

THE UNITED REPUBLIC OF TANZANIA



CHAPTER 371

THE PUBLIC SERVICE RETIREMENT BENEFITS ACT

[PRINCIPAL LEGISLATION]

REVISED EDITION OF 2015

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Dar es Salaam,
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GEORGE M. MASAJU,
Attorney General

CHAPTER 371

**THE PUBLIC SERVICE RETIREMENT
BENEFITS ACT**

[PRINCIPAL LEGISLATION]

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SCHEDULE

CHAPTER 371

THE PUBLIC SERVICE RETIREMENT BENEFITS ACT

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.

[1 July, 1999]

[s. 1(2)]

Act Nos.
2 of 1999
9 of 2000
11 of 2000
11 of 2003
4 of 2004
15 of 2004
19 of 2004
13 of 2005
16 of 2007
13 of 2008
11 of 2010
17 of 2010
5 of 2012
1 of 2013

PART I
PRELIMINARY PROVISIONS

1.-(1) This Act may be cited as the Public Service Retirement Benefits Act. Short title

(2) [Omitted commencement].

2. This Act shall apply to a person employed in the formal or informal sector who has not been registered or insured under any other written law. Application
Act No
5 of 2012
s. 120

3. In this Act, unless the context otherwise requires- Interpreta-
tion Act
Nos.
9 of 2000
s. 4
19 of 2004
“actuary” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especially 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.

- Act Nos.
9 of 200
19 of
2004
Misc.
5 of 2012
s. 12
- “actuarial report”** means a report prepared by an actuary who effected actuarial valuation under this Act;
- “actuarial valuation”** means valuation of assets and liabilities of a scheme of the Fund made by an actuary;
- “administration expenses”** means all cost incidental or in relation to registration of members, collection of members’ contributions and disbursement of members’ benefits;
- “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;
- Cap. 135 **“Authority”** means the Social Security Regulatory Authority established by section 4 of the Social Security (Regulatory Authority) Act;
- Cap. 197 **“Bank”** means the Bank of Tanzania established under the Bank of Tanzania Act;
- “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;
- “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;
- “constitutional office”** means an office which is established by or under the Constitution of the United Republic of Tanzania;
- “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;
- “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; and
 - (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; or

- (d) the immediate parents of the deceased officer, who satisfies the deceased officer's employer that they were wholly or substantially depend 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 an individual who-
- (a) has entered into a contract of employment;
 - (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;
 - (c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act; or Cap. 366
 - (d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act; Cap. 300
- "employee's contribution" means that portion of a statutory contribution declared under section 41 to be the employee's contribution;
- "employer" means a person or organization, in the public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant;
- "employer's contribution" means the fifteen *per centum* of the employee's salary which is provided under section 40 to be the employer's contribution;
- "formal sector" means the sector which include employers and employees who have entered into contract of employment or apprenticeship or any other contract;
- "Fund" means the Public Service Pensions Fund established by section 31;
- "incapable of work and cognate expressions" means 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;
- "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;
- "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;

"member of the family when used in relation to a person not generally subject to local customary law" means the wife, husband, father, mother, 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 recognises as members of the family;

"Minister" means the Minister responsible for Finance;

"month" means a period of consecutive thirty days;

"non-pensionable office" means an office which is not a pensionable office;

"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 provisions of this Act; and
- (b) in respect of other public service, means emoluments which count for pension in accordance with the laws or regulations in force in that Service;

"Pensions Ordinance" means the Pensions Ordinance;

Cap. 371
R.1.. "public officer" or "public department" means every officer or department invested with or performing duties of a public nature, whether under the immediate control of the President or not, and includes an officer or department under the control of a local authority, the community or a public corporation;

"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;

"qualifying period" means service which may be taken into account in determining whether or not that leader is eligible by length of service for a pension or gratuity;

"Reserve Account" means the Reserve Account established under section 64;

"salary" means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service, 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;

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

"self employed" means a person who does not work in terms of contract of employment, apprenticeship or any other contract contemplated in the definition of the term employee;

"Service" means the service of the United Republic;

"Service of Tanganyika" means Service in a capacity under the Government of Tanganyika or under the then East African Community before the 1st 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; and
- (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 pensionable 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 1st July, 1999 to 30th June, 2004;

"trustee" means a member of the Board including the Chairman; and

"year" means a period of consecutive twelve months.

