who has retired from the service on pension dies before he has received by way of pension or reduced pension and

gratuity or other benefits under this Act an amount which is equivalent to the amount which might have been granted to his legal personal representative under sub-section (1) of this section had that member died while still in Service, the Board shall grant to the legal personal representative of that member a gratuity of an amount not exceeding the difference between the amount which has already been paid to that member by way of pension or reduced pension and gratuity or other benefits under this Act and the amount which might have been granted to his legal personal representative.

Survivors benefit

II.-(1) Subject to the provisions of section 10 of this Act, where a survivors benefit is payable, and no notice such as is prescribed by subsection (4) of this section has been received, the Director General may on such evidence as he may require -

(a) pay the moneys direct to the widow for the maintenance of herself and the deceased's children who are dependent on him or disabled-,

(b) if there is no widow, pay the moneys, in such proportions as he may think fit, direct to a guardian of the deceased's infant children to b e applied to their maintenance- or to any child of the deceased who is of full age but who is incapable of work by reason of some specific disease or bodily or m e n t a I disablement; or to any other dependant;

(c) if there are more claimants than

one as widow or dependant, or any of them, pay the moneys to the executor or administrator of the deceased's estate; or

(d) in any other case, pay the moneys to the Administrator-General Who shall hold them on trust for the members of the family or other person found to be entitled under this section.

(2) The provisions of subsection (1) of this section shall not apply to any case in which an interested party has given notice to the Director General before he has made payment of benefit that application has been or is being made to the court for the estate of the deceased member to be dealt with in accordance with the law of inheritance and where such an application is not made within three month of the date of death of the deceased member, the Director General may proceed to deal with the benefit under the provisions of subsection (1) of this section.

(3) For the purposes of this section "maintenance" shall be deemed to include in the case of a child education suited to the child's station.

(4) Where moneys are paid to the Administrator-General under the authority of this section, the Administrator-General shall by such means as he may think fit give public notice of the payment, having regard to the amount of payment; and claims made after the time limited by notice may be ignored under the authority of this subsection, and the amount may be paid accordingly to the members Of the family and other entitled persons who have given notice of their claims to the

Administrator- General within the time limited.

(5) Moneys paid under the authority of this section to the Administrator- General shall, if unclaimed for a period of two years from the date of payment, be paid into the Reserve Account of the Fund.

Sickness benefit

12.-(t) Where a member falls sick in circums-tances which renders him incapable of continuing to discharge his duties and that incapacity to work continues for a period of more than six months, he shall, on medical evidence to the satisfaction of the employer, be entitled in respect of his incapacity thereafter to a sickness benefit at the rate prescribed in the Schedule to this Act.

(2) Where a member or his dependant dies, his dependants or as the case may be, a member shall be entitled, to a grant of funeral benefits at the rate prescribed in the Schedule to this Act.

(3) Nothing in this section shall authorize payment of any sickness benefit which together with other payments of sickness benefit is in excess of the amount represented by the employee's contributions and his payments to the Scheme.

Invalidity benefit

13. An invalidity benefit granted under section 16 of this Act shall be payable to any member who is so physically or mentally disabled as to be unemployable.

Withdrawal because of marriage, or maternity

14. A withdrawal benefit prescribed in this Act shall be payable to -

(a) a female member who proves to the satisfaction of the Director General that in consequence of her marriage has permanently given up employment and does not intend to seek further gainful employment in the public service;

(b) a member who proves to the satisfaction of the Director General that in consequence of her giving birth to a child has permanently given up employment and does not intend to seek further employment in the public service.

(c) a member who proves to the

satisfaction of the Director General that in consequence of his wife giving birth -to a child he has permanently given up employment and does not intend to seek further employment in the PubIic Service .

Withdrawal because of emigration or unemployment in the service

15-41) A withdrawal benefit to the extent prescribed in this Act shall be payable to a member-

(a) who proves to the satisfaction of the

Director General in the Service that he is emigrating or has emigrated from and has no present intention of returning to the United Republic;

(b) who proves to the satisfaction of the Director General that he has not been employed by an employer liable to make a contribution in respect of himself for at least six months immediately preceding the application and has reached the age of fifty five years or more.

Scope of entitlement pension, gratuity etc.

16. Except for payments made pursuance to the provisions of sections 8, 9, 10, 11, 12, 13, 14, and 15 of this Act, no pension, gratuity or similar benefits shall be granted under this Act to any member except on his retirement from the Service in any one of the following cases

(a) on or after attaining the age of fifty five years;

(b) in the case of transfer to other public service, in circumstances in which he is permitted by law or regulations of the service in which he is last employed to retire on pension or gratuity;

(c) on the abolition of his office;

(d) on compulsory retirement;

(e) on medical evidence to the satisfaction of the employer that he is incapable of discharging the duties of his office by reason of becoming invalid-

(f) on termination of employment in the publlic interest;

(g) upon cessation to hold office pursuant to the provisions of Article 72 of the Constitution.

Retirement age

17.-(l) The age of voluntary retirement from Service shall be fifty five years.

(2) Subject to subsections (3) and (4). of this section and section 16(e) an officer who attains the age of fifty five years may at any time thereafter opt to retire but an

officer who does not so opt shall continue in office in the Service on pensionable terms until he attains the age of sixty years which is the age of compulsory retirement.

