

ISSN 0856-0331X

THE UNITED REPUBLIC OF TANZANIA

Acts Supplement

To the Gazette of the United Republic of Tanzania No.5, Vol.79, dated 30th
January, 1998

No.1

30th January, 1998

Printed by the Government Printer, Dar es Salaam, by Order of Government

THE NATIONAL SOCIAL SECURITY FUND ACT, 1997

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Short title and Commencement

Interpretation

Cap. 366

PART II

NATIONAL SOCIAL SECURITY FUND

Constitution of National Social Security Fund

Management and Administration of the Fund

Vesting of existing Fund to the National Social Security Fund

PART III

INSURED PERSONS AND CONTRIBUTING EMPLOYERS

Insured persons

Insured Ministers of religion

Certain employees not registrable

Continuity of insurance despite loss of qualifications for registration

Contribution records of insured persons

PART IV

REGISTRATION AND CONTRIBUTIONS TO THE FUND

Registration of Employers

Statutory contributions by contributing employers

Deductions of employees share

Payment of contributions

Treating unpaid contributions as paid

Refund of contributions paid in error

Payment by an insured person

Recovery of contributions from employers and penalty

Contributions when benefit drawn or during bankruptcy of employee

Contributions etc. inalienable

PART V

BENEFITS

Classes of benefits

Operation dates in respect of the benefits

Conditions for retirement pension

Amount of retirement pension

Duration of Retirement pension

Retirement special lumpsum

Early retirement

Conditions for Invalidity pension

Amount of Invalidity pension

Duration of invalidity pension

Invalidity Special Lump – sum

Medical Examinations

Conditions for Survivors pension

Amount of survivors pension

Durations of Survivors pension

Survivors Special lumpsum

Retirement and Invalidity grant

Funeral Grant

Employment injury benefit

Types of employment injury benefits

Condition for Health Insurance

Medical Benefits to be provided

Agreements with Medical providers

Conditions for Maternity benefit

Types of maternity benefits

Disapplication of section of 25B of the Employment Ordinance

Restriction on Double benefit

Adjustment of benefits

Time and manner of making claims

Regulations for benefit provision

Repayment of benefit improperly received

Benefit to be inalienable

PART VI

BOARD OF TRUSTEES OF NATIONAL SOCIAL SECURITY FUND

Establishment of Board of Trustees

Management objectives of the Fund

Functions of the Board

Duties of the Board

Powers of the Board

Remuneration, allowances and benefits

Power to delegate

Minister may give directions to Board

PART VII

FINANCIAL PROVISIONS

Fund to vest in Board

Investment of moneys in the Fund

Utilization of Fund for acquisition of assets

Board's liability to insured persons guaranteed

Refund of excess contributions

Financial Resources

Annual and supplementary budget

Power to borrow

Accounts and Audit

Fund Account

Accounts of the Fund

PART VIII

LEGAL PROCEEDINGS OFFENCES AND PENALTIES

Criminal proceedings

Joinder in cases of non-payment of contributions

Legal Proceedings

Priority for payment of contributions

Protection of contributions

Protection against attachment

Liability for acts of association of persons

Certificates as evidence

PART IX

DETERMINATION OF CLAIMS TO BENEFIT AND LIABILITY FOR CONTRIBUTIONS

Responsibility of Director General

Determination of claims to benefit

Determination of questions as to liability for contributions

Establishment of Social Security Appeals Tribunal

Establishment of Medical Appeals Tribunal

Expenses of Medical Boards and Tribunal

PART X

GENERAL PROVISIONS

Deemed to be in the employ of the first mentioned person

Inspectors

Liability of members

Regulations

Tax exemptions

Establishment of supplementary Retirement fund

Reciprocal agreements

Repeal of Laws: Cap. 564 Act No. 2 of 1975

Savings

Transitional and consequential provisions.

FIRST SCHEDULE

(Section 5 (2) (c) and (16)

CONTRIBUTIONS FOR EMPLOYEES

SECOND SCHEDULE

(Section 53 [3])

COMPOSITION AND PROCEEDING OF THE BOARD

Construction

Composition

Tenure of appointment

Vice chairman

Secretary

Meetings of the board

Procedure and Quorum

Absent from three consecutive meetings

Decision by circulation of papers

Minutes of meetings

Seal

Board may regulate its own proceedings.

