

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 1974

I ASSENT,

*Tulius K. Nyerere*  
President

11<sup>th</sup> APRIL, 1974

An Act to amend certain Financial Laws

[11TH APRIL, 1974]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Financial Laws (Miscellaneous Short title Amendments) Act, 1974.
2. The written laws specified in the first and the second columns of the Schedule hereto are amended in the manner specified in the third column of the said Schedule. Amendment of certain financial laws

SCHEDULE

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COLUMN 1

Cap. 371

COLUMN 2

The Pensions Ordinance

COLUMN 3

Section 14 is repealed by the following section:

“Movement  
of officers  
between  
public  
service  
and para-  
statal  
organiza-  
tions

14—(1) In the cases to which this subsection applies if an officer on pensionable terms joins the service of a parastatal organization or a specified office, or having served a parastatal organization or a specified office joins the service of the United Republic on pensionable terms, his service in the parastatal organization or the specified office shall, subject to the provisions of subsection (5), count as pensionable, reckonable and gratuity earning service as if such service in the parastatal organization or in the specified office were pensionable service in the Government of the United Republic and such officer shall, on retirement from the service of the parastatal organization, the specified office or the Government of the United Republic, as the case may be, be entitled to a pension or gratuity under this Ordinance if such retirement is in the circumstances in which an officer may retire on pension from a pensionable office under this Ordinance.

(2) Sub-section (1) shall apply—

(a) to an officer holding a pensionable office and—

(i) who resigned therefrom on or after the first day of January, 1954 and before the first day of March, 1972 or resigns therefrom on or after the first day of March, 1972, for the purpose of joining parastatal service in circumstances in which he was not or is not eligible for a pension or gratuity after leaving such pensionable office and has not received and is not likely to receive, or has by an option exercised by a notice in writing addressed to the appropriate officer prior to his resignation, opted not to receive, any payment under any employees' terminal benefit scheme or any ex-gratia payment or other award in respect of such pensionable office; and

(ii) joined or joins such parastatal service before the expiration of one month from the date of the determination of his appointment in the service of the United Republic; and

(iii) whose resignation was or is approved by the appropriate authority as being in the public interest; or

(b) to an officer in the parastatal service who joins the service of the United Republic within one month of ceasing to hold office in the parastatal service in circumstances in which—

(i) he is not eligible for a pension or gratuity after leaving the parastatal service or being so eligible surrenders or assigns to the Government his right to such pension or gratuity; and

## SCHEDULE—Contd.

COLUMN 1

COLUMN 2

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- (ii) has not received and is not likely to receive any payment under any employees' terminal benefit scheme or any ex-gratia payment or other award in respect of his parastatal service; and
  - (iii) whose transfer to the service of the United Republic is approved by the appropriate authority as being in the public interest.
- (3) For the purposes of subsection (1) of this section—
- (a) any officer to whom that subsection applies who, after joining the service of a parastatal organization, in the circumstances mentioned in paragraph (a) thereof, subsequently joined or joins the service of any second or subsequent parastatal organization without a lapse of a period longer than one month between the date of the termination of his service with one parastatal organization and the date of the commencement of service with another, shall be deemed, on retirement from the service of the parastatal organization which he happened to serve at the time of retirement, to have retired from the service of such first mentioned parastatal organization and for the purposes of subsection (1) his service in all such parastatal organizations shall be deemed to be continuous service in a pensionable office;
  - (b) any officer to whom that subsection applies who, after joining parastatal service in the circumstances mentioned in paragraph (a) of subsection (2) subsequently takes up the duties of any second or subsequent specified office or joins the service of any parastatal organization in the circumstances mentioned in the said paragraph without the lapse of a period longer than one month between the date when he ceased to hold one such office and the date of his taking up the duties of any other such office or any office in a parastatal organization, shall be deemed, on retirement, to have retired from such first mentioned office held by him, and for the purposes of subsection (1) his service in all such specified offices and parastatal organizations shall be deemed to be continuous service in a pensionable office;
  - (c) any officer to whom that subsection applies who, after joining the service of the United Republic in the circumstances mentioned in paragraph (b) of that subsection rejoins parastatal service and retires therefrom in the circumstances mentioned in subsection (1) or in circumstances mentioned in paragraph (a) or (b) of this subsection, his parastatal service prior to his joining the service of the United Republic, his service in the service of the United Republic, and his parastatal service subsequent to his service with the United Republic shall be deemed to be continuous service in a pensionable office;

SCHEDULE—Contd.