(3) During the transition period, an officer who does not retire from Service upon attainment of fifty five years shall not retire from Service except on the following cases-

(a) on medical evidence to the satisfaction of the employer that he is incapable of discharging his dutied by reason of becoming invalid;

(b) on the satisfaction of the employer that retirement is otherwise necessary or unavoidable;

(c) on abolition of an office or on cessation to hold office in pursuance to the provisions of Article 72 of the Constitution; or

(d) on the motion of the employer.

(4) The provisions of this section shall not apply to an officer who has been appointed to hold the office of Judge of the High Court, or Justice of Court of Appeal or Controller and Auditor General.

(5) The age for voluntary or compulsory retirement for Judge of High Court, Justice of Appeal or the Controller and Auditor-General shall be as is provided for under Constitution.

Service not qualifying for pension

18. No pension or gratuity shall be awarded under this Act to any member in respect of any service -

(a) whiIe on probation unless immediately following that period of probation, the member shall have been confirmed in his appointment; or

(b) while he was absent from duty on leave without salary unless it is established to the satisfaction of the Board that -

(i) such leave was granted on grounds of public interest; and

(ii) the employer undertakes to pay into the Fund both the employee's and the employer's contribution for the period the employee was absent or

(C) while under the age of eighteen years.

Emoluments to be taken into account when computing pension or gratuity

19. For the purposes of computing the amount of the pension or gratuity of a, member under this Act, the highest pensionable emoluments enjoyed by him within the twelve months preceding his retirement shall be used for calculating his pension.

Pensions, gratuity and allowances, for persons holding certain public offices

20.-(I) When any person who is holding a constitutional office is transferred, appointed, nominated or elected -

(a) t o another constitutional office, then when he retires, the highest salary received by him during his Service shall be taken into account when computing his pension, gratuity a n d o t h e r allowances;

(b) t o a n o n - constitutional office, then when he retires, the salary he received while holding a constitutional office shall be, if it is the highest, taken into account when computing his pension, gratuity and other allowances.

(2) A person holding a constitutional office shall not be granted the pension, gratuity or other terminal benefits applicable to the holder of that office if when he relinquishes that office he enters upon another constitutional office or a non-constitutional office, until the

time when he finally retires from the Service, upon which occasion the pension, gratuity or other terminal benefits shall be granted to him, subject to the provisions of subsection (1) -

(3) Notwithstanding the provisions of this Act-

(a) Justice of Appeal and a Judge;

(b) the Attorney General, the Chief Secretary, the Director General of Intelligence, the Inspector General of Police and the Controller and Auditor-General;

(c) the Principal Commissioner of Prisons and the Director General of Prevention of Corruption Bureau,

shaff each retire on a pension which shall be equal to eighty per cent of the salary of the incumbent holder of the office in which he was serving and from which he retires.:

(4) In addition to the benefits granted under subsection (3) the public officers mentioned thereunder shall be granted by the appropriate authority-

(a) a diplomatic passport for him and his spouse;

(b) one motor, vehicle given once, of a value not exceeding such amount as the President may from time to time determine;

(c) a total sum of money granted once as a lumpsum which shaft be sufficient to renumerate one driver for a period of four years;

(d) a total sum of money sufficient to purchase fifty litres of fuel per week granted once as a lumpsurn which shall cover a period of four years;

(e) a total sum of money being maintenance allowance for a rnotor vehicle to be granted once as a lumpsurn at a rate equal to forty percent of fuel allowance;

(f) use of VIP lounge.:

(5) The pension, gratuity, allowances and services granted under this section shall be paid out of the Consolidated Fund and shall not be subject to income tax.

(6) Notwithstanding Subsection (5) any person who **after being** transferred or appointed to a Constitutional' Office or such other public office mentioned under this section and section 21 shall

continue to be a member of the Fund and the provisions of section 6 which relate to the contributions to pension shall apply as if that person has not been transferred or appointed to a Constitutional Office or such other public office

(7) A person who holds the office of Regional Commissioner shall, upon ceasing to hold office in circumstances set out by the Political Service Retirement. Act, 1999,

(i) if the person is qualified for payment of pension or gratuity under this Act, be entitled to grant of pension or gratuity in accordance with the provisions of this Act; or

(ii) if the person is not qualified for payment of pension or gratuity under this Act, be entitled to a grant of gratuity payable at a rate of forty per - cent.

Benefits conferred to Chief Justice

21-41) A, person who held the office of the Chief Justice shall upon ceasing to hold office, be granted-

(a) an annual pension granted monthly of a sum equal to eighty percent of the salary of the incumbent Chief Justice;

(b) a winding-up allowance of a sum equal to fifty percent of the total sum of the salaries he received while he held office as Chief Justice;

(c) a gratuity of a sum-equal to fifty percent of the total sum of the salaries he received while he held office as Chief Justice;

(2) The appropriate authority shall arrange and provide to the Chief Justice

upon ceasing to hold that office-

(a) a diplomatic passport for him and for his spouse;

(b) a health insurance policy that covers medical treatment within the United Republic, and

(c) one motor vehicle, of a value not exceeding such amount as the President may from time to time determine, which shall be granted to him Once in his retirement.

(d) seventy litres of fuel per week;

(e) maintenance allowance for a motor vehicle at a rate equal to forty percent of fuel allowance;

M a driver.