THE UNITED REPUBLIC OF TANZANIA



No.28 OF 1997

I ASSENT,
BENJAMIN W. MKAPA,
President
22nd January, 1998

An Act to establish the National Social Security Fund and to provide for its constitution, administration and other matters related to the Fund.

[.....]
ENACTED by Parliament of the United Republic of Tanzania.

PART I**PRELIMINARY**

1. This Act may be cited as the National Social Security Fund Act, 1997 *Short title and Commencement*

(2) This Act shall come into operation on such date as the Minister may be Notice in the Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires – *Interpretation*

“benefit” means a benefit payable under this Act;

“Board” means the Board of Trustees of the National Social Security Fund;

“child” includes a step child, a child born out of wedlock ad an adopted child; in relation to insured person.

“commuting accident” mans accident occurring to the insured person and involving his employer’s means of transport.

“contract of service” has the meaning ascribed to that expression in the Employment Ordinance;

“contributing employer” means –

Cap. 366

(a) Every person, corporate or unincorporate body of persons having a contract of service or apprenticeship with an employee; and

(b) every Government department employing employees not covered under the Government.

“contributing employment” means employment in respect of which contributions are payable under this Act;

“contribution credits” means number of contributions made in respect of an insured person;

“contribution period” means where wages are paid to an employee –

- (a) at intervals of more than a fortnight, the month during which the wages are paid; or
- (b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the wages are paid; or
- (c) daily, the day on which the wages are paid:

Provided that where wages are paid in advance to an employee the contribution period shall be deemed to be the appropriate period to which the wages relate and, if the wages relate to more than such period, each such period shall be deemed to be a contribution period.

“dependant” means a member of the family of an insured person who was wholly or in part dependent upon his earnings at the time of his death, or would but for the illness of the insured person have been so dependent;

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependant partially on assistance from that other person for the provision of the ordinary necessities of life suitable for person of his station;

“Director-General” means the Director General of the Fund appointed under this Act.

“employee” means any person who –

- (a) is employed in Mainland Tanzania under any contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise and howsoever paid; or
- (b) is permanently resident in Mainland Tanzania and is employed outside Mainland Tanzania by whom he is paid.

“employee’s share” means that portion of a statutory contribution declared by the Second Schedule to this Act to be the employee’s share of such contribution;

“employer” means, the person with whom the employees entered into a contract of service or apprenticeship, and who is responsible for the

payment of wages of the employees;

“existing fund” means the National Provident Fund;

“Fund” means the National Social Security Fund established by section 3;

“insured person” means a person insured under this Act;

“minimum wage” means the amount determined annually by the Minimum Wage Board as the average gross monthly earnings for persons employed locally in Tanzania;

“Minister” means the Minister responsible for labour matters;

“pensionable age” means the age of sixty years;

“special lumpsum” means an amount equal to the insured person’s last monthly contribution times the number of months of contributions paid to the Fund..

“Trustee” means a member of the Board and includes a chairman of the Board;

“Wages” means remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be, and whether agreed to be paid at fixed or determinable intervals of time –

- (a) in respect of normal periods of work to be performed by the employee; or
- (b) where payment is calculated in relation to set tasks or journeys completed by the employee, or
- (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the employee;

and includes any allowance paid by the employer to the employee either directly or by implication in respect of living and any payment of wages in lieu of notice of termination of employment;

“widow or widower” includes a spouse and any person whom the deceased member had been living with as a wife or husband for at least two years

PART II

NATIONAL SOCIAL SECURITY FUND

3. – (1) There is established a Fund to be known as the National Social Security Fund into which shall be paid all contributions and other moneys required by this Act.

*Constitution of
National Social
Security Fund*

(2) There may from time to time be paid out of the Fund benefits and other payments, including payments in respect of the expenses of the Board, as are authorised by this Act.

4. - (1) The management and the administration of fund shall vest in the Board.

*Management
and
Administration
of the Fund*

(2) There shall be a Director General appointed by the President to be the Chief Executive Officer of the Board to oversee the daily operations of the Fund.

5. . – (1) The existing funds shall be transferred to the National Social Security Fund and shall be vested in the Board which shall, subject to provisions of this Act have the sole management and control of it.

