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THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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GEPF RETIREMENT BENEFITS FUND ACT, 2013

ARRANGEMENT OF SECTIONS

Section *Title*

PART VII
GENERAL PROVISIONS

SCHEDULE

THE UNITED REPUBLIC OF TANZANIA

NO. 8 OF 2013

I ASSENT,

JAKAYA MRISHO KIKWETE,
President

[30th December, 2013]

An Act to establish the GEPF Retirement Benefits Fund for the benefit of formal and informal sector employees including self-employed persons; and for other matters related thereto.

Enacted by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and commencement

1.-(1) This Act may be cited as the GEPF Retirement Benefits Fund Act, 2013.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

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

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

(b) self-employed, but does not include a person who is registered or insured by a mandatory scheme established under any other written law relating to social security.

Interpretation

3. In this Act, unless the context otherwise requires:

"Accounting Officer" means the person charged with the duty of accounting for any service in respect of which money have been appropriated, and is responsible for overseeing operations and resources of an entity;

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

"actuarial valuation" means valuation of the assets and liabilities of a scheme made by an actuary;

"actuary" means a person who is an expert in the science of calculation of insurance risk and rates of premiums and contributions";

"administrative expenses" means all costs incidental or in relation to registration of members, collection of contributions, disbursement of members' benefits, investment, decision-making processes or management";

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

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

"beneficiary" means a person entitled to receive benefits under the Act;

"Board" means the Board of Trustees of the Fund established under section 8 of the Act;

"contribution" means a contribution to the Fund made in terms of the Act;

"contributing employer" means an employer who is under an obligation to make contributions for his employees to the Fund in terms of the Act;

"Director General" means the Director General of the Fund appointed under section 15 of the Act;

"employee" means an individual who-

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

(b) has entered into any other contract under which:

(i) the individual undertakes to work personally for the other party to the contract; and

(ii) the other party is not a client or customer of any profession, business, or undertaking carried on by the individual; or

(c) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act; or

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(d) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act.

"employer" has the meaning ascribed to it under the Employment and Labour Relations Act;

"employer's contribution" means the prescribed per centum of the employee's monthly salary paid to the Fund by employer in favour of the employee;

"financial year" means the period of twelve months ending on the 30th June of each year;

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

"Fund" means the GEPF Retirement Benefits Fund established under section 4;

"government employee" means any employee in the service of government;

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

"mandatory scheme" means a compulsory scheme established by the law and guaranteed by the Government to provide social security benefit to employees;

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

"member of the Fund" means a member of the Fund in accordance with the provision of the Act, but shall not include a member appointed under section 9 and the Schedule to the Act;

"member's contribution" means the prescribed *per centum* of the members's monthly contribution which is paid to the Fund;

"Minister" means the Minister responsible for Finance;

"Register" means the Register of members established under section 17;

"pensionable emoluments" means salary or earnings used in deduction of contributions which shall be taken into account in computing pensions, gratuities or other benefits under this Act";

"Reserve Account" means the reserve account established by the Board under section 45;

"salary" means gross salary of the member payable to an employee in consideration of the service rendered under the contract of service or apprenticeship or any other form of office of call, excluding bonus, commission, cost of living allowance, overtime payment, directors fee or any other additional emolument;

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

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"Social Security Scheme" has the meaning as ascribed in the Social Security (Regulatory Authority) Act;

"specified amount" means an amount equal to one five hundred and eightieth of the member's annual pensionable emoluments for each completed month of his pensionable service or contribution periods";

"supplementary scheme" means a scheme established by the Board in terms of section 6;

"trade union" means a registered organization of employees;

"trustee" means a member of the Board of the Trustees and includes the Chairman.

PART II
ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of the Fund

4.- There is established a Retirement Benefits Fund to be known as the GEPF Retirement Benefits Fund into which shall be paid -

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

(b) money earned or derived out of any project, scheme or enterprise financed by the Fund;

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

(d) all other sums which may legally become payable to the Fund;

(e) all property which may legally be vested in the Board.