(3) Payments for pension, gratuity and other retirement benefits in respect of the Chief Justice in pursuance of this section shall be paid out of the Consolidated Fund and shall not be subjected to income tax.

Rates of pension and gratuity

22.-(I) Subject to the provisions of this Act, a member who shall have had not less than an aggregate of fifteen years qualifying service may, on retirement, be granted -

(a) a commuted pension gratuity equal to fifteen' and one-half times the one-half of the specified amount, unless the said m e m. b e r exercises an option in writing to be paid in lieu of such reduced pension and c o m m u t e d pension gratuity, of the specified amount;

(b) a reduced annual pension of an amount equal to one-half of the specified amount;

(2) Every officer holding a pensionable office under the Government who has been in The service in a civil capacity for fifteen years or more may on retirement be granted a pension at the annual rate of one five hundred and fortieth of his pensionable emoluments for each complete month of his pensionable service.

Restriction on double benefit

23. No person being a member shall be entitled at any time to receive more than one benefit and in the event of a member qualifying for more

than one benefit at the same time, the Board may in its discretion approve or seek the opinion of a member so qualified as to which one of the benefit was suitable to a member and the decision of the Board shall be final:

Provided that the benefit to be granted shall be limited to an amount not exceeding the aggregate of his pensionable emoluments.

Computation of pension upon transfer appointment

24.- (1) Where an officer who holds a pensionable office joins the Service in a specified office or a parastatal organization, or having served in a specified office or a parastatal organization joins the Service on pensionable terms and his aggregate service would have qualified him, on retirement, for a pension had that Service been wholly under the Government he may, on his retirement from the Service, the Service of the specified office or the parastatal organization, as the case may be, in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on pension, be granted in respect of the Service a pension which shall be calculated with **reference to** the provisions of this Act.

(2) Where the officer is not in the Service at the time of such retirement, his pensionable emoluments for

and his aggregate service would have qualified him, on retirement, for a pension had that Service been wholly under the Government he may, on his retirement from the Service, the Service of the specified office or the parastatal organization, as the case may be, in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on pension, be granted in respect of the Service a pension which shall be calculated with reference to the provisions of this Act.

(2) Where the officer is not in the Service at the time of such retirement, his pensionable emoluments for

the purposes of this section shall be those which are currently taken for computing the pension of the holder of the office he last held when he was last employed in Service.

(3) Where, immediately before he was appointed, nominated or elected, as the case may be, to a specified office or a parastatal organization an officer employed on pensionable terms or his employment was governed by an employees' terminal benefits scheme under which the terminal benefits on retirement took form of payment of a pension, that officer shall not be eligible to receive a pension or gratuity under this Act during all that

period in which he was employed to such a specified office or a parastatal organization and such officer shall, on taking such office be deemed to be on leave without salary from Service for the purpose of computation of his pension and gratuity.

Gratuity where length of service does not qualify for pension

25. Every officer, otherwise qualified for a pension, who has not been in the Service for fifteen years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if -there had been no qualifying period might have been granted to him under the Act.

Where Service is terminated in public interest

President may grant pension

26. Where an officer's Service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer and all the other circumstances of the case, such termination is desirable in the public interest, and the benefits cannot otherwise be granted to him under provisions of this Act, the President may, if he thinks fit, grant such benefits as he thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of section 16.

President may exempt from certain conditions

27.-(I) Any public officer to whom this Act applies may by application to the President, supported by an affidavit and the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act or under any other written law relating to the granting of pension or gratuity, and the President may grant the exemption if he is satisfied that the application of such condition under the Act or under any other written law in relation to the public officer or a category of public officers would unfairly disqualify the officer or category of public officers from being granted such pension or gratuity.

(2) There shall be formed a Retirement Benefits Committee whose functions shall be to advise the President on matters relating to pension.

(3) For the purposes of this section 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; and

(c) in relation to a public officer

serving in an extra-Ministerial Department, the Head of the Department.

(4) The Retirement Benefits Committee shall consist of-

(a) the Chief Secretary, who shall be the Chairman-,

(b) the Permanent Secretary to the Treasury;

(c) the Permanent Secretary for the time being responsible for Civil Service;

(d) the Deputy Attorney General,

and it shall generally be responsible for advising the President on matters relating to the provisions of this section.

(5) All the- retirement benefits granted under this section shall be paid out of the Consolidated Fund.

Pensions, gratuity or allowance not to be assignable

28. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purposes of satisfying -

(a) a debt due to the Government; or

(b) an order of any competent court

for the periodical payment of sums of money towards the maintenance of the wife or former wife or a child of the officer to whom the pension, gratuity or other allowance has been granted,

and shall not be liable to be attached, be questered or levied upon for or in respect of any debt or claim except a debt, including a debt of income tax due to the Government.

Pensions when serving sentence

29.-(l) If any person to whom benefits have been granted under this Act is sentenced to a term of imprisonment by any competent court for any offence, it shall be lawful for the Board, to direct all or any part of the moneys to which that person would have been entitled by way of pension or allowance had he not been sentenced, to be paid, or applied, for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of that person in such proportions and manner as the Board thinks proper, and such moneys shall be paid or applied accordingly.:

(2) If that person after conviction at any time receives a free pardon, the benefits shall be restored with retrospective effect; but in determining amount of benefits payable to that person, account shall be taken of all moneys paid or applied under subsection (1).

