ISSN 0856 - 0331X

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 10 ***22[nd] December, 2006***

to the Gazette of the United Republic of Tanzania No. 51 Vol. 87 dated 22[nd] December, 2006
Printed by the Government Printer, Dar es Salaam, by Order of Government

THE LOCAL AUTHORITIES PENSIONS FUND ACT, 2006

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THE UNITED REPUBLIC OF TANZANIA

No. 9 OF 2006

I ASSENT,

JAKAYA M. KIKWETE
President

14th December, 2006

An Act to establish the Local Authorities Pensions Fund and to provide for its management and administration, the manner of collection of contributions and payment of benefits and to provide for other related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and commencement

1.-(1) This Act may be cited as the Local Authorities Pensions Fund Act, 2006.

(2) This Act shall be deemed to have come into operation on the 1st day of July, 2005.

Application

2.-(1) This Act shall apply to employees of:

(a) the local government authorities;

(b) the Local Government Loans Board;

(c) the Fund;

(d) an organisation under the ownership of the local government authority; and

(e) any institution or self employed person who elect to join the Fund.

(2) The Minister may, upon the recommendation of the Board and by notice published in the *Gazette*, specify other classes of employees or self employed persons to whom this Act shall apply.

Interpretation

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

"Act" means the Local Authorities Pensions Fund Act, 2006;

"actuary" means an expert who calculates insurance risks and premiums by studying rates of mortality and frequency of accidents, fire, thefts and like incidents;

"annual pensionable emoluments" means emoluments which would be taken for the purposes of computing any pension or gratuity granted to an insured person under section 36;

"benefit" means a retirement or any other benefit payable under this Act;

"Board" means the Board of Trustees of the Local Authorities Pensions Fund established by section 9;

"child" means a person who is below the age of eighteen and includes a step-child, a child born out of wedlock and an adopted child;

"commuted pension gratuity" means the amount which might have been granted to an insured person–

(a) under section 37 if he had retired from the service at the date of his death; or

(b) in circumstances described in paragraph (e) of section 33.

"compulsory retirement age" means the age referred to in paragraph (d) of section 33, upon the attainment of which an officer shall retire;

"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;

"contributing employer" means a local government authority, the Local Government Loans Board, the Fund, an organisation under ownership of a local government authority, an institution or an employee contributing to the Fund in accordance with the provisions of this Act;

"dependant" in relation to a deceased insured person means–

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

(b) where the deceased insured person was a female, the husband;

(c) every child of the deceased insured person who was wholly or substantially dependent upon the deceased insured person's income for livelihood immediately preceding the death of the deceased insured person;

(d) the immediate parents of the deceased insured person, who satisfy the deceased insured persons' employer that they were wholly or substantially dependent upon the deceased insured persons' income for their livelihood;

"Director General" means the Director General of the Local Authorities Pensions Fund appointed under section 8:

"employee" means any person who is employed under a contract of service or apprenticeship whether or not that person is permanently resident in the United Republic and is employed outside the United Republic under a contract of service with an employer in the United Republic, but does not include–

(a) a person receiving full time education or training without salary; or

(b) a person under the age of eighteen;

"employer" means–

(a) the person with whom the employee entered into a contract of service or apprenticeship in respect of which salary is paid;

(b) that individual person who is an insured person, in the case of a person who is self employed;

"existing Fund" means the Local Authorities Provident Fund established under the Local Authorities Provident Fund Act, 2000; Cap. 407

"Fund" means the Local Authorities Pensions Fund established by section 4;

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

"inspector" means any person appointed under this Act to perform duties specified by section 55;

"institution" means–

(a) an organization for promotion of a specific activity; and includes;

(b) an organised business group, agency, project, business entity and non-profit making organisation;

"insured person" means a person insured under this Act;

"member of the family" means–

(a) when used in relation to a person not generally subject to local customary law, the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, child, grandchild, brother, sister, half-brother or half-sister; and

(b) when used in relation to a person generally subject to customary law, such persons as the customary law recognizes as members of the family;

"Minister" means the Minister responsible for local government;

"month" means a calendar month;

"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" mean the salary which may be taken into account in computing pensions, gratuities or other benefits under this Act;

"qualifying pensionable service" means the accumulation of all the periods of service the aggregate of which does not fall below fifteen years; or one hundred eighty months;

"salary" means the emoluments 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, and includes living allowance, incentive allowance, or any other additional emoluments as may be determined by the appropriate authority;

"specified amount" means:

(a) in relation to the period of service, an annual amount equal to one five hundred and fortieth of the insured persons' annual pensionable service;

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

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

"survivor" means any person who, upon the death of an insured person, is entitled to a survivor's benefit under this Act;

"widow" or "widower" means a spouse of the deceased insured person;

"year" means a period of consecutive twelve months.

PART II
THE LOCAL AUTHORITIES PENSIONS FUND

Establishment of the Fund

4.-(1) There is established a Fund to be known as the Local Authorities Pensions Fund into which shall be paid–

(a) the existing Fund transferred by virtue of section 6;

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

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

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

(e) all other sums or property which may in any manner become payable to or vest in the Board.

(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 authorized by this Act.

Objectives of the Fund

5. The objectives of the Fund shall be to–

(a) provide a scheme for payment of benefits to insured persons payable under this Act;

(b) work towards a gradual and continuous improvement of benefits payable to insured persons under this Act; and

(c) formulate policies and strategies and administer the scheme in accordance with this Act.

Vesting of existing Fund

6.-(1) The existing Fund shall, with effect from the commencement of this Act without any further assurance, be transferred to the Fund and be vested in the Board which shall, subject to this Act, have the sole control and management over it.

(2) In the case of converting benefits of the existing Fund to the Fund, the actuary shall determine the financing requirement and any shortfall shall be beefed up from the Consolidated Fund.