The Fund to be an agent of Government

5.-(1) The Fund shall be an agent of the Government for the purpose of payment of terminal benefits to retirees.

(2) The retiree under this provision shall include-

(a) members of the Police Force and Prison Service who have not contributed to the Fund prior to the month of July, 1999 and whose gratuities ought to be paid by the Treasury;

(b) teachers employed under the contract of services after retirement;

(c) members of Parliament, Regional Commissioners and District Commissioners; and

(d) other Government employees who may be categorized as such.

(3) The Fund shall receive and keep contributions from the Treasury for retirees referred to in subsection (2).

(4) The Fund shall enter into an agency agreement with the Government which shall stipulate procedures and modalities for carrying out responsibilities of an agent and the Government

(5) The Government shall-

(a) pay to the Fund an agency fee and initial costs at a rate of amount to be agreed upon 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 for the retirees or their beneficiaries.

Establishment of supplementary schemes Cap.135

6.-(1) Notwithstanding the provisions of section 4, the Board may establish supplementary schemes in accordance with provisions of the Social Security (Regulatory Authority) Act.

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

Management of the Fund

7.-(1) The Board shall be responsible for the management and administration of the Fund in accordance with the provisions of this Act the Social Security Regulatory Authority Act and relevant regulations.

(2) The Board shall, on annual basis or at such times as the Authority may require, submit to the Authority financial reports and other reports on the activities of the Fund.

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

(a) financial position of the Fund;

(b) statement of cash flow;

(4) The Board may, other than the report referred to under subsection (3), submit to the relevant authority such other information as may be required by such authority.

Establishment of the Board

8.-(1) There is established a Board to be known as the Board of Trustees of the Fund.

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

(a) suing and being sued;

(b) purchasing or otherwise acquiring, holding, charging or;

(c) disposing of its movable and immovable property;

(d) borrowing and lending;

(e) entering into contract; and

(f) performing such other functions which may be lawfully performed by a body corporate.

Appointment and composition of the Board

9.-(1) The Board shall consist of the following members-

(a) the chairman who shall be appointed by the President upon advice by the Minister responsible for Finance; and

(b) nine other members who shall be appointed by the Minister as follows:

(i) a representive of the Ministry of Finance;

(ii) a State Attorney of a rank of senior or above representing the Office of Attorney General;

(iii) a representative of the most representative employers organisation;

(iv) a representives of employees organisation;

(v) two representatives representing self employed members and informal sector who possess knowledge and experience in social security matters;

(vi) two representative from members of the Fund who are not belonging to any employees organisation.

(2) The Director General shall be secretary to the Board.

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(3) The selection of persons for the appointment under section 9 (1)(b) shall observe all the requirements for qualifications as prescribed by the Authority:

Provided that, the presecribed requirement shall take into consideration gender representation.

Proceedings of the Board

10.-(1) The provisions of the Schedule to this Act shall have effect as to the tenure of office, meetings and other procedural matters of the Board.

(2) The Minister may, by Order published in the *Gazette* amend, vary or replace the provisions of the Schedule except for the provisions of paragraph (1).

Functions of the Board

11.-(1) The Board shall generally be responsible for the control and management of the Fund.

(2) Without prejudice to the generality of subsection (1), the functions of the Board shall include to-

(a) formulate, implement and review the policy relating to the Fund in accordance to the provisions of this Act;

(b) prudently invest the monies available in the Fund;

(c) advise the Minister on matters relating to administration of the Act;

(d) provide policy guidance and advisory services for the purpose of promoting social security programs; and

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

Duties of the Board

12. It shall be the duty of the Board-

(a) to manage and administer the Fund in accordance with the highest standard which a person holding a fiduciary capacity in any other Fund established by law may reasonably be expected to conform to;

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

(c) in the execution of its functions, to adhere to the prescribed Board charter and generally uphold the principles of good governance.

Committees of the Board

13.-(1) The Board shall, for the purpose of facilitation of performance of its functions, establish such number of committees to perform functions relating to management, investments and administration of the Fund.