Approval of the National Assembly to Increase, vary or modify benefits

30.-(I) If the President, after consultation with the Retirement Benefits Committee, considers it necessary, desirable or in the national interest, and is minded that any retirement benefits payable under the provisions of this Act, be increased or otherwise varied or modifled m such manner and to such extent as he may determine, he may m writing signify his intention to the Minister m that behalf.

(2) Where the Minister-

(a) receives a writing signiring to him the intention of the President m pursuance of subsection (1); or

(b) after consultation with the Retirement Benefits Committee, considers it necessary or desirable that the minimum pension payable to persons enjoying retirement benefits under the provisions of the Pensions Ordinance be increased,

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he shall submit to the National Assembly the intention of **the President** referred to m subsection (1) or, as the case may be, that of the Minister referred to m paragraph (b), for the Assembly to approve of the intention by resolution.

(3) Where the National Assembly approves of the intention of the President or of the Minister submitted to it under subsection (2), the President or, as the case may be, the Minister shall then, by order published m the *Gazette*, increase, vary or modify otherwise the retirement benefit or the minimum pension, as the case may be -

(4) The retirement benefits granted m pursuance of this section shall be charged on the Consolidated Fund.

PART IV

THE FUND

Establishment of the Fund

31.-(1) There is hereby established a Fund to be known as the Public Service Pensions Fund into which shall be paid -

(a) all contributions required to be made under this Act;

(b) money earned by carrying out any project, scheme or enterprise financed pursuance to this Act;

(c) moneys earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Fund;

(d) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties -

(2) There may be charged on and paid out of the Fund all such sums of money as may be granted by way of pension, gratuity or other benefits, including the expenses of administration, as are authorized by this Act.

Establishment of the Board

32.-(l) There is hereby established a Board of Trustees of the Public Service Pensions Fund.

(2) The Board shall be a body corporate with perpetual succession and a common seal and in its corporate name, be capable of-

(a) suing and being sued;

(b) acquiring, purchasing, taking, holding and enjoying movable and immovable property; and

(c) entering into contracts and doing and performing all such things or acts for the proper performance of its functions under this Act which may. lawfully be done or performed by a body corporate.

(3) The constitution, functions, duties, powers and any other matters in relation to the Board shall be as prescribed in Part VI of this Act.

Management of the Fund

33. The Board shall be responsible for the management and control of the Fund in accordance with the provisions of "this Act.

Appointment of the Director General

34.-(I) The President shall appoint a person to be the Director-General of the Fund who shall serve upon terms and conditions which shall be specified in the instrument of his appointment.

(2) 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.

(3) Without prejudice to any provision in this Act, the Director General shall be the Secretary of the Board and subject to the directions of the Board, be responsible for the day to day administration of the Fund and the Scheme.

Fund to be held by the Board of Trustees

35.-(l) For the avoidance of doubt, it is hereby declared that the money in the Fund shall, for the purposes of this Act and all other written laws, be deemed to be funds held by the Board in trust for the members of the Scheme to be administered by the Board in accordance with the provisions of this Act.

(2) Notwithstanding the . provisions of subsection (1), it shall be lawful for the Board to authorize payments out of the Fund for any of the purposes. for which payments out of the Fund are expressly authorised by the Act.

Minister's powers to make regulations

36. The Minister may, on recommendation of the Board, make regulations -

(a) to provide for the manner of payment and collection of contributions;

(b) to provide for forms in which particulars and returns shall be submitted-

(c) to provide for the procedure 'for dealing with unclaimed moneys in the Fund;

(d) to provide that any provisions of this Act shall not apply or shall apply with such modifications as may be specified in the regulations to any persons or class of persons.

(e) to provide for anything which may be necessary for the better carrying out of any of the provisions of this Act.

PART V

CONTRIBUTIONS AND PAYMENTS

Sources of the Fund

37. The sources of the Fund shall be from -

(a) employees contributions;

(b) employer's contributions;

(c) moneys accrued from the investment of the Fund;

(d) such sums as may be appropriated by Parliament for the purposes of the Fund.

Contributions and payments to the Fund

38.-(I) All sums collected, recovered or transferred on account of contribution under this Act shall be paid into the Fund in such manner as the Board shall direct.

(2) The Board shall cause to be credited to each member's account -

(a) the amount of any contributions paid in his respect by the employer on his own behalf and on behalf of such member;

(b) any other moneys paid on behalf of that member under this Act.

Failure of employer to pay contribution to the Fund

39.-(l) Where any employer fails to pay any contribution which he has deducted from the wages of an employee, the Board shall, on being satisfied that such deduction has been made, credit the employee with the amount of that contribution and charge the amount so credited to the general revenues of the Fund.

(2) Nothing in this section shall Prejudice the right of the Board to recover the amount of such contribution from the employer.

(3) Notwithstanding anything to the contrary any amount recovered under subsection (1) shall be disbursed in the following manner -

(a) to be credited to the general revenues of the Fund such sum that has been paid out from the general revenues of the Fund under subsection (1);

(b) the balance thereof shall be credited to the respective employees accounts rateably.

Employer's contribution

40. Every employer of a member shall be liable to pay monthly contributions in respect of the member at the rate- of fifteen percentum. of the member's salary.