**PART II
THE PENSION SCHEME**

Establish-
ment of
the
scheme

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

Membership
of the
scheme
Act No
5 of 2012
s. 122

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

**PART III
BENEFITS CONFERRED UNDER THE SCHEME**

Compulsory
contribution
Act No
5 of 2012
s. 133

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.

(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 provisions of this Act.

Exemption
from
Income
Tax Act
Cap 332

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; and
- (c) benefits in respect of marriage, maternity, emigration or withdrawal of any member which are withdrawal benefits.

9.-(1) 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.

Benefits as
to
compulsory
age of
retirement
Act Nos
9 of 2000
s.5;
11 of 2000
s. 33
17 of 2010
s. 42
1 of 2013
s. 20

(2) Notwithstanding subsection (1), the age of retirement for officers of the Police Force shall be-

- (a) in the case of an officer of the rank of a Constable, the age of voluntary retirement shall be forty-five years and the age of compulsory retirement shall be fifty years;
- (b) in the case of an officer of the rank of a Corporal or a Sergeant, the age of voluntary retirement shall be fifty years and the age of compulsory retirement shall be fifty-five years; or
- (c) in the case of officer of rank of Staff Sergeant, up to the rank of Inspector of Police, the age of fifty-five years;
- (d) in the case of or above the rank of an Assistant Superintendent of Police and the rank of an Inspector-General of Police, the age of sixty years;

(3) The provisions of subsection (2) shall apply *mutatis mutandis* to the officers of the Fire and Rescue Services Force.

(4) Notwithstanding subsection (1), the age of retirement for the officers of the Prisons Service shall be-

- (a) in the case of the rank of a Warder or Wardress, the age of voluntary retirement shall be forty five years and compulsory age of retirement shall be fifty years; and
- (b) in the case of officers of the rank of a Corporal, Sergeant, Staff Sergeant or Regiment Sergeant Major, the age of voluntary retirement shall be fifty five years;

(5) Notwithstanding the provisions of this section, any pensionable officer of the Police Force, Fire and Rescue Service Force or of the Prisons Service, who has worked in the Force or Service for a consecutive period of twenty-five years or more may at any time thereafter opt to retire from the public service.

(6) Notwithstanding subsection (1), the age of retirement for members of Tanzania Peoples Defence Forces, Tanzania National Service and Tanzania intelligence and Security Service shall be as provided in the National Defence Forces Act and the Tanzania Intelligence and Security Service Act.

Survivor's
benefit
Act No
5 of 2012
s 124

10.-(1) 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 dependant 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 years 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 subsection (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.

Sickness
benefit

11.-(1) Subject to the provisions of section 10 of this Act, where a survivor's 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 be 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 mental 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 months 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) [Repealed].

(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) Monies 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.

12.-(1) Where a member falls sick in circumstances 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.

Invalidity
benefit

(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.

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

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.

With
drawal
because of
marriage
or
maternity

Withdrawal
because of
emigration
or
unemploy-
ment in
the
service

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; or
- (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 Public Service.

Scope of
entitlement
to
pension,
gratuity,
etc

Act Nos
9 of 2000
s 6
3 of 2007
s. 17

15. 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.

16. Except for payments made pursuant 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-

Cap 2

- (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 public interest;
- (g) upon cessation to hold office pursuant to the provisions of Article 72 of the Constitution;
- (h) in the case of a member of the Tanzania Peoples Defence Forces, Tanzania National Service and Tanzania Intelligence and Security

Service, in circumstances in which he is permitted by law or regulations governing the terms of his employment; or

- (i) upon being appointed a Chief Justice, a Justice of Appeal, a Principal Judge or a Chief Judge and exercising the option to retire from the public service.

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.

Penalty
for failure
of
payment
of benefits
Act No.
5 of 2012
s.125A

(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.

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

Retirement
age
Act No.
9 of 2000
s. 7

(2) Subject to subsections (3) and (4) of this section and section 16(c) 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) Subject to section 9, 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 duties 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.