(2) A committee established under subsection (1) shall perform specific function under such terms and conditions as may be determined by the Board.

Delegation of powers of the Board

14.-(1) The Board may in writing and under its official seal and subject to such terms and conditions as it may specify, delegate to any Committee of the Board, the Director General, or such other officer of the Fund any of the functions stipulated under this Act.

(2) No delegation made under this section shall prevent the Board from performing or exercising the functions delegated.

(3) Notwithstanding subsections (1), the Board shall not have powers to delegate any of its functions relating to the approval of the annual budget, supplementary budget or annual accounts.

Director General

15.-(1) There shall be a Director General appointed by the President.

(2) The Director General shall-

(a) be the chief executive officer and Accounting Officer of the Fund;

(b) be responsible for overseeing the daily operations of the Fund;

(c) keep in custody the seal of the Fund; and

(d) perform such functions for efficient management of the Fund as the Board may direct.

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

Appointment of staff of the Fund

16.-(1) The Board may, on such terms and conditions of service, appoint staff for proper discharge of the functions of the Fund.

(2) The staff of the Fund shall be under the immediate supervision of the Director General, and shall be governed by internal rules and procedures as the Board may determine.

Establishment of a Register

17.-(1) There is established a Register in which records and particulars of the Fund shall be kept.

(2) The Director General shall keep records and particulars of members of the Fund and contributors to the Fund in the Register in the manner as may be prescribed in the Regulations.

Information to members

18.-(1) The Director General shall make available to each member a statement of contribution at the end of each financial year.

(2) The Fund shall hold Annual General Meeting of members and stakeholders for reporting the performance of the fund."

PART III
MEMBERSHIP TO THE FUND

Membership to the Fund

19.-(1) A person shall be eligible to be a member of the Fund where such person is an employee in the formal or informal sector and who is not registered by, or insured under any other written law relating to social security.

(2) Notwithstanding the provisions of subsection (1)-

(a) a foreigner or expatriate working in Tanzania on specific project or duration; or

(b) a citizen of Tanzania working outside Tanzania, may contribute to the fund.

Cessation of membership to the Fund

20.-(1) A Member of the Fund shall cease to be a member upon-

(a) reaching the prescribed age of retirement;

(b) retirement on medical ground based on evidence to the satisfaction of the Medical Board that the member is incapable by reason of some infirmity of mind or body of discharging the duties of his office, trade or occupation;

(c) the termination or resignation of the member's services to the employer and the member decides to withdraw from the membership of the Fund; or

(d) death of that member;

(2) An employee whose term of employment has expired before reaching retirement age may continue to be a member and maintain his account with the Fund as long as he continues to contribute to the Fund on such arrangement as may be determined between the Fund and the member.

Retirement age

21.-(1) The age of voluntary retirement shall be fifty five years.

(2) A member who attains the age of fifty five years may at any time thereafter opt to retire, but if he does not so opt he shall continue to be a member until he attains the age of sixty years.

(3) Members whose statutory terms of employment prescribe a shorter age of retiremet contrary to the requirements of subsection (2) shall retire in accordance with such prescribed terms.

PART IV
CONTRIBUTIONS AND RATES OF PENSION AND GRATUITY

Members contributions

22.-(1) A contributing employer shall for every contribution period after the appointed day during which the employer employs a member, pay to the Fund a contribution that consist of the employers' contribution and the employees' contribution.

(2) Without prejudice to the provisions of this section, a contribution shall be deemed for the purposes of this Act, to be paid to the Fund on the last day of that month in respect of which any payment of a month's salary or any part of a month's salary is made to him, and the Accounting Officer shall deduct the contribution from the salaries of members.

(3) Every contribution due under this section shall be paid to the Fund within one month after the end of the month in which the last day of the contribution period falls.

(4) Every member shall for each contribution period, contribute to the Fund an amount equal to a *per centum* of his monthly salary.

(5) A member shall contribute to the Fund the sum equivalent to five per centum of monthly salary which shall be deducted by the contributing employer from the insured persons salary and the contributing employer shall contribute to the insured persons the sum equivalent to fifteen per centum of the insured person's monthly salary or such amount as the Minister may, by order in the *Gazette*, determine.