Employee's contribution

41.-(1) Each member shall make, as from the date of becoming a member, a contribution to the Fund at the rate of five per-centum. of his salary and that contribution shall be deducted from his salary monthly.

(2) An employer shall contribute in respect of a member by deducting that member's contribution from his salary at the end of each month.

(3) Where an employer deducts a member's contribution from the member's salary in pursuance of this section in advance of the payment of that contribution. to the Fund, the employer shall hold that contribution on trust for the purposes of this Act.

(4) Where the Board is satisfied that an employer has deducted the member's contributions from the member's salary but has failed to pay the contribution to the Fund, the Board may whether or not that contribution is recovered from the employer, credit to the member's account in the Fund, the amount of the member's contribution and charge the cost to the employer.

Contribution not transfer-rable

42. Notwithstanding anything to the contrary contained in any written law -

(a) no sum deducted from the salary of the member of the Fund -

(b) no amount payable by the employer as his contribution in respect of a member- and

(c) no amount standing otherwise to the credit of a member of the Fund,

shall be assignable, transferrable or liable to be attached, or levied upon for or in respect of any debt or claim against a member.

Refund of excess contributions

43. Any moneys paid to the Fund in excess of the amount for which any employer is liable in respect of an

employee or in excess or in excess of the contribution payable for a contribution period may be refunded to the employer or a member or both, as the case may be, in such manner as the Board may determine.

Accounts of members

44.-(I) The Board shall establish and maintain for each member of the Fund an account to which shall be credited all contributions made to the Fund in respect of such member.

(2) All the payments made by that member and all interest credited under this Act, shall be charged all the benefits granted or refund made in respect of that member.

Members rights to their accounts

45. It shall be the duty of the Director General to inform any member of the Fund on request about the welfare of the member's account.

Contribution to the Fund to be drawn from the Consolidated Fund

46. If the Fund is at any time unable to pay any sum which the Fund is required to pray under this Act, the sum required to be so paid shall be charged on and advanced to the Fund from the Consolidated Fund and the Fund shall as soon as Practicable repay to the Government the sum so advanced.

Exemption from stamp duty and income tax

47,0) No stamp duty and no- value added tax shall be payable on any receipt, contract, instrument or other document given or executed by the Board on behalf of the Fund or by any person in respect of benefits or refunds of contributions under this Act.

(2) Notwithstanding subsection (1) nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or on any document otherwise liable under the Stamp Duty Act.

Act No.20 of 1972

(3) No income tax on the contributions and benefits payable under the Scheme or corporate tax or any other tax which would have otherwise been levied on the Fund, be levied on the Fund.

Annual accounts and audit

48.-(I) The Board shall cause to be kept and maintained proper books of accounts and records with respect to -

(a) the receipt and expenditure of moneys and other financial transactions of the Fund;

(b) the assets and liabilities of the Fund,

and shall cause to be made out, for every financial year a balance sheet and a statement showing details of the income and expenditure of the Fund and all its assets and liabilities.

(2) Not later than six

months after the close of every financial year, the accounts including the balance sheet of the Fund relating to that financial year shall be audited by the Controller and Auditor General.

(3) As soon as the accounts of the Fund have been audited, and in any case not later than six months after such audit, the Board shall submit to the Minister a. copy of the audited statement of accounts, together with a copy of the report made by the auditors.

(4) As soon as practicable after receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (3), the Minister,,

shall lay a copy of the statement together with a copy of the auditors' report before the National Assembly.

Authority for withdrawals from the Fund

49.-(I) Subject to sections 11, 12, 13 and 14 and any regulations and rules made under this Act, no sum of money standing to the credit of a member of the Fund may be withdrawn except with the authority of the Board and, such authority shall not be given unless the Board is satisfied that -

(a) the member of the Fund has died;

(b) the member of the Fund has attained the age of sixty years;

(c) the member of the Fund is physically or in e n t ally incapacitated from engaging in any further employment;

(d) the member of the Fund is about to leave the country with no intention o f returning thereto or of residing in t h e U n i t e d Republic of Tanzania.

(2) When a withdrawal under subsection (1) has been made of any amount standing

to the credit of the member of the Fund, the member shall not thereafter be treated as an employee.

Report by the Board

50. The Board shall, within six months after the end of each financial year, make a report to the Minister on the operations of the Fund during that financial year, and the Minister shall lay a copy of that report before the National Assembly together with a copy of the statement of accounts required to be laid before the National Assembly by section 48.

Actuarial evaluation of the Fund and Board's recommendation to the Minister

51.-(I) The Board shall, at intervals of not less than five years or at any time when the Minister so directs, cause the assets and liabilities of the Fund to be evaluated by an actuary.

(2) Any report or findings of an actuary made under subsection (1) shall be submitted before the Board as soon as possible and the Board upon receipt of the report or findings shall make necessary recommendations to the Minister.

(3) Recommendations of the Board arising from the report of the evaluation carried out in terms of subsection (1) shall be submitted to the Minister within that time and

in that report, the Minister shall take measures as he may consider necessary or expedient for the avoidance of any current or future deficiency in the Fund, and may advise the employers as well as the employees to increase their contributions to the Fund by the revised rate as he may determine or make any steps or measure geared at ameliorating the deficiency or loss to the Fund.

(4) The word "actuary" as used under this section means an expert who calculates insurance risks and premiums by studying rates of mortality and frequency of accidents, fires, thefts and the like incidents.