Management of the Fund

7. The Board shall be responsible for the management and administration of the Fund in accordance with the provisions of this Act.

Appointment of Director General

8.-(1) There shall be a Director General of the Fund who shall be appointed by the President on such terms and conditions as shall be determined by the President in the letter of appointment.

(2) The Director General shall be the chief executive officer of the Fund and shall, subject to any directions given by the Board, be responsible for-

(a) carrying out and overseeing the carrying out of the day to day management of the business operations and affairs of the Fund; and

(b) the performance of such other functions and duties as may be assigned upon him by the Board.

(3) The Board may appoint such other officers and employees of such designation as it may consider necessary for the efficient conduct of the business of the Fund, and upon such terms and conditions as may be determined by the Board.

PART III

THE BOARD OF TRUSTEES OF THE FUND

Establishment of the Board

9.-(1) There is established a Board of Trustees of the Local Authorities Pensions Fund.

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

(a) suing and being sued;

(b) acquiring, purchasing, taking possession of, holding, charging and disposing of 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) Subject to the provisions of this Act, the Board shall determine its own procedures for its meetings.

Composition and proceedings of the Board

10.–(1) The provisions of the First Schedule to this Act shall have effect as to the composition, appointment and termination of the members, proceedings of the Board and other matters relevant to the Board and its members.

(2) The Minister may, in consultation with the Board by order published in the *Gazette*, amend, vary, alter or replace all or any of the provisions of the Schedule to this Act.

Functions of the Board

11. The functions of the Board shall be to–

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

(c) uphold principles of good governance;

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

(e) 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;

(f) do all such things as the Board may reasonably be expected to do so as to obtain and justify the objectives of the Fund.

Fund to be held by the Board of Trustees

12.–(1) For the avoidance of doubt, it is declared that, the money in the Fund shall, for the purposes of this Act and any other written law, be deemed to be funds held by the Board in trust for insured persons and shall be administered by the Board in accordance with the provisions of this Act.

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

Powers of the Board

13. In the performance of its functions under this Act, the Board shall have the power to:

(a) cause to be carried out actuarial assessment of the Fund at intervals of not more than three years;

(b) recommend to the Minister a new rate of contribution whenever the Fund is underfunded;

(c) appoint on such terms and conditions such person or persons as it may deem necessary or desirable for the proper and efficient conduct of the business of the Fund;

(d) appoint and employ upon such terms and conditions as it may think fit such consultants, agents and contractors as the Board may deem necessary; and

(e) do all such acts as are necessary to give effect to the provisions of this Act.

Powers to delegate

14.-(1) The Board may, in writing, under the seal of the Board, delegate subject to such terms, conditions and restrictions as it may specify to–

(a) any committee of the Board;

(b) the Director General; or

(c) any other officer or employee of the Board, all or any of the functions, powers, authorities or duties conferred upon the Board under this Act.

(2) Any delegation under subsection (1) may be made to the holder of an office by the Board specifying the office but without naming the holder, and in every such case each successive holder of the office in question and every person who occupies the office or performs the duties of that office may, without any further authority perform or, as the case may be, exercise the delegated functions, power, authority or duty in accordance with the delegation made.

(3) Delegation made under this section shall not prevent the Board from performing or exercising the function, power, authority or duty delegated.

(4) The Board shall not have power to delegate–

(a) its power of delegation; or

(b) the power to approve the annual budget or any supplementary budget and the annual accounts.

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

PART IV
INSURED PERSONS AND CONTRIBUTING EMPLOYERS

Registration of insured persons

15.-(1) Subject to the provisions of this Part, all employees in the service of a contributing employer shall with effect from the date of commencement of this Act, be registered as insured persons.

(2) Every-

(a) employee of an institution which becomes a contributing employer; or

(b) person who is self employed, shall be registered as such with the Fund upon the payment of contribution to the Fund.

(3) Where an insured person joins the services of a new employer, that new employer shall be registered as a contributing employer in respect of that employee who is an insured person.

(4) The Minister may by order in the *Gazette*, provide for procedures and conditions under which any person may become an insured person under the Act.

(5) The Minister may by order in the *Gazette*-

(a) declare any employee to be an insured person; and

(b) declare any employer or category of employers to be contributing employers.

(6) Where the Minister makes an order under-

(a) paragraph (a) of subsection (5), every person who on the commencement of the order is, or subsequently becomes an employee to whom the order relates shall be registered as an insured person; or

(b) paragraph (b) of subsection (5), every person who on the commencement of the order is, or who subsequently becomes an employer to whom the order relates shall become a contributing employer and shall register as such.

Registration and contributions to the Fund

16.-(1) Every contributing employer shall be registered and be issued with a certificate of registration which shall be displayed at a conspicuous place in the workplace so that it is easily accessible by inspectors.

(2) Every contributing employer shall, for every contribution period during which he employs an insured person, pay to the Fund the statutory contributions in respect of that insured person.

(3) Every contributing employer shall maintain proper records in respect of contributions of insured persons falling under him and shall be required. not later than three months after the end of each financial year to file a return to the Director General of contributions that were due and the number of insured persons in each month and contributions remitted in respect of that financial year.

Other contributions to the Fund

17.-(1) Contributing employers and insured persons may, in addition to the statutory contributions make any other form of contribution to the Fund.

(2) Any contributing employer or an insured person intending to make any other form of contribution shall make an application to that effect to the Director General and upon approval that person shall be registered.

(3) The manner of operation of this section shall be as may be prescribed by the Minister through regulations.

Exemption from other schemes

18. A person who becomes an insured person shall, as long as he continues to contribute to the Fund, be exempted from being obliged to contribute to any other compulsory pension scheme and the contributing employer shall likewise be exempted.

PART V

STATUTORY CONTRIBUTIONS TO THE FUND

Statutory contributions

19.-(1) An insured person shall contribute to the Fund the sum equivalent to five per centum of monthly salary which sum shall be deducted by the contributing employer from the insured person's salary and the contributing employer shall contribute to the insured person's account 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.