(6) The employer or employee may opt to contribute a greater rate than that stipulated in sub section (5), except that the rate of the employees' contribution shall not exceed fifty per cent of the total contribution.

(7) Without prejudice to subsection (5) the self-employed members shall contribute hundred parcentum of the contributions as prescribed in the Regulations.

(8) The Fund shall have the right to impose a levy of five *per centum* for any delayed contribution in a manner prescribed in the Regulations.

Recovery of contributions

23.-(l) Any action for recovery of contributions under section 48 may be instituted by the Board, and where an action is instituted before any court, any officer of the Fund or an advocate appointed by the Fund in that behalf may appear and conduct the proceedings.

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(2) Every statutory contribution due to the Fund may be recovered by a summary suit under Order XXXV of the Civil Procedure Code.

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

Rate of pension and gratuity

24-(1) Subject to the provisions of this Act, a member of the Fund who shall have had not less than an aggregate of fifteen years of contributions may, on retirement, be entitled to, either-

(a) a reduced annual pension of an amount equal to three-fourths of the specified amount;

(b) a commuted pension gratuity equal to twelve and one-half times the one forth of the specified amount; or

(c) the monthly retirement pension amount to 30 percent of the average monthly salary or earnings of the retiree supplemented by 1.5 percent of this average monthly salary or earnings for every twelve months of pension insurance additional to the 180 months to a maximum of 67.5 percent of the average salary or earnings; and

(d) a lump sum of twenty four months pension.

(2) A member who has been contributing to the Fund for fifteen years or more shall on retirement be entitled to a pension in accordance with the provision of subsection (1).

(3) For purposes of computing the amount of pension or gratuity of a member under this Act, an average of pensionable emoluments enjoyed by the member within the last thirty six months preceding his retirement shall be used for calculating his pension or gratuity.

Protection of contribution

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

PART V
BENEFITS PAYABLE OUT OF THE FUND

Rights to benefits

26. A member shall be entitled to be paid benefits by the scheme provided that he meets the qualifying conditions.

Benefits payable under the Act

27.-(1) The following benefits shall be payable under this Act:

(a) retirement benefit;
(b) survivors benefit;
(c) invalidity benefit;
(d) funeral grant;
(e) death gratuity;
(f) education grants.

(2) Without prejudice to subsection (1), the Fund may design other benefits.

(3) The Minister shall, by Order published in the *Gazette*, declare the date on which benefits mentioned under sub-section sub (1) (d), (f) and (2) becomes payable and administered.

Retirement pension

28. Subject to section 24 of this Act, retirement pension shall be payable to any person who being an insured person retires from regular employment in the prescribed age.

Persons not qualified for pension

29. Every member, otherwise qualified for a pension, who has not completed a minimum qualifying period of fifteen years of contributions may, on retirement, be awarded a gratuity not exceeding five times of the specified amount as might have been computed if there had been no qualifying period:

Provided that, the payment under this section shall not be less than the aggregate amount of the memebr's and employer's contributions to the Fund with interest.

Death Gratuity and Survivors Benefits

30.-(1) Where a member dies before reaching the prescribed retirement age, the Board shall grant to his legal representatives a gratuity of an amount not exceeding either his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is greater.

(2) The Director General may, upon satisfaction on the basis of evidence as may be required, make payments to a survivor in accordance with the procedures prescribed in the regulations and the statutory provisions relating to administration of deceased estate.

Invalidity benefit

31.-(1) An invalidity benefit granted under this section shall be payable to an insured person who is physically or mentally disabled as to make such person unemployable.

(2) The qualifying condition and procedure for administration of benefit under this section shall be as prescribed in the Regulations.

Calculation of benefits payable

32. The Director General shall calculate and pay out the benefits of a member, and the procedure for payment of the benefits shall be as prescribed in the Regulations.