PART VI
THE BOARD

Composition of the Board

52.-(l) The Board shall comprise of -

(a) Chairman, who shall be Perinanent Secretary of the Ministry of Finance;

(b) the Permanent Secretary to the Civil Service;

(c) the Attorney-General -,

(d) the Governor of the Bank of Tanzania;

(e) the Secretary General of the Trade Union of Government Employees;

(t) the Treasury Registrar;

(g) three other members appointed by the Minister being-

(i) two representatives from the trade union of Government employees one of whom shall be a woman;

(ii) one representative from the Civil Service;

(2) The appointments to be made by the Minister under subsection (1)(g) shall be made from amongst persons who have had experience of, and shown capacity in, social security law, insurance, financial matters or administration.

(3) Members of the Board shall not be entitled to any remuneration but may be paid such allowance as the minister may upon

recommendation of the Board, determine.

(4) The Board shall ordinarily meet four times in a year but the Chairman may convene an extra-ordinary meeting when the need to do so arise.

Functions of the Board

53. The functions of the Board shall be -

(a) to manage and administer the Fund;

(b) to invest moneys available in the Fund;

(c) to be responsible for disbursement of pension, gratuity and other benefits in accordance with the provisions of this Act;

(d) to advise the Minister on matters relating to the administration of this Act; and

(e) to do all such acts and things and to enter into all such transactions as, in the opinion of the Board, may be necessary for the proper and efficient administration of the Fund.

Duties of the Board

'54. It shall be the duty of the Board -

(a) to manage and administer the Fund in accordance with the highest standards which a person -holding any fund in a fiduciary capacity on behalf of another may reasonably be expected to conform to;

(b) to protect, safeguard and promote the interests of the members of the Fund;

(c) to do all such acts and things as the Board may reasonably be expected to do -

(i) to uphold and support the credit of the Fund;

(ii) to obtain and justify the confidence of the people of the United Republic of Tanzania and of the members of the Fund in particular; and

(iii) to avert and minimize any loss to the Board.

Powers of the Board to appoint and delegate

55.-(I) The Board shall have such powers as are given or imposed under this Act.

(2) The Board may, by instrument under its seal, appoint and delegate to such terms, conditions and restrictions as it may specify, to any committee of the Board or

to the Fund all or any of the functions, authorities or duties conferred upon the Board by or under this Act and where any delegation is so made the delegated function, power, authority or duty may be performed or, as the case may be exercised by the delegate subject to the terms, conditions and restrictions specified in writing.

(3) The Board may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power, authority or duty delegated.

(5) In the event of any

dispute between the Board and the Fund on or in relation to any matter arising from any delegation or purported delegation made under this Act, the dispute shall be referred to the Minister whose decision shall be final and binding on the parties.

Temporary members

56.-(l) Where any member appointed under subsection (1)(d), (e), (f) and (g) of section 52 is by reason of illness, infirmity or absent from the United Republic, unable to attend any meeting of the Board, the Minister may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of office of the substantive member.

(2) When attending meetings of the Board in place of a member, the temporary member appointed under subsection (1) shall for all purposes be deemed to be a member of the Board.

(3) A temporary member shall cease to be a temporary member when the substantive member in respect of whom he is a temporary member ceases to be a member of the Board.

Tenure of office

57. Every member of the Board, shall hold office for a term not exceeding three years and shall be eligible for reappointment.

Resignation and revocation of appointment

58-41) . Any member of the Board, may at any time resign his office by a written notice addressed to the Chairman, and in the case appointment of the Chairman a written notice addressed to the Minister.

(2) The Minister may at any time revoke the appointment of a member of the Board if he thinks it is expedient so to do without assigning any reason.

Vacation of office

59. A member of the Board shall be deemed to have vacated his office -

(a) upon his death - or

(b) upon his failure to attend three consecutive meetings of the Board without reasonable excuse.

Quorum and conduct of proceedings

60.-(l) The Chairman and four other members shall form a quorum for a meeting of the Board.

(2) In the absence of the Chairman the members present shall elect one of their **member to be a temporary** Chairman of that meeting.

(3) At any meeting of the Board a decision, of the majority of the members present and voting shall be deemed to be a decision of the Board and in the event of an equality of votes the Chairman of the meeting shall have a

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casting vote in addition to his deliberative vote.

Chairman of the Board to have a casting vote

61. Where on any question to be determined there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

Minister's powers to give directions

62. The Minister may give to the Board directions of a general or specific nature as to the performance by the Board of any of its functions under this Act in relation to any matter appearing to the Minister to affect the national interest, and the Board shall give effect to every such direction.

Authentica:-
tion of
the seal

63. The seal of the Board shall not be affixed to any deed, document and other instrument except in the presence of the Chairman and the Director General, or either the Chairman or the Director General and one other member of the Board as the Board may appoint in that behalf.

Reserve
Account

64.-(I) The Board shall establish, maintain and manage a Reserve Account into which shall be paid -

(a) all portion of the income from the investments;

(b) other moneys authorized to be paid into the Reserve Account by any provision of this Act;

(c) fines and penalties which may be levied under -this Act.

(2) The payment into and out of the Reserve Account shall be determined by the Board.

Board may establish a committee

65. Notwithstanding any provisions of the Act, the Board may appoint any person or establish any committee in respect of any matter relating to the management, investment and administration of the Fund.