(2) A contributing employer shall, subject to section 53 remit to the Fund within thirty days after the end of each month a sum equivalent to the total contributions which ought to be contributed by every insured

person in the employment of the contributing employer in respect of that month, together with a statement showing details of all individual insured persons and the basis upon which they were calculated.

(3) Where at any time it is established that the Fund is underfunded and an actuarial report recommends additional contributions, the Minister may take any of the steps specified in section 24 (4) of this Act.

Opening of accounts for insured persons

20.–(1) The Board shall–

(a) cause to be kept a list of all insured persons and shall open and maintain a separate account for each insured person; and

(b) inform a contributing employer and an insured person of the status of his account on annual basis.

(2) Notwithstanding subsection (1), the Board shall, on application made by an insured person in that behalf, inform him of the welfare of his account at the end of the month preceding the month in which the application was made.

Contributions and payments to the Fund

21. All sums collected, recovered or transferred on account of contributions under this Act shall be paid into the Fund in such manner as the Board shall direct.

Granting of pension and gratuity

22. A pension or gratuity shall be granted under this Act to an insured person on his retirement from service in one of the following circumstances–

(a) on or after attaining the requisite retirement age of either fifty five years for voluntary retirement or sixty years in case of compulsory retirement;

(b) on medical evidence to the satisfaction of the Board that the insured person is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

(c) on compulsory retirement for the purpose of facilitating improvement in the organization of his employer, by which greater efficiency or economy may be effected or compulsory retirement following the winding up of the organization of his employer;

(d) in the case of removal from the service in the public interest; or

(e) on retirement from employment with the consent of or on the directions in writing of the President.

Unclaimed benefits

23.–(1) Where any benefit remains unclaimed for a period of three years from the date of death or any other cause, the whole amount shall be credited to a special reserve account.

(2) Where any benefits remains unclaimed for ten years, the account shall be frozen and the amount standing in the account shall be transferred to the reserve account.

(3) Notwithstanding the provisions of subsections (1) and (2), the Board shall on application by the insured person or any other beneficiary order that, an insured person be paid in accordance with the provisions of this Act.

Actuarial valuation of the Fund

24.–(1) The Board shall, at intervals of not more than three years or at any time when the Minister so directs, cause the assets and liabilities of the Fund to be evaluated by an actuary.

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

(3) The Minister–

(a) shall take measures in accordance to the actuarial report, as he may consider necessary or expedient for the avoidance of any current or future deficiency in the Fund;

(b) may advise the employers and employees to increase their contributions to the Fund by the revised rate as he may determine; or

(c) may take any step or measure geared at ameliorating the deficiency or loss to the Fund.

PART VI

BENEFITS CONFERRED UNDER THE FUND

Employees' contributions to pension and gratuity as of right

25.–(1) A pension, gratuity or any other benefits which may be granted under this Act shall arise out of–

(a) contributions of an insured person;

(b) contributions of an employer;

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

(2) The contributions of an insured person and the contribution of an employer to the pension, gratuity or other benefits shall, to the extent that an employee retires in accordance with the provisions of section 33 or is otherwise made to cease to be an employee in the service in circumstances which does not injure or lower the esteem of or render the employer in disrepute, be of right.

Classes of benefits

26.–(1) Subject to provisions of this Act, the following classes of benefits shall be payable under the Fund–

(a) retirement pension;
(b) survivorship benefits;
(c) invalidity pension;
(d) withdrawal in respect of marriage;
(e) withdrawal in respect of emigration or unemployment;
(f) maternity benefits;
(g) sickness benefit;
(h) funeral grant; and
(i) education grant.

(2) A benefit payable under this section, except benefits mentioned in paragraphs (a), (b), (c), (d) and (e) shall not be payable in respect of any period before the date on which the Minister by order in the *Gazette*, declares to be the date on which any benefit becomes payable and the manner of administration of the benefit.

Benefit as to compulsory age of retirement

27. Subject to section 33 of this Act, retirement benefit shall be payable to any person who being an insured person attains the age of sixty years and satisfies the Director General that he has retired from regular employment.

Death gratuity

28.–(1) Where an insured person dies while in the service, the Director General shall grant the dependants a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater amount.

(2) Where a deceased insured person is not survived by a widow or a widower and if his parents were wholly or mainly dependent on him for support and without adequate means of support, the Director General shall grant to his parents an amount not exceeding the pension which might have been granted to his widow or her widower.

(3) Where a deceased insured person leaves a child or children who are wholly dependent upon him for support at the time of his death, the Director General shall grant to a child or children pension of the amount not exceeding the pension which might have been granted to the widow or widower until that child or children attains the age of twenty one years and in the case of disabled child or children up to the age of twenty five.

(4) Where an insured person who retired from employment dies before receiving by way of pension or reduced pension any gratuity or other benefits under this Act, an amount which is equivalent to the amount which might have been granted to his dependents under subsection (1) had that insured person died while still in employment, the Director General shall grant to the legal personal representative of that insured person a gratuity of an amount not exceeding the difference between the amount which has already been paid to that insured person 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 dependant.

(5) The Director General may grant part of the death related benefits to the family of the deceased insured person for purpose of defraying burial expenses.

(6) The provisions of this section shall apply subject to compliance with procedures of the court relating to devolution of deceased property or estate.