Review of calculation of benefit

33.-(1) Any member who is aggrieved by the calculation of benefit under section 32 may, within six months of the decision of the Director General, apply in writing to the Board for review.

(2) The Board shall consider and determine the application under subsection (1) in the manner prescribed in the Regulations.

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(3) A member aggrieved by the decision of the Board may appeal to the Authority in the manner prescribed under the Social Security (Regulatory Authority) Act.

PART VI
FINANCIAL PROVISIONS

Sources of funds

34. The sources of funds shall include-

(a) members contributions;

(b) employers contributions;

(c) money accrued from investments;

(d) such sums as may be appropriated by the Parliament for the purpose of the Fund;

(e) any sums borrowed by the Board in accordance with the provisions of the Act;
(f) monies accrued from grants and donations; and
(g) such sum as may in any manner become payable to or vested in the Fund.

Annual budget estimates

35.-(1) Director General shall, before the commencement of any financial year, prepare or cause to be prepared for the consideration of the Board estimates of the revenue and expenditure of the Fund for the ensuing financial year.

(2) The Board shall after receiving the estimates report under subsection (1), consider and adopt the estimates subject to such modifications and amendments as the Board may consider appropriate.

(3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular-

(a) for payment of benefits to members;
(b) for payment of salaries, allowances and other expenses in respect of the Board, Committees of the Board and the staff of the Fund;
(c) for payment of construction improvement of, maintenance and replacement of any building or other immovable properties of the Fund;
(d) for the proper maintenance and replacement of the furniture, equipment and other supplies of the Fund;
(e) for creation of such reserve funds to meet future contingency liabilities as the Board may think fit.

(4) Expenditures shall not be incurred for purposes of the Fund except in accordance with the provisions of the annual budget estimates or any supplementary estimates adopted by the Board.

(5) Annual administrative expenses of the Fund shall not exceed fifteen percent of the total income of the Fund.

(6) A copy of annual estimates shall, after the Boards' adoption be forwarded to the Minister.

(7) A budget approved by the Board shall be binding upon the Fund, and shall warrant the disbursement of funds within the items and the amounts contained in the approved budget or supplementary.

(8) Notwithstanding subsection (7)-

(a) the Board may-

(i) transfer a sum from the amount of expenditure provided for any capital budget in respect of any item, to any other item contained in the recurrent budget and vice versa; or

(ii) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Board within two months of such alteration of expenditure, and

(b) the Director General may make reallocation of funds from one the Director General may make reallocation of funds from one budget item to another within the appropriate administrative or capital expenditure.

Accounts and Audit

36.-(1) The accounts of the Fund shall be audited by the Controller and Auditor-General or any other auditing firm approved by the Controller and Auditor-General.

(2) The accounts of the Fund shall, within three months after the close of each financial year, be submitted for auditing.

(3) Every audited financial statement shall be placed before the meeting of the Board for endorsement and adoption.

(4) The Board shall as soon as the accounts of the Fund have been audited and in any case not later than six months after the close of the financial year, submit a copy a of the audited statement of the accounts together with a copy of the report made by the auditor on the statements of the accounts to the Minister, Authority and the Bank

(5) The Minister shall, upon receipt of the report referred under subsection (4), lay before the National Assembly a report containing -

(a) a copy of the audited accounts of the Fund;

(b) a copy of the report regarding the activities of the Fund in the preceding financial year.

Exemption from tax

37.-(1) Stamp duty and value added tax shall not 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.

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(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 any document otherwise liable under the Stamp Duty Act.

(3) Income tax on contributions and benefits payable under the scheme or corporate tax or any other tax which would have otherwise been levied on the Fund shall not be levied on the Fund.

Actuarial report

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

(2) Notwithstanding subsection (1), the Board may, owing to the nature and circumstances of the business of the Fund, request to the Authority for the waiver of the requirement under subsection (1).

(3) A report of the evaluation shall be submitted to the Authority and the Minister.

(4) Upon receipt of the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed in the report.

Investment of the monies of the Fund

39.-(1) The Board may, invest monies of to the Fund, in any viable economic venture it considers appropriate, and the investment shall be done by the Board having regard to its financial and economic viability.