Powers to grant loans

66. The Board may grant loans and make advances to its officers and employees on such terms and conditions as the Board may determine.

Disqualification from membership of the Board

67. The following persons shall be disqualified from being appointed as a member of the Board and shall cease to be such a member if -

(a) such a person is of unsound mind or is otherwise incapable of performing his duties-9

(b) such person has been convicted of an offence and sentenced to imprisonment for a term of not less than one year;

(c) such person who has been convicted of an offence involving fraud or dishonesty;

(d) such person is declared bankrupt

Disclosure of interest

68.-(I) Every member of the Board, or Committee, having directly or indirectly by himself, his spouse or children, any interest in any matter under discussions by the Board or any committee of which he is a member, shall disclose to the Board or committee, as the case may be, the fact of his interest and the nature thereof as soon as practicable after the relevant fact has come to his knowledge.

(2) Any member of the Board or committee who fails to disclose his interest as provided under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand shillings or to both.

(3) Every declaration under this section shall be recorded in the minutes of the Board or committee, and after any declaration made under subsection (1) the member of the Board or committee, as the case may be, shall-

(a) not take part nor be present in decision of the Board or committee relating to the matter, and

(b) be disregarded for the purposes of constituting a quorum. of the Board, or committee for such deliberation or decision.

(4) No act or proceedings of the Board or committee shall be invalidated on the ground that any member of the Board or committee has contravened the provisions of this section.

PART VII

OFFENCES

Offence for failure to comply with conditions

69.-(I) Any person being an employee of the Fund, a member or an officer who is subject to this Act who -

(a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or which he knows to be false in a in a t e r i a I particular;

(c) misrepresents or fails to disclose any material fact;

(d) fails to pay to the Fund within such period as may be prescribed any contribution which he is liable to pay under this Act;

(e) obstructs or assaults any officer or servant of the Board in the discharge of his duties as such;

(f) fails to comply with any regulations made under this Act as a result of which there is a loss to the Fund or as a result of which the accounts of individual members cannot be credited with their contributions;

(g) fails without lawful excuse to produce documents required to be produced under this Act by him;

(h) obtains the consent of employees required under this Act by duress or undue influence-

(i) knowingly deducts from an employee's salary or allowance any sum in respect of a contribution to the Fund greater than the employee's contribution-, or

(j) fails without lawful excuse to comply with the terms, of and conditions provided under this Act,

commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from such person to the Fund at the date of conviction; and such amount may be recovered in the same manner

as a fine and shall be paid into the Fund for the credit, where applicable, of the **accounts of the members of the** Fund concerned.

(3) Proceedings in respect of any offence under this Act may be commenced at any time within the period of three months from the date on which evidence in the opinion of the Director General of Pensions to justify a prosecution for the offence comes to his knowledge, or within a period of twelve months after the commission of the offence, whichever is the later.

(4) Notwithstanding anything to the contrary contained in any law respecting the jurisdiction of such

magistrate, in all cases or matters , arising under this Act, offences under this Act shall be triable by a court other than a primary court.

Punishment

70. Where a person is convicted of an offence under this Act, he shall be liable to a fine not exceeding thousand fifty shillings or to imprisonment for a tern) not exceeding four years or to both.

Director General to **institute** proceedings

71. Any action for the recovery of contributions and all criminal proceedings may be instituted by the Director General or other officer of the Fund appointed by the Board in that behalf and where action is instituted in a magistrate's

court, any person authorized by this section may appear and conduct the case.

Liability of members
Cap. 16
Act No.7 of 1970

72.-(I) Without prejudice to the provisions section 284A of the Penal Code or section 3 of the Public Officers (Recovery of Debts) Act, 1970, no act or thing done, or omitted to be done by any trustee or by any officer, servant or agent of the Board shall, if done or omitted to be done in good faith in execution or purported execution of his duties as a trustee, officer, servant or agent, shall subject that person to any action, liability or demand.

(2) The provisions of subsection (1) shall apply in like manner in relation to liability of members of the Investment Panel.

PART VIII

TRANSITIONAL PERIOD AND MISCELLANEOUS PROVISIONS

Repeal of Pensions Ordinance Cap.371

73.-(1) The Pensions Ordinance is hereby repealed.

(2) All persons who, immediately before the commencement date, were receiving pension, allowances, additional benefits or other retirement benefits granted under the provisions of the Pensions Ordinance which are similar to those set out under section 20(4) of this Act, shall continue to receive those benefits as if the Pensions Ordinance had not been repealed.

(3) All the employees who were immediately before the

commencement of this Act qualified under the pension scheme shall on attainment of retirement age be entitled to receive their pension for the service they rendered in the S e r v i c e before t h e commencement date plus the remaining portion of the pension entitlement under this Act.

Continuance of laws

74.-(I) Subject to the provisions of this Act,, all written laws, orders, regulations and rules enacted before the commencement date shall, and until they are revoked or replaced, continue in force on and after the commencement date and be construed as if they have been made under this Act.

(2) Unless the context requires otherwise any reference in any written law to the Pensions Ordinance shall be construed as references to the Public Service Retirement Benefits Act, 1999.

Transfer of powers, rights, liabilities and duties

75. Subject to the provisions of this Act, all powers, rights, privileges, duties, liabilities or obligations which, immediately before the commencement date were those exercisable by persons in accordance with the provisions ofthe Pensions Ordinance shall as froin that day devolve on the Pensions Fund.