*Vesting of
existing Fund to
the National
Social Security
Fund*

(2) The funds of the National Social Security Fund shall constitute of

–

- a. The existing fund vested in the Board under subsection (1)
- b. the assets of the existing fund;
- c. the combined contributions of eligible employers and the insured persons paid into the Fund at the rates set out in the First schedule;
- d. income and capital appreciation derived from the holding of that assets of the Fund in any form; and
- e. such other sums or assets as may accrue or be granted to the Fund.

PART III

INSURED PERSONS AND CONTRIBUTING EMPLOYERS

Insured persons

6. (1) Every person who is a member of the existing Fund shall be an insured person under this Act.
 - (2) Every person who is self employed or who is employed in the private sector, other than in a body which is a parastatal organisation under the Parastatal Pension Fund Act, 1978, shall be registered as an insured person.
 - (3) Every non-pensionable employee in the Government service and parastatal organisation shall be registered as an insured person.
 - (4) The Minister may by order in the *Gazette*, provide for the conditions and procedure under which any person who is not eligible to become an insured person may so become.
 - (5) The Minister may by order in the *Gazette* –
 - (a) declare any employees or category of employees to be registrable as insured person;
 - (b) declare any employer or category of employers to be contributing employers.
 - (6) Where the Minister –
 - (a) makes an order under paragraph (a) of subsection (5) every person who on the commencement of the order is, or who subsequently becomes an employee to whom the order relates shall be registered under this Act and upon such registration shall become an insured person.
 - (b) makes an order under 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.
 - (7) Notwithstanding any other category which may be declared under sub-section (5) the Minister may declare categories of

employees or of employers by reference to the number of employees in the service of an employer and may exclude from such number any category of employees.

(8) Where an order is made under paragraph (a) of sub-section (5) the Minister may by the same or a subsequent order appoint a date upon which sections 11, 12 and 14, of this Act shall apply in respect of the insured persons registered under that order.

(9) For the purposes of this action –

“private company” means a company which restricts the right to transfer its shares, limits the number of its members to fifty and prohibits any invitation to the public to subscribe for any shares or debentures of the company.

“private sector” means any body, corporate or unincorporate, including a private or public company and a non governmental organization, fifty per centum or more of whose shares are not owned by the government or in which the government has no control or influence.

7. – (1) A religious or organisation, which desires to make contributions under this Act in respect of any minister of religion, may apply to the Board in writing in that behalf.

*Insured
Ministers
religion of*

(2) If the Board approves the application, it shall with effect from that date as it shall appoint, declare this section to apply to the organisation and minister and, from the appointed date, this Act shall apply to the organisation in relation to the minister as if it were a contributing employer, and that minister shall be registrable as an insured person.

(3) For the purposes of this section –

“minister of religion” includes any clerk in holy orders, pastor, missionary, kadhi, imam, sheikh or other person acting in any of those or similar capacities who is engaged in ministering to the spiritual needs of others; and “religious organisation” includes any person or body of persons from whom a minister of religion receives his stipend.

8. - (1) Notwithstanding the foregoing provisions of this Part, no person shall be registered as an insured person when he is a

*Certain
employees not
registrable*

temporary employee unless the Minister by order published in the Gazette have declared temporary employees generally or temporary employees of a category to which he belongs to be registrable as insured person under this Act.

(2) Where the Minister makes an order under subsection (1) he may by the same or a subsequent order appoint a date upon which sections 11, 12, and 14 shall come into operation in respect of those instead persons who are registered in pursuance of that order.

9. A person registered as an insured person shall not cease to be insured by reason of the fact that, since registration –

Continuity of insurance despite loss of qualifications for registration

(a) he has ceased to be an employee or to be a person to whom the orders made under paragraph (a) of subsection (5) of section 6 or paragraph (b) or subsection (1) of section 8 relates; or

(b) he has become a temporary employee.

10. The Board shall establish and maintain for each insured person record of all contributions made to the Fund in respect of the person for purposes of calculating the insured person's benefits as provided in this Act.

Contribution records of insured persons

PART IV

REGISTRATION AND CONTRIBUTIONS TO THE FUND

11. - (1) Subject to the provisions of this Act, every contributing employer shall, unless such employer has been registered under the existing Fund, within one month, register under this section in the prescribed manner.