COLUMN 1

COLUMN 2

COLUMN 3

Acts, 1968  
No. 1

The Tanzania Audit Corporation  
Act, 1968

Cap. 212

Cap. 381

- (c) the Tanganyika African National Union;
- (d) any company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organization or, where the company is limited by guarantee, a company in respect of which the amount that the Government or a parastatal organization which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contribute and reference in this paragraph to "parastatal organization" include references to any such company;
  - "parastatal service" means service in a parastatal organization or a specified office;
  - "retirement" includes death, disability or other event in circumstances in which a pension or gratuity is payable under this Ordinance;
  - "specified office" means any office which the Minister may, by order published in the *Gazette*, specify for the purposes of this section."
- (a) Section 2 is amended by adding the following definition in its appropriate alphabetic position:
  - "parastatal organization" means—
    - (a) a local authority;
    - (b) any body corporate established by or under any written law other than—
      - (i) the Community;
      - (ii) any corporation within the Community;
      - (iii) any company registered under the Companies Ordinance other than a company to which paragraph (e) applies;
    - (c) the Tanganyika African National Union, any organ of the Tanganyika African National Union and every body of persons, whether corporate or unincorporate, which is affiliated to the Tanganyika African National Union;
    - (d) a trade union registered under the Trades Union Ordinance;

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COLUMN 1

COLUMN 2

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- (d) any company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organization or, where the company is limited by guarantee, a company in respect of which the amount that the Government or a parastatal organization which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contribute and reference in this paragraph to "parastatal organization" include references to any such company;
  - "parastatal service" means service in a parastatal organization or a specified office;
  - "retirement" includes death, disability or other event in circumstances in which a pension or gratuity is payable under this Ordinance;
  - "specified office" means any office which the Minister may, by order published in the *Gazette*, specify for the purposes of this section."
- (a) Section 2 is amended by adding the following definition in its appropriate alphabetic position:
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      - (i) the Community;
      - (ii) any corporation within the Community;
      - (iii) any company registered under the Companies Ordinance other than a company to which paragraph (e) applies;
    - (c) the Tanganyika African National Union, any organ of the Tanganyika African National Union and every body of persons, whether corporate or unincorporate, which is affiliated to the Tanganyika African National Union;
    - (d) a trade union registered under the Trades Union Ordinance;

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COLUMN 1

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- (e) any company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organization or, where the company is limited by guarantee, a company in respect of which the amount that the Government or a parastatal organization which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contribute; and reference in this paragraph to "parastatal organization" include references to any such company;
- (f) any body of persons, whether corporate or unincorporate, which the Minister may, by notice in the *Gazette*, declare to be a parastatal organization for the purposes of this section;

(b) Section 4 is amended by adding the following subsections in their appropriate numerical positions:

"(6B) The Minister may, by order in the *Gazette*, require the Corporation to assume in relation to any parastatal organization specified in the order the responsibilities referred to in subsection (2) and upon such order being made the Corporation shall assume such responsibilities as if references in that subsection to a statutory body were references to such parastatal organization:

Provided that no order shall be made under this section in relation to any parastatal organization established by or under any written law if such written law specifically provides for any specified person to perform the audit of the accounts of the organization.

(6C) Where the Corporation performs the audit of any body corporate whether pursuant to an order under subsection (6B) or otherwise, the provisions of section 132 and 133 of the Companies Ordinance shall not apply in relation to such body corporate."

The Act is amended by adding the following sections immediately below section 2:

"Payment to trusts in certain cases to be deemed to be dividends 2A.—(1) Any contribution to a charitable trust made by a specified company shall, where the trust is controlled by the company or its directors, be deemed for the purposes of this Act to be a payment of a dividend and the provisions of section 7 shall apply to such contribution accordingly so that any such contribution shall be taken into account in the computation of the dividends which such company may lawfully declare and pay.

Acts, 1972  
No. 22

The Companies (Regulation of  
Dividends and Surpluses and  
Miscellaneous Provisions) Act,  
1972

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COLUMN 1

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(2) For the purposes of this section a charitable trust shall be deemed to be controlled by a specified company or its directors if—

- (a) the trust was established by the company; or
- (b) any of the directors of the company is a trustee of the trust; or
- (c) the company or any of its directors has any control over the disposal of the trust fund.

Loans to directors or shareholder to be deemed to be dividend

2B.—(1) Any loan made by a specified company to any director or shareholder of the company shall, for the purposes of this Act, be deemed to be a payment of a dividend and the provisions of section 7 shall apply to the payment of such loan accordingly so that the amount of such loan shall be taken into account in the computation of the dividends which such company may lawfully declare and pay.

(2) The provisions of subsection (1) shall not apply to any loan made by a specified company to a director or shareholder who is also an employee of the company where such loan was made pursuant to a general scheme of loans by the specified company to its employees approved by the Treasury Registrar.”.

Passed in the National Assembly on the thirteenth day of March, 1974.

*M. M. Mwindadi*  
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Acting Clerk of the National Assembly