Survivors' benefits

29.-(1) Subject to the provisions of section 28 of this Act, where a survivors' benefit is payable, and no notice as is prescribed by subsection (2) has been received, the Director General may, upon satisfaction on the basis of evidence as may be required-

(a) pay the moneys direct to the widow for the maintenance of herself and the insured person's children who were dependent on him at the time of death;

(b) where there is no widow, pay the moneys, in such proportions as he may think fit, direct to a guardian of the insured person's children to be applied-

(i) to the maintenance of the child or children of the deceased;

(ii) to any child of the insured person who is of full age but who is incapable of work by reason of some specific disease; bodily or mental disablement; and

(iii) to any other dependant;

(c) pay the moneys to the executor or administrator of the deceased's estate where there are more claims than one coming from the widow, widower or dependants or any of them; 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–

(a) to any case in which an interested party has given notice to the Director General before he has made payment of benefit; and

(b) where an application has been or is being made to court for the estate of the deceased insured person to be dealt with in accordance with the law of inheritance.

(3) Where an application is not made within three months from the date of death of the deceased insured person, the Director General may proceed to deal with the benefits under the provisions of subsection (1).

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

(5) Where any money is paid to the Administrator-General under the authority of this section, the Administrator-General shall, by such appropriate means give public notice of the payment, having regard to the amount of payment and claims made after the time limited by notice 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.

Invalidity benefit

30.–(1) An invalidity benefit granted under section 33 shall be payable to an insured person who is physically or mentally disabled as to be unemployable.

(2) In computing invalidity benefits, the insured person shall be treated as having retired from employment, and the provisions of section 22 of this Act shall apply.

Withdrawal in relation to marriage

31. A withdrawal benefit under this section shall be payable to–

(a) a female member who proves to the satisfaction of the Director General that in consequence of her marriage she has permanently given up employment and does not intend to seek further gainful employment from the contributing employer or any other employer; or

(b) an insured person who proves to the satisfaction of the Director General that in consequence of her or his wife giving birth to a child does not intend to seek further employment from the contributing employer or any other employer.

Withdrawal in relation to emigration or un employment in the service

32.–(1) A withdrawal benefit under this section shall be payable to an insured person–

(a) who is emigrating or has emigrated from and has no present intention of returning to the United Republic; or

(b) who has not been employed by a contributing employer and does not intend to be an employee for at least six months immediately preceding or six months following the application.

(2) An insured person who withdraws from the Fund under the provisions of sections 31 and this section, shall be entitled to a gratuity equal to the total contributions standing in his account together with interest to be determined by the Board as advised by the actuary.

Scope of entitlement to pension, gratuity etc.

33. Except for payments made pursuant to the provisions of sections 28, 29, 30, 31 and 32, of this Act, pension, gratuity or similar benefits shall not be granted under this Act to any insured person except on his retirement from the employment in any one of the following cases–

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

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

(c) on the abolition of his office;

(d) on attaining the compulsory retirement age of sixty years; or

(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.

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

Retirement age

(2) An employee who attains the age of fifty five may at any time thereafter opt to retire but an employee who does not so opt shall continue in office on pensionable terms until he attains the age of sixty years.

35. Pension or gratuity shall not be awarded under this Act to any insured person in respect of any service–

Service not qualifying for pension

(a) while on probation unless immediately following that period of probation, the insured person 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 good cause; and

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

(c) while under the age of eighteen.

36. For the purposes of computing the amount of pension or gratuity of an insured person under this Act, the highest pensionable emoluments enjoyed by the insured person within the twelve months preceding his retirement from employment shall be used for calculating his pension.

Emoluments to be taken into account when computing pension or gratuity

37.-(1) Subject to the provisions of this Act, an employee who shall have had not less than an aggregate of fifteen years qualifying service may, on retirement, be granted–

Rates of pension and gratuity

(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 a 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) An employee under the contributing employer who has been in the employment for fifteen years or more may on retirement be granted a pension at the annual rate of one over five hundred and fortieth of his pensionable emoluments for each complete month of his pensionable service.

Restriction on double benefit

38.-(1) Any insured person shall not be entitled at any time to receive more than one benefit and in the event of an insured person qualifying for more than one benefit at the same time, the Board may in its discretion approve or seek the opinion of such employee so qualified as to which one of the benefit is suitable to him and the decision of the Board shall be final.

(2) The amount to be granted as benefit shall be limited to an amount not exceeding the aggregate of his pensionable emoluments.

Computation of pension upon transfer or appointment

39.-(1) Where an employee joins the service of a contributing employer after holding an office of a non contributing employer and his aggregate service would have qualified him, on retirement, for a pension had that service been wholly under the contributing employer, he may, on retirement from service, in circumstances in which it is permitted by law or regulation of the service in which he was last employed to retire on pension, be granted in respect of the service a pension which shall be calculated with reference to the provisions of this Act.

(2) The provisions of subsection (1) shall apply to a person who qualifies for pension and the full cost of back-purchase of the benefits due has been paid into the Fund.

(3) Where the insured person is unemployed at the time of such retirement, his pensionable emolument for the purposes of this section shall be those which are currently taken for computing the pension of the holder of the office he was last employed in service.

(4) Where an insured person joins the service of a non contributing employer, that insured person shall not be eligible to receive a pension or gratuity under this Act during all that period in which he was employed by the non contributing employer, and that person shall on taking such office his account shall be frozen and be deemed to be on leave without pay in computing his pension or gratuity.

40. Every employee otherwise qualified for pension, who has not been an insured person of the Fund 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. Gratuity where length of service does not qualify for pension

41. Where an employee is terminated on the ground that, having regard to the conditions of the contributing employer, the usefulness of the officer and all other circumstances of the case, such termination is desirable in the public interest, and the benefits cannot otherwise be granted to him under the 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 have been eligible if he had retired from the employment of the contributing employer in the circumstances described in paragraph (e) of section 33. Where service is terminated on public interest

42.-(1) Any insured person to whom this Act applies may by application to the President, supported by an affidavit and the recommendation of a contributing employer, apply for exemption from the application to him of any condition under this Act or any other written law relating to the granting of pension or gratuity. President may exempt from certain conditions

(2) The President may grant an exemption if he is satisfied that the application of such condition under the Act or any other written law in relation to the officer or a category of officers would unfairly disqualify the officer or category of officers from being granted such pension or gratuity.