Transfer of property

76. Subject to the provisions of this Act and to any direction of the Minister, all property and assets other than land which immediately before the commencement date were vested in the Ministry **of Finance, Pensions Department** , or in any person on behalf of **the Pensions Department shall, from the commencement date,** vest in the Board.

Existing contracts

77. Subject to the provisions of this Act, all deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the commencement date affecting any of the property transferred shall be oil full force and effect

against or in favour of the Board and enforceable as fully and effectually as if instead of the Pensions Department the Board has been named therein or had been a party thereto.

Continuance of criminal and civil proceedings

78.-(l) Subject to the provisions of this Act neither the repeal of the repealed Act nor anything contained in this Act shall affect any person's liability to be **prosecuted or punished for** offences committed under the repealed Act before the commencement of this Act or any proceedings brought or sentence imposed before that day in respect of that offence.

(2) Subject to the provisions of this Act, any

proceedings whether civil or criminal or cause of action pending or existing immediately before the commencement date by or against the Pens-ions Department or any person acting on behalf of the Pensions Department may be continued or instituted by or against the Board as it might have been by or against the Pensions Department or such person as if this Act had not been passed.

Continuance of service by officers and employees

79.-(l) Every person who immediately before the commencement date was employed as an officer or employee of the Pensions Department shall on and after that date be transferred to the employment of the Fund.

(2) Upon the establishment of the Board pursuant to section 32 the allocation of employees to the Fund shall be effected subject to prior arrangement made between the Treasury and the Fund.

Pending disciplinary proceedings

80. Where immediately before the commencement date -

(a) any disciplinary proceedings have been initiated against any employee or officer or employee of the Pensions

Department and such proceedings are still pending before the former Pensions Department or in the course of being heard or investigated by the former Pensions Department or had been heard or investigated by the former Pensions Department and no order or decision had been rendered thereon- or

(b) any such employee or an officer has been interdicted or suspended,

the Board shall -

(i) in the case of paragraph (a), carry on and complete the hearing investigation and make an order or render a decision, as the case may be and

(ii) in the case of paragraph (b), deal with such employee or officer in such manner as it deems appropriate, having regard to the offence against him, including the institution and completion of discipli-nary procee-dings and the making of any order or the rendering of a decision as the case may be, as if those discipli-nary proceedings had been commenced by the Board to which the employee or an officer would be employed.

Payments during transition period

81. Subject to the provisions of this Act or any other written law, an employee who at the commencement date has attained the age of fifty five but for the operation of section 17 has continued in Service, shall become a member of the Fund.

(2) A **person who become** a member of the Fund in pursuance to the provisions of subsection (1) shall on retirement from Service be granted benefits under the Pensions Ordinance for the period during which he was not a member of the Fund and shall be granted benefits under this Act in respect of the period during which he was a member of the Fund.

Option to the payment of lump sum

82. **Any person who at or** during his retirement period and whose pension is from zero shillings to twenty thousand shillings pet month shall be allowed to opt out for the lump sum payment.

Employee's payments to be refunded and paid out of the Consolidated Fund

83. Any employee or member who dies within. a period of five years after the commencement date regardless of his contributions to the Fund-

(a) his contributions shall be refunded to the beneficiaries or legal personal representatives by the Permanent Secretary to the Ministry of Finance-,

(b) his pension and other benefits shall be paid to his beneficiaries or legal personal representatives under the

Pensions Ordinance as if this Act had not been enacted.

Employees under the Pensions Ordinance (Cap. 37 1) to continue under the same

84. Notwithstanding anything to the contrary, any person or category of persons who was covered under the Pensions Ordinance or any other written laws and who is not covered under this Act, shall continue to enjoy all the rights and benefits conferred under that law as if this Act had not been enacted.

Paymaster General to become custodian of the Fund

85.-(I) It is hereby declared that the Paymaster General shall be the custodian of the Fund until when the Board becomes full operational and shall be responsible for all the payments made during the transition period.

Amendment of section 3 of the Income Tax Act, Act No.33 of 1973

86. The Income Tax Act, 1973 is amended by deleting paragraph (c) of subsection (2) of section 2 and by renumbering paragraphs (d) and (e) as paragraphs (c) and (d) respectively.

Amendment of section 6 of the Tanzania Intelligence and Security Act. 1996 Act No. 15 of 1996

87. The Tanzania Intelligence and Security Act, 1996 is amended m Section 6 by deleting a full stop which appear at the end of subsection (2) and by inserting thereat the following phrase "or as may be provided for by or under the Public Service Retirement Benefits Act, 1999.

SCHEDULE

(Under sections 8, 12, 13, 14, and 15)

BENEFITS:

A. (Subsidiary benefits in respect of sickness, funeral, marriage, maternity).

The amount of the benefit payable to a member for the period of sickness shall not exceed the aggregate of 5 per centum of a member's monthly contribution towards the Scheme multiplied by six.

B. (Withdrawal benefits in respect of emigration or withdrawal)

The amount of benefit shall be the

balance of the contribution by both a member and employer towards the Scheme at the date of payment after deduction of any subsidiary benefit drawn by a member.

Passed in the National Assembly on the 5th February, 1999.

Clerk of the National Assembly