Cap. 2

(4) The provisions of this section shall not apply to persons referred under subsections (2), (3), (4), (5) and (6) and 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.

Cap. 2

(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 the Constitution.

Service not
qualifying
for
pension
Act No.
5 of 2012
s. 126

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

- (a) while 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.

Emoluments
to be
taken
account
when
computing
pension
or
gratuity

19. For the purposes of computing the amount of the pension 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
Act Nos.
4 of 2004
Sch.
19 of 2004
1
of 2008

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

- (a) to 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 and other allowances; or
- (b) to a non-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, the Controller and Auditor-General and the Director of Public Prosecutions; and

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

shall each retire on a pension which shall be equal to eighty percent 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 shall be sufficient to remunerate 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 lumpsum which shall cover a period of four years;
- (e) a total sum of money being maintenance allowance for a motor vehicle to be granted once as a lumpsum at a rate equal to forty percent of fuel allowance; and
- (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-

- (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 percent.

21.-(1) 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; and
- (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;

Benefits
conferred
on Chief
Justice
Act Nos
9 of 2000
s.8,
11 of 2003
schedule

(c) where such-

- (i) Chief Justice was immediately before his appointment to the office of Chief Justice a public officer for fifteen years or more, a gratuity of a sum computed under the provisions of section 22;
- (ii) Chief Justice was immediately before his appointment to the office of Chief Justice a public officer but had not qualified for pension, a gratuity of a sum computed under the provisions of section 25; or
- (iii) Chief Justice was immediately before his appointment to the office of Chief Justice not a public officer, 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;
- (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;
- (f) a driver; and
- (g) use of VIP lounge.

(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.

(4) For purposes of subsection (2), the term "appropriate authority" means the Permanent Secretary to the Ministry responsible for Civil Service.

Rates of
pension
and
gratuity

22.-(1) 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 member exercises an option in writing to be paid in lieu of such reduced pension and commuted pension gratuity of the specified amount; and

- (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.

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:

Restric-
tion on
double
benefits

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

24.-(1) Where an officer who holds a pensionable office joins the Service in a specified office or a parastatal organisation, or having served in a specified office or a parastatal organisation 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 organisation, 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.

Computa-
tion of
pension
upon
transfer
appointment

(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 organisation 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 organisation 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 Act No 5 of 2012 s 127

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.

Pensions, gratuity or allowances not to be assignable

28.-(1) Subject to subsection (2), a pension, gratuity, or other allowances granted under this Act may be assigned or transferred for the purposes of satisfying-

- (a) a debt due to the Government;
- (b) a mortgage created upon an agreement for the grant of a loan to a member of the Fund; or
- (c) an order of any court for the periodical payment of the sums of money towards the maintenance of the wife, former wife or child of a member of the Fund.

(2) A pension, gratuity or any allowance granted pursuant to the provisions of subsection (1), shall not be attached, sequestered or levied upon for or in respect of any debt, mortgage or claim other than a claim of income tax due to the Government but, the Director General shall make arrangement necessary for satisfying it or any debt arising from, discharging a mortgage created or an order of the court issued consequent upon a loan granted to a member of the Fund.

29.-(1) 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.

Pensions
when
serving
sentence

(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).

30.-(1) 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 modified in such manner and to such extent as he may determine, he may in writing signify his intention to the Minister in that behalf.

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

(2) Where the Minister-

- (a) receives a writing signifying to him the intention of the President in 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,

Cap 371 he shall submit to the National Assembly the intention of the President referred to in subsection (1) or, as the case may be, that of the Minister referred to in 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 in the *Gazette*, increase, vary or modify otherwise the retirement benefit or the minimum pension, as the case may be.

(4) The retirement benefits granted in pursuant 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 pursuant to this Act;
- (c) moneys earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Fund; and
- (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 authorised by this Act.

The Fund to be an agent of the Government
Act No. 13 of 2008
s. 33

31A. The Fund established under section 31 shall be an agent of the Government for purposes of payment of terminal benefits to retirees on behalf of the Government.