(3) Where the President authorizes payment of pension or other benefits to any insured person who is otherwise not entitled to such benefit or quantum of benefit, the Fund shall be compensated by the Government from the Consolidated Fund for the resultant shortfall in the funding of those benefits.

43. A pension or gratuity granted under this Act shall not be assignable or transferable except for the purpose of satisfying– Pensions, gratuity or allowance not to be reduced, transferred, assigned or executed

(a) unpaid portion of the loan granted under this Act;
(b) an amount for which the Fund is liable and a guarantee furnished by the Fund in respect of a loan or other facilities accessed by the insured person in accordance with the provisions of this Act;

(c) any amount due from an insured person to his employer on the date of his retirement in respect of a loan or guarantee furnished by the employer in accordance with the provisions of this Act; and

(d) an order of any competent court for the periodical payment of sums of money towards the maintenance of the spouse, or a child of the insured person to whom the pension, gratuity or other allowances has been granted.

Pensions or gratuity to prisoners

44.–(1) Where any insured person to whom benefits have been granted under this Act is sentenced to imprisonment for any offence, it shall be lawful for the Board, to direct all or any part of the moneys to which an insured person is entitled by way of pension or gratuity had he not been sentenced, to be paid to the spouse or any child of the insured person for their maintenance.

(2) The Board shall pay the pension or gratuity under subsection (1) in such proportions and manner as the Board may think proper.

(3) Where any insured person has been released from prison, the benefits payable under this Act, shall be restored with retrospective effect, subject to the disbursement lawfully made under this section.

Determination of claims to benefit

45.–(1) The Director General shall determine at first instance claims for benefits.

(2) The Director General shall be responsible for determining–

(a) whether an institution and each of its employee is or was insurable under this Act;

(b) whether an individual person is insurable and liable for contributions under this Act;

(c) the amount of earning to be considered to determine liability; or

(d) which person or institution is or was liable for the payment of contributions.

(3) The Director General may, on request by any person notify that person in writing on any determination made under subsection (1).

46. Claims to invalidity benefit, maternity benefits and sickness benefit or any other claim regarding a medical issue shall be dealt with in the manner as may be prescribed in the regulations. Manner of dealing with claims for invalidity, maternity benefits, etc.

PART VII

ACCOUNTING FOR CONTRIBUTIONS AND PAYMENTS

47. The sources of funds shall be from– Sources of funds

(a) employees' contributions;

(b) employers' contributions;

(c) moneys accrued from investments;

(d) such sums as may be given out by the Government for the purposes of the Fund;

(e) any sums borrowed by the Board in accordance with the provisions of this Act; and

(f) moneys from other sources such as grants and donations.

48. The uses of the funds shall be for- Uses of funds

(a) payment of benefits;
(b) investments of the Fund;
(c) administration of the Fund; and
(d) other uses as may be allowed for better administration of the Act.

49. Subject to the approval of the Minister, investment of money shall be done by the Board in any viable venture which it considers appropriate regard being had to the economic and commercial viability. Investment of moneys in the Fund

50. The Board may, subject to section 58, utilize moneys in the Fund for– Utilization of funds for acquisition of assets

(a) the acquisition of land;
(b) acquisition of landed property; or
(c) the acquisition of equipment and other assets required for the administration of the Board and the efficient performance of its functions.

Reserve Account

51.–(1) The Board shall establish, maintain and manage a reserve account into which shall be paid–

(a) all or portion of income from the investments;
(b) other moneys authorized to be paid into the Reserve Account by any provision of this Act;
(c) penalties which may be levied under this Act.

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

Contributions and payments to the Fund

52.–(1) All sums collected, recovered or transferred on account of contributions made pursuant to the provisions of this Act, shall be paid into the Fund in such manner as the Board shall direct.

(2) The Permanent Secretary in the Ministry responsible for finance shall be responsible for deduction and submission of the amount of statutory contributions deducted at source for the local government authorities.

(3) All statutory contributions paid by the Permanent Secretary in the Ministry responsible for finance and other contributing employers to the Fund shall be accompanied with all relevant supporting documents.

Board's liability to insured persons guaranteed

53. Where the Board by reason of insufficiency of funds at its disposal is unable to meet its liability to any insured person for–

(a) any benefit or other payment to which that person is entitled under this Act; or

(b) any portion of any such benefit or other payment,the entitlement of that insured person to the benefit or other payment or its portions shall constitute a charge on and be paid out of the Consolidated Fund to the extent that the Board is unable to meet its liability under this section.

Refund of excess contributions

54. Any moneys paid into the Fund in excess of the amount for which any employer is liable in respect of an employee or in excess of the contributions payable for a contribution period may be refunded to the employer or an insured person or both, in such a manner as the Board may determine.

Inspectors

55.-(1) The Board may appoint inspectors for the purposes of this Act.

(2) Where an inspector has reasonable cause to believe that there are employees of a contributing employer in respect of whom contributions are payable under this Act he may, on production of a certificate under the hand of the Director-General enter at all reasonable times on the premises and make any examination and inquiry necessary to obtain information for the purposes of this Act.

(3) An inspector may, in the performance of his duties require any contributing employer to produce any person employed by him and any documents relating to contributions or liability to contribute to the Fund for inspection while at the premises.

(4) For the purpose of this section–

"document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means intended to be used or may be used for the purpose of recording that matter;

"premises" means any building or other erection used for the purpose of business but does not include a dwelling used exclusively for residential purposes.

Accounts of insured persons and rights to their accounts

56.–(1) The Board shall establish and maintain for every insured person an account into which shall be recorded all contributions made to the Fund in respect of such person.

(2) It shall be the duty of the Director General to inform any insured person of the Fund on request about the welfare of the insured persons' account.