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

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

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

(a) regulate the Fund to comply with the investment procedure;

(b) discontinue the investment; or

(c) take any other measure it consider appropriate.

Bank Accounts of the Fund

40. The Fund shall maintain one or more bank accounts as the Board shall approve subject to the guidelines issued by the Authority into which all money payable to the Fund and income derived from investments of the Fund shall be deposited.

Power to borrow

41. The Board may with the prior approval of the Minister, borrow moneys for the purposes of the Board by way of loan or overdraft, and upon such security and such terms relating to the repayment of the principal and the payment of interest as the Board may deem fit.

Remuneration and allowances of members of the Board

42. The members of the Board shall be entitled to be paid such remunerations as the Minister may approve upon the recommendations of the Board.

PART VII
GENERAL PROVISIONS

Exemption from liability

43. Any act or thing done, or omitted to be done by a trustee, or by an employee or agent of the Fund shall not, if done or omitted to be done in good faith in execution or purported execution of his duties as a trustee, employee or agent of the Fund, subject that person to any action, liability or demand.

Power to make Regulations

44.-(1) The Minister may, upon consultation with the Board make Regulations for the better carrying out the purposes of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations prescribing-

(a) procedure for making of contributions to the Fund;

(b) administration of all benefits payable under the Act;

(c) the disposal of amounts standing to the credit of accounts in the Fund and to which no lawful claim has been made within a period of three years since such amounts became due and payable in accordance with the provisions of this Act;

(d) procedure for recording and protection of members information;

(e) such other matters as may be necessary for the proper administration of the Fund including the obligations of the claimants, employers and beneficiaries.

Reserve Account

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

(a) other monies paid into the Reserve Account by the provisions of this Act; and

(b) fines which may be levied under this Act.

(2) The sum paid into the Reserve Account under subsection (1) may be used wholly or partly to meet losses and other payments which shall be determined by the Board.

Collateral for home mortgage

46. A member may use part of his benefit entitlements as collateral for home mortgage purposes as prescribed by the Authority.

Penalty for late payment of benefits

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

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

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

Offences and penalties

48.-(1) Any person who-

(a) knowingly deducts from an employee's salary in respect of a contribution to the Fund, a sum greater than the employees share of the statutory contribution;

(b) for the purpose of obtaining any benefit or refund for himself or some other person, knowingly makes a false statement or representation, or produces furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular;

(c) fails without lawful excuse to fill and submit to the Fund the claim form in respect of a member whose benefits are due;

(d) misrepresent or fails to disclose any material fact;

(e) in the case of contributing employer, fails to submit employee contributions as a result of which the account of individual members cannot be credited with their contribution; or

(f) contravenes any of the provisions of this Act where no penalty has been prescribed,

commits an offence and shall on conviction-

(i) in the case of offences prescribed under subsections (1) (a),(b),(c) and (e), be liable to a fine of not less than twice the amount of loss caused or imprisonment for a term not exceeding six month or both;

(ii) in the case of offences prescribed under subsections (1) (d) and (f), be liable to a fine of not less than two million shillings or imprisonment for a term not exceeding six month or both.

(2) The court shall, in addition to the penalty prescribed under subsection (1)(i), order the repayment of the amount of loss incurred.

Repeal and Savings Cap. 51

49.-(1) The Provident Fund (Government Employees) Act is hereby repealed.