- (2) The retirees to be covered under subsection (1) shall include-
- (a) members of Tanzania Peoples Defence Forces;
 - (b) members of Tanzania Intelligence and Security Services;
 - (c) public servants who retired by virtue of sections 16 and 17(3) before the first day of July 2004 and whose terminal benefits are yet to be paid; and

(d) pensioners whose monthly pension is calculated in accordance with section 20(3).

(3) The Fund and the Government shall enter into an agency agreement for purposes of stipulating procedures and modalities for carrying out the responsibilities of an agent and the Government.

(4) The Government shall-

- (a) pay to the Fund an agency fee and initial cost at a rate or amount to be agreed between the Fund and the Government; and
- (b) quarterly or monthly in advance, remit to the Fund such funds that would be paid out as gratuities and pensions, for the retirees and pensioners or their beneficiaries.

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

Establishment of the Board

(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.

33. The Board shall be responsible for the administration and management 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 any guidelines and directives as may be prescribed by the Authority for better regulation and monitoring of the activities of the Fund.

Management of the Fund
Act No. 5 of 2012
s. 128

34.-(1) 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.

Appointment of the Director General
Act No. 5 of 2012
s. 129

(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.

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

Fund to
be held
by the
Board of
Trustees

35.-(1) 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 authorise 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
Act No.
5 of 2012
s.130

36. The Minister may, in consultation with the Authority, 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; and
- (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
Act No
5 of 2012
s 131

37. The sources of the Fund shall be from-

- (a) employee's 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; and
- (e) any other lawful income.

38.-(1) 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.

Contributions and payments to the Fund

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

39.-(1) Where any employer fails to pay any contribution which he has deducted from the salary 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.

Failure of employer to pay contribution to the Fund
Act No 5 of 2012
s. 135

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

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

Employer'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 on monthly basis.

Employee's contribution
Act No 3 of 2012
s. 132A

(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) 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.

(5) 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.

(6) 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 transferable

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, transferable 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 both, as the case may be, in such manner as the Board may determine.

Accounts of members

44.-(1) 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 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 pay under this Act, the sum required to be so paid shall be charged on and advanced to the 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.-(1) 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.

(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.

48.-(1) 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 and the Authority 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 auditor's report before the National Assembly.

49.-(1) 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; or
- (c) the member of the Fund is physically or mentally incapacitated from engaging in any further employment;

(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.

Annual
accounts
and audit
Act No.
5 of 2012
s. 134

Authority
for
withdrawals
from the
Fund

Report by
the Board
Act No.
5 of 2012
s. 134

50.-(1) 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.

(2) The Board shall, annually or at such other time 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 liabilities;
- (c) results of the Fund's operations;
- (d) statement of cash flow;
- (e) other information as may be required by the Authority.

Valuation
of the
Fund
Act No.
5 of 2012
s. 135

51.-(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 valued by an actuary.

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

(3) The Authority may, upon receiving of the report submitted to it under subsection (2) and after scrutinising that report, direct the Fund to take necessary measures to rectify any anomaly discovered in the report.

PART VI THE BOARD

Compo-
sition of
the Board
Act Nos
11 of 2010
5 of 2012
s. 136

52.-(1) The Board shall consist of the following:

- (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.

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

(4) Members of the Board shall not be entitled to any remuneration but may be paid such allowances as the Minister may upon recommendation of the Board, determine.

(5) 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.

(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.

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;
- (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; and
- (f) to do all such acts or things as the Authority may direct for the purpose of efficient management of the Fund.

Functions
of the
Board
Act No.
5 of 2012
s. 137

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; and
- (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 minimise any loss to the Fund.

Duties of
the Board

Powers of the Board to appoint and delegate	<p>55.-(1) The Board shall have such powers as are given or imposed under this Act.</p> <p>(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.</p> <p>(3) The Board may revoke a delegation made by it under this section.</p> <p>(4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power, authority or duty delegated.</p> <p>(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.</p>
Temporary members	<p>56.-(1) Where any member appointed under subsection (1)(d), (c), (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.</p> <p>(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.</p> <p>(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.</p>
Tenure of office Cap 4	<p>57. Every member of the Board, shall hold office for a term of three years and shall be eligible for reappointment for another one term only.</p>
Resignation and revocation of appointment	<p>58.-(1) 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 by a written notice addressed to the Minister.</p> <p>(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.</p>

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.
- 60.-(1) 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 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 casting vote in addition to his deliberative 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.
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.
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.
- 64.-(1) 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 authorised to be paid into the Reserve Account by any provision of this Act; and
 - (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.
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.
66. The Board may grant loans and make advances to its officers, any member of the Fund and employees on such terms and conditions as the Board may determine.