Exemption from Stamp Duty, Value Added Tax and Income Tax

57.–(1) Stamp Duty and Value Added Tax shall not be payable on any receipt, contract, instrument or document given or executed by 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 so liable under the Stamp Duty Act.

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

Annual and supplementary budget

58.-(1) In this Act "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Board, except that the first financial year may be of a period shorter or longer than twelve months.

(2) In not less than one month before the beginning of any financial year, other than the first financial year after the commencement of this Act, the Board shall, at its meeting especially convened for that purpose, pass a budget hereinafter referred to as "annual budget" of the amount expected to be:

(a) received; and

(b) disbursed during that financial year.

(3) If in any financial year the Board requires to make any disbursement not provided for, or of an amount in excess of that provided for in the annual budget for that year, the Board shall at a meeting, pass a supplementary budget detailing the disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Upon the passing of the annual budget or supplementary budget, the Board shall submit the same to the Minister for approval.

(6) The Minister shall, upon receipt of the annual budget or supplementary budget approve or disapprove the same or may approve subject to such amendment as he may deem fit.

(7) Where the Minister has approved the annual budget or supplementary budget, the budget shall be binding on the Board which, subject to the provisions of subsection (8), confines its disbursements within the items and the amounts contained in the applicable estimates as approved by the Minister.

(8) The Board may–

(a) with the sanction in writing by the Minister, make disbursement notwithstanding that the disbursement is not provided for in the annual budget;

(b) from the amount of expenditure provided for in the annual budget in respect of an item, transfer a sum not exceeding fifty per centum of the amount so budgeted to any other item contained in the annual budget; or

(c) 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 Minister within two months of the alteration of expenditure limits becoming necessary.

Powers to borrow

59. The Board may from time to time, with prior approval of the Minister, borrow moneys for the purposes of the Fund by way of loan or overdraft, and upon such security and such terms and conditions relating to repayment of the principal and payment of interest as the Board may deem fit, subject to any direction of the Minister in that behalf.

Annual accounts and audit

60.–(1) The Board shall cause to be kept and maintained proper books of accounts and records with respect to all financial transactions of the Fund and shall cause to be made out, for every financial year, financial statements and other reports in accordance with approved accounting and financial reporting standards.

(2) Not later than six months after the close of every financial year, the financial statements of the Fund relating to that financial year shall be audited by the Controller and Auditor General.

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

(4) As soon as practicable after receipt of the copy of the financial statements together with the copy of the report submitted pursuant to subsection (3), the Minister shall lay a copy of the financial statements together with a copy of the auditor's report before the National Assembly.

PART VIII
LEGAL PROCEEDINGS

Contribution to be debt to the Board

61.–(1) Every statutory contribution and other contributions payable under this Act shall be a debt due to the Board, and may be recovered by way of summary suit at the instance of the Director-General at any time within ten years after the date on which it was due.

(2) In a case where a defendant applies for leave to defend, the trial court shall, before granting leave, require the defendant to deposit a sum equal to the contributions being claimed in the suit as security for due performance of the decree that may be entered against the defendant

Penalty for non-payment of statutory contributions

62.–(1) Where any statutory contribution for which a contributing employer is liable to pay is not paid within the time prescribed under this Act, a sum equal to five per centum of the amount unpaid shall be added to the unpaid amount for each month or part of it after the date on which payment was due, and the amount so added shall be recoverable as a debt due to the Board as if it were a statutory contribution.

(2) The Board may, where it considers appropriate so to do, remit in whole or in part any penalty imposed by this section.

Joinder in cases of non-payment of contribution

63.–(1) Notwithstanding anything to the contrary contained in any other law, in any proceedings against a contributing employer in respect of contributions due for more than one insured person, the Magistrate may permit one plaint or charge sheet to be made or filed, by a person authorized to lay the charge or institute a suit, in respect of all contributions claimed to be due.

(2) The charge or plaint shall have a schedule annexed setting forth the names of the insured persons, their addresses, descriptions and details of the contributions due for each insured person.

(3) All claims shall rank equal between themselves and shall be deposited in full to the insured persons' accounts, unless the amount recovered from the contributing employer is less, in that case after payment of costs, all such claims shall subject to marginal adjustments among themselves be credited to the insured persons' accounts accordingly.

Summary recovery

64.–(1) Where any contribution or penalty under this Act is due from any contributing employer and the contributing employer has failed to pay the amount of such contribution or penalty within thirty days of the due date, the Director General or any officer of the Fund authorized by him in writing in that behalf, may lodge in a court of a Resident Magistrate having jurisdiction over the area in which the contributing employer in default is situated or carries on business, a certificate signed by him stating–

(a) the name and address of the contributing employer from whom the contribution or penalty is due; and

(b) the amount of contribution or penalty due, and upon such certificate being lodged in such court, it shall be deemed to be a decree passed by such court against the contributing employer named in the certificate for payment by such contributing employer to the Board of the amount stated in the certificate together with interest thereon at the rate specified in the certificate from the date of filing of the certificate till the date of payment and the decree may be executed in the same manner as a decree passed by the court of a Resident Magistrate in a civil suit.

(2) The provisions of subsection (1) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a Court of Resident Magistrate.

(3) Every certificate filed in a Court of a Resident Magistrate pursuant to the provisions of subsection (1) shall be conclusive evidence of the truth of the statement contained in such certificate.

(4) The method for recovery of any contribution and penalty prescribed under the Second Schedule to this Act shall be without prejudice to any other method for recovery of the contribution or penalty.

65. Any action for the recovery of contributions and all criminal proceedings under section 71 may be instituted by the Director General, an inspector or other officer of the Fund approved by the Board in that behalf, and where action is instituted before any court, any person authorized under this section may appear and conduct the case. Legal proceedings

66.-(1) Suit shall not be commenced against the Board without issuance of a three months written notice of the intention to commence the suit served upon the Board by the intending plaintiff or his agent. Suits against the Board

(2) The notice under this section shall state the cause of action, the name and address of place of abode of the intending plaintiff, and the relief sought.