(2) Notwithstanding the repeal of the Provident Fund (Government Employees) Act-

(a) employers, members and contributions made under the repealed Act, shall be deemed to be employers, members and contributions made under the GEPF Retirement Benefits Fund Act;

(b) all directives made, given or issued under the repealed Act which are in force before the effective date shall remain in force until revoked by Orders under the Act;

(c) all subsidiary legislation made under the repealed Act which are in force on the commencement of this Act shall be deemed to be subsidiary legislations under this Act and shall remain in force until revoked or rescinded by subsidiary legislation made under this Act;

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(d) all powers, rights, privileges, duties and liabilities or obligations which, immediately before the commencement date were exercisable by persons in accordance with the provisions of the Provident Fund (Government Employees) Act shall continue in force until otherwise revoked or replaced by the Act or Regulations;

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(e) all appointments and directions made, issued or given under the provisions of the Provident Fund (Government Employees) Act shall continue to be valid unless they are revoked, cancelled or otherwise cease by reason of affluxion of time;

(f) all the assets and liabilities of the existing Fund immediately before the commencement of this Act shall vest in the Fund together with all the rights and obligations arising out of any contract or otherwise as if this Act had not come into force;

(g) anything done or any action taken under the repealed Act shall in so far with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(h) where immediately before the commencement of this Act:

(i) any person liable to pay any sum of money to the Provident Fund (Government Employees) in relation to any liability arising from the repealed law that person shall make such payment to the Fund as if the liability to make such payment had arisen under this Act; and

(ii) any legal proceedings for any offence under the repealed Act or for the recovery of any sum of money due under the repealed ordinance which is pending before any court may be continued and conducted as if it was under this Act.

SCHEDULE

(Made under section 10)

PROVISIONS RELATING TO THE BOARD

Tenure of appointment

1.-(1) Every member of the Board shall continue to hold the office for three years from the date of appointment and shall be eligible for re-appointment for one further term.

(2) Notwithstanding sub-paragraphs (1) of this paragraph, a member may resign at anytime by giving notice in writing to the appointing authority and from the date specified in the notice or, if no date is so specified in the notice from the date of the receipt of the notice by the appointing authority; he shall cease to be a member.

(3) A person who is a member by virtue of his holding some other office shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.

Termination of appointment

2. Where any member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointment of such a member and appoint a new member in his place.

Cessation of membership

3. Where any member of the Board ceases to be such a member by resignation or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 2, the appointing authority may appoint another member in his place and the member so appointed shall, subject to the provisions of this schedule, hold office for the remaining of the term of his predecessor.

Vice-Chairman

4. The Board shall elect one of its members to be a Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member hold office of Vice-Chairman for a term to be fixed by the Board and shall be eligible for re-election after the end of that period.

Power of Chairman and Vice-Chairman

5.-(1) The Chairman shall preside at all meetings of the Board.

(2) Where at any meeting of the Board the Chairman is absent the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and Vice-Chairman at any meeting of the Board the members presents may from amongst their number elect a temporary Chairman who shall preside at that meeting.

(4) The Chairman, Vice-Chairman or temporary Chairman presiding at any meeting of the Board shall have a vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

Meeting and procedure of the Board

6.-(1) An ordinary meeting of the Board, shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting.

(2) The Board shall ordinarily meet four times in a year, but the Chairman may convene an extraordinary meeting when the needs to do so arise.

(3) The Chairman of the Board may invite any person who is not a member to participate in the deliberations of the Board, any such person shall not be entitled to vote.

Quorum

7. The quoram of any meeting of the Board shall be half of the members.

Decision by circulation of papers

8.-(1) Notwithstanding the provision of paragraph 3, where the chairman so directs a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views.

(2) Any member shall be entitled to require that any such decision be deffered and such matter be considered at a meeting of the Board.

Minute of meetings

9. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman at the meeting.

Authentication of the Seal

10. The Seal of the Board shall not be affixed to any deed, document and other instruments 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.

Execution of documents

11. All documents to which the Board is a party other than documents required by law to be under seal and all decisions of the Board, may be signified under the hand of the Director General or other officer authorized by the Director General in that behalf.

Validity of proceedings

12. No act or proceeding of the Board shall be invalid by reason of the number of members not being complete at the time of such act or proceedings or of any defect in the appointment of any member or the fact that any member was at the time disqualified or disentitled to act as such.

The Board to regulate proceedings

13. Subject to the provisions of this Schedule the Board may regulate its proceedings.

Passed in the National Assembly on the 5th November, 2013.

DR. THOMAS D. KASHILILAH,
Clerk of the National Assembly