Vacation
of office

Quorum
and
conduct
of
proceedings

Chairman
of the
Board to
have a
casting
vote

Minister's
power to
give
directions

Authentica-
tion of the
seal

Reserve
Account

Board may
establish a
committee

Powers to
grant loans
Act No
13 of 2005
s. 40

Disquali-
cation
from
member-
ship 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;
- (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; or
- (d) such person is declared bankrupt.

Disclosure
of
interest

68.-(1) 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.-(1) 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 information which he knows to be false in a material particular;

- (b) for the purpose of obtaining any benefit or refund for himself 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 information which he knows to be false in a material 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.

Punish-
ment

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

Director-
General to
institute
proceed-
ings to be
separated
Act No
5 of 2012
s. 138

71.-(1) 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 provided that the Director General, Inspector or such other officer is a public prosecutor appointed by the Director of Public Prosecutions and where action is instituted in a magistrate's court, any person authorised by this section may appear and conduct the case.

(2) Any criminal proceedings shall not be instituted under this section without the consent of the Director of Public Prosecutions.

Liability
of
member
Caps 16
Caps 76

72.-(1) Without prejudice to the provisions of section 284A of the Penal Code or section 3 of the Public Officers (Recovery of Debts) Act, 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
R.I. Cap.
371

73.-(1) [Repeals the Pensions Ordinance.]

Cap 371
R.I.

(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 Service before the commencement date plus the remaining portion of the pension entitlement under this Act.

74.-(1) 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.

Continuance of laws

(2) Unless the context requires otherwise any reference in any written law to the Pensions Ordinance shall be construed as references to the Pensions Fund Act.

Cap. 371 R.I.

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

Transfer of powers, rights, liabilities and duties
Cap. 371 R.I.

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.

Transfer of property
Cap. 371 R.I.

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 of 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.

Existing contracts

78.-(1) 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.

Continuance of criminal and civil proceedings

(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 pensions 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.

79.-(1) 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.

Continuance of service by officers and employees

(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
proceed-
ings

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 disciplinary proceedings and the making of any order or the rendering of a decision as the case may be, as if those disciplinary proceedings had been commenced by the Board to which the employee or an officer would be employed.

Payments
during
transition
period
R.L.

81.-(1) 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 as no: 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.

Registra-
tion of
pensioners
Act No
15 of 2004
s. 39

82. (1) Subject to the provisions of subsection (2), any person who was on the date of retirement from the service qualified for payment of pension shall, irrespective whether that person-

- (a) opted payment in lumpsum; or
 - (b) ceased to receive payment by reason of affluxion of time.
- he registered in the pensioners payroll and entitled to payment of pension.
- (2) The person who opted for payment of lumpsum shall be re-

registered to the pensioners pay roll and qualify for payment of pension after expiry of a period of ten years following the date of retirement from the service.

(3) A pension to whom the provisions of subsection (1) shall apply from 1 January 2005, be entitled to payment of minimum montly pension.

(4) The provisions of subsections (1) and (2) shall apply mutatis mutandis to person who retired from the service of the Peoples Defence Forces, Police Force and Prisons.

Cap 371
R.L.

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

Emple-
yee's
payments
to be
refunded
and paid
out of the
Consoli-
dated 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.

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.

Employees
under the
Pensions
Ordinance
to
continue
under the
same
[Cap. 371
R.L.]

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

Paymaster-
General
to
become
custodian
of the
Fund

86. [Amends the Income Tax Act.]

Amend-
ment of
Cap 332

87. [Amends the Tanzania Intelligence and Security Service Act.]

Amend-
ment of
Cap 406

SCHEDULE

BENEFITS

(Sections 8, 12, 13, 14, and 15)

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.