(3) Notwithstanding the provisions of any written law to the contrary –

(a) where any judgment or order is obtained against the Board, no execution or attachment or process of that nature shall be issued against the Board, or against any property of the Fund, except that the Director General shall cause to be paid out of the revenue of the Fund the amount as may by judgment or order be awarded against the Board to the person entitled to it

(b) property of the Fund shall not be seized or taken by any person having by law the power to attach or detain property without the prior permission in writing of the Minister.

Certificates as evidence

67. A copy of entry in the accounts of the Fund or other extract from the record of the Fund shall, when certified by the Director General or any other officer nominated by the Board in that behalf in writing under the seal of the Board be received in all courts as *prima facie* evidence of the truth of the contents therein and of the debt due to the Fund by any person.

Protection of proceeds of sale or realization of property

68. Where the Director General has filed in court a written notice of a claim under this Act and–

(a) any attachment is issued against the property of a contributing employer in execution of a decree against him so that any such property is seized or sold or otherwise realized in pursuance of such execution;

(b) on the application by the Board, the property of the contributing employer is sold,

then, the proceeds of the sale or other realization of that property shall not be distributed to any person entitled thereto until the court ordering the sale or realization has made provision for the payment after the payment of costs of sale or realization, or any accounts due in respect of contributions payable by the contributing employer under this Act before the date of such order.

Protection of contributions

69. The sum standing to the credit of an insured person shall, until 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 that person in the event of his bankruptcy or insolvency, or be liable to attachment in satisfaction of his debts.

Protection against attachment

70. Notwithstanding anything to the contrary contained in any other written law, where any judgment or order has been obtained against an insured person, no execution or attachment or process of any nature shall be issued against his contributions except in accordance with the terms of the Fund and the contributions shall not form part of the assets of the insured person in the event of bankruptcy.

PART IX
OFFENCES AND PENALTIES

71.–(1) Any person who– Offences and penalties

(a) for the purpose of evading payment of any contribution by himself or any other person knowingly–

(i) makes any false statement or representation;

(ii) produces or furnishes or causes to be produced or furnished any document or information which that person knows to be false in any material particular;

(b) for the purposes of obtaining any benefit or refund for himself or some other person knowingly–

(i) makes any false statement or representation;

(ii) produces or furnishes or causes to be produced or furnished any document or information which that person knows to be false in any material particular;

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

(d) fails to pay to the Board within the prescribed period any contribution, interest or penalty which he is liable to pay under this Act;

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

(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 insured persons' accounts cannot be credited with their contributions or his records cannot be maintained;

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

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

(i) knowingly deducts from the insured persons' salary a sum in respect of a contribution to the Fund, greater than the insured persons' share of the statutory contribution, commits an offence and is liable on conviction to a fine not exceeding five 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 that person or contributing employer to pay to the Fund, the amount which is due for contribution together with any interest or penalty thereon, certified to be due from such person or contributing employer at the date of conviction and the amount may be recovered in the same manner as a fine.

(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 it comes to the knowledge of the Director General, that there is evidence to justify a prosecution for the offence.

(4) A Magistrate other than a Primary Court Magistrate shall have jurisdiction to try any offence under this section, notwithstanding anything to the contrary contained in any law relating to the jurisdiction of such Magistrate.

Liability for acts of bodies of persons

72. Where an offence is committed under this Act by an association of persons, whether corporate or unincorporated and such association is found to have committed an offence with the knowledge or connivance of, or is attributable to any act or default on the part of any person or persons in apparent control of the association of persons, such person or persons shall be deemed to have committed the offence.

PART X
TRANSITIONAL AND GENERAL PROVISIONS

Transfer of powers, rights and liabilities

Cap.497

73. Subject to the provisions of this Act, all powers, rights, privileges, duties, liabilities or obligations which, immediately before the date of coming into operation of this Act were exercisable by persons in accordance with the provisions of the Local Authorities Provident Fund Act, 2000 shall, as from that day devolve to the Fund.

Transfer of property and assets

74. Subject to the provisions of this Act and to any direction of the Minister, all property and assets which immediately before the date of coming into operation of this Act were vested in the Local Authorities Provident Fund or in any person on behalf of the Local Authorities Provident Fund shall, from the commencement date, vest in the Board.

Existing contracts

75. Subject to the provisions of this Act, all deeds, bonds, agreements, instruments, land, working arrangements subsisting immediately before the date of coming into operation of this Act 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, the Fund has been named therein or had been a party thereto.

Continuance of service by officers and employees

76. Every person who immediately before the commencement date was a staff or employed as an officer or employee of the Local Authorities Provident Fund shall have his appointment remain in force unless it is revoked or he is offered a new appointment.

Terminal benefits in operation prior to the commencement of this Act

77.–(1) Where immediately prior to the date of coming into operation of this Act, an employee who was an insured person of an existing non-statutory employees' terminal benefits scheme operated by or on behalf of his employer under which he qualified for the grant of a pension his membership to that scheme, shall cease upon his becoming an insured person under the Fund.

(2) An employee who, prior to becoming an employee of a contributing employer under section 3 of this Act was a member of another superannuation and pension benefits scheme which offers more favourable benefits, may opt to remain a member of such other scheme.

(3) Where an employee opts to remain a member of the scheme which offers more favorable superannuation and pension benefits, that employee and his employer shall be required to remit contributions to the Fund at such rate as may be determined by the Board or by the Minister.

Benefits under the Local Authorities Provident Fund Cap. 407

78. Notwithstanding anything to the contrary, any person or category of persons who was covered under the Local Authorities Provident Fund who is not uninsured person in accordance with the provisions of this Act, shall continue to enjoy all the rights and benefits conferred under that law as if this Act had not been enacted.

Persons deemed to be in the employment of the first mentioned person

79. Where a person enters into a contract whereby some other person is to provide employees for any lawful purpose of the first mentioned person and it is not clear from the contract which of the two persons is the contributing employer, the employees shall, unless the Director General otherwise requires, be deemed for the purposes of this Act be in the employment of the first mentioned person.

Indemnity of members and employees

80. No action or other proceedings shall lie or be instituted personally against any member of the Board or officer or employee of the Fund for or in respect of any act or thing done or omitted to be done or purported to be done in good faith in the performance of the functions or the exercise of powers conferred under this Act.

Minister's powers to make regulations

81. The Minister may, on the recommendation of the Board, make regulations providing for–

(a) the manner of payment and collection of contributions;

(b) the type, mode and procedure for the investment of surplus funds;

(c) the administration of moneys of the Fund;

(d) forms in which particulars and returns shall be submitted;

(e) the procedure for dealing with unclaimed moneys in the Fund;

(f) any person or category of persons to whom any provisions of this Act shall not apply or shall apply with such modifications as may be specified; and

(g) anything which may be necessary for the better carrying of any of the provisions of this Act.

PART XI
REPEAL AND SAVINGS

Repeal and savings Cap. 407

82.–(1) The Local Authorities Provident Fund Act is hereby repealed.

(2) Notwithstanding the repeal of the Local Authorities Provident Fund Act–

(a) 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 Local Authorities Provident Fund Act shall, as from that day devolve on the Fund;

Cap 407

(b) all regulations, rules, orders and any other subsidiary legislation made under that Act and which were in force before the date of coming into operation of this Act, shall remain in force until tney are revoked; and

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

FIRST SCHEDULE

(Made under section 10)

Composition of the Board

1.-(1) The Board shall comprise of-

(a) a Permanent Secretary to the Ministry responsible for local government who shall be the Chairman;

(b) a Permanent Secretary to the Ministry of Finance or his representative;

(c) a member representing the Attorney-General;

(d) two members representing the Tanzania Local Government Workers Union, at least one of whom shall be the Chairman of the association;

(e) three members representing the Tanzania Local Government Workers Union, at least one of whom shall be a woman;

(g) two members appointed from among persons with experience in social security, financial matters, or business administration, one of whom shall be from the private sector.

(2) Members of the Board may be paid such fees and allowances as the Minister may, upon the recommendation of the Board, determine.

Inability to attend meetings

2.-(1) Where any member appointed pursuant to paragraph 1(1) (b) is by reason of illness, infirmity or absence from the United Republic unable to attend any meeting of the Board, the Minister may appoint a temporary member in his place and the temporary member shall cease to hold office on the resumption of office of the substantive member.

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

Tenure of office

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

Secretary of the Board

4. The Director-General shall be the Secretary to the Board and may take part in all proceedings of the Board but shall not be entitled to vote.

Resignation and revocation of appointment

5. Any member of the Board, may at anytime resign his office by a written notice addressed to the Chairman and, in the case of the Chairman, by a written notice addressed to the Minister.

Delegation of Authority

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

Powers to grant loans

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

Disqualification from membership of the Board

8. A person shall be disqualified from being appointed as a member of the Board and shall cease to be as such if that person-

(a) is of unsound mind or is otherwise incapable of performing duties of a member;
(b) has been convicted of an offence and sentenced to imprisonment for a term of not less than one year;
(c) who has been convicted of an offence involving fraud or dishonesty; or
(d) is declared bankrupt by the court of law.

Duty to disclose conflict of interest

9.-(1) Every member of the Board, or committee, having directly or indirectly by himself, his spouse or children, any interest in any matter under discussion 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), commits 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 meeting of the Board or committee, and after any such declaration the member of the Board or committee, as the case may be, shall-

(a) not take part nor be present in the decision of the Board or committee on 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 a member of the Board or committee has contravened the provisions of this section.

Proceedings of the Board

10.-(1) In the performance of its functions, the Board shall meet four times in a year but the Chairman may, as and when deemed expedient, call for an extraordinary meeting of the Board.

(2) The Board may upon such terms as it may determine, invite to its meetings, any person who is qualified or necessary to contribute to the proper and efficient discharge of the functions of the Board as provided under this Act.

(3) A half of the total number of members in the meeting shall constitute the quorum at that meeting.

(4) The Board shall elect one of its members to become the Vice Chairman during their tenure.

(5) The Chairman shall preside over the meetings of the Board and in his absence the Vice Chairman.

(6) In the event of both the Chairman and Vice Chairman being absent, members present shall appoint one of the members to preside over the meeting.

(7) At a meeting of the Board, a decision of the majority of the members present and voting shall be deemed to be decision of the Board and, in the event of an equality of votes the person presiding over the meeting, shall have a casting vote.

(8) Subject to this Act, the Board shall have powers to regulate its procedure in relation to its meetings and the transactions of its business.

SECOND SCHEDULE

(Made under section 64(4))

A Certificate for Summary Recovery of Contribution

To: ....
Court of Resident Magistrate, of ....
at ....

This is to request you to attach and hold the property of .... as set forth in the certificate hereto, unless the said .... shall pay to the undersigned the sum of Tshs. .... being the amount due and owing by the said .... together with penalty and interest at the existing commercial rate for each month or part of a month from .... and the cost of this attachment, and, after giving fourteen days notice, by affixing to this court and after making due proclamation, to order the sell of the same by auction or so much thereof as shall be sufficient to realize the sum of Tshs. .... together with penalty and interest and the cost of attachment as aforesaid.

You are further requested to return this warrant on or before the .... day of .... with an endorsement ratifying the manner in which it has been executed or the reason why it has not been executed.

Given at .... this .... day of

....

....
Director-General/Authorized Officer

Passed in the National Assembly on the 3rd November, 2006.

DAMIAN S. L. FOKA,
Clerk of the National Assembly