Registration of Employers

(2) The period of one month mentioned in subsection (1) shall, in every case, begin upon the commencement of this Act or the date when the person concerned becomes a contributing employer.

(3) Upon the first day of the month following the month in which the period mentioned in subsection (1) expires, the employer to whose registration that period relates shall be a contributing employer for the purposes of this Act.

(4) The Minister may, for the purpose of the initial registration of any category of employers by order published in the *Gazette*

declare that category of employers shall not be contributing employers until the expiry of such further period as the order may specify.

(5) A contributing employer who ceases to be an employer of any employee shall thereupon cease to be a contributing employer in respect of such employee.

(6) A contributing employer who registers or is registered under the provisions of this section shall, without delay, register as an insured person every person who is or who subsequently becomes an employee in his service, by notifying the Director General of the particulars of such employees as may be prescribed.

12.(1) A contributing employer shall for every contribution period after the appointed day during which he employs an insured person pay to the Fund a contribution that consists of the employer's contribution and the employees contribution at the percentage stipulated in the Second Schedule.

Statutory contributions by contributing employers

(2) No contribution shall be paid under this section in respect of;

(a) temporary employee unless the Minister has made an order declaring such temporary employees registrable as insured persons; or

(b) an insured person who dies during the contribution period unless the employer deducts the employee's share of the contribution from the wages payable in respect of any part of such period to the estate of the deceased member.

(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 to which it relates falls.

13.- (1) A contributing employer who is liable to make or has made a statutory contribution in respect of an insured person may deduct the employees' share of the statutory contribution-

Deductions of employees share

(a) from the wages due from him to the employee in respect of the contribution period to which the statutory contribution relates; or

(b) from the wages due from him to the employee in respect of any

period within six months after the end of the contribution period to which the statutory contribution relates,

but not otherwise, and where a deduction is made under paragraph (b) it shall be made in not less than four approximately equal instalments unless the employee agrees to it being deducted in a fewer number or in one lump sum.

(2) Where an employer deducts the employee's share of a statutory contribution from the wages of an insured person under this section in advance of the payment of such contribution to the Fund, the employer shall hold that share on trust for the purposes of this Act.

14.- (1) A contributing employer shall pay contributions to the Fund in the manner prescribed under this Act, within one month after the end of the month in respect of which the contributions are due and payable.

Payment of contributions

(2) An employer shall submit with the payment all prescribed supporting particulars concerning the identity, period of employment and earnings of the insured person to whom the contributions relate.

(3) If any contribution is not paid within the period stated under subsection (1) a sum equal to five per centum of the amount unpaid shall be added as penalty for each month or a part of a month after the date when payment should have been made and the amount of the penalty shall be recovery as a debt owing to the Fund by the employer:

Provided that the Board may, if it thinks fit, remit in whole or in part any penalty imposed by this subsection.

15. Where the Director General is satisfied that an employee's contribution has been deducted from his earnings, but the employer has failed to pay the contribution together with the employer's contributions to the Fund, he may treat the unpaid contributions as wholly or partially paid for the purpose of any claim to the payment of benefits provided that it shall be without prejudice to any action to recover the amount due from the employer.

Treating unpaid contributions as paid

16. Where the Director General is satisfied that any amount has been paid to the Fund as contributions which were not properly payable and that the amount was paid as a result of *bona fide* error, the

Refund of contributions paid in error

amount paid in error shall be refunded or applied, with the consent of the person who made the payment, to any current liability.

- 17.- (1) Any insured person other than an insured person employed by a contributing employer who is liable to make a statutory contribution in respect of that insured person may apply to the Director General for approval to his contributing to the Fund on his own behalf. *Payment by an insured person*
- (2) If the Director General approves the application, the insured person may-
- a. make consecutive monthly payments to the Fund of an amount not greater than the statutory contribution;
 - b. make consecutive monthly payments to the Fund of an amount not less than the employee's share of the contribution last paid in respect of the insured person by a contributing employer;
 - c. if the contribution period for the statutory contributions was other than a month, the corresponding monthly statutory contributions or employee's share thereof.
- (3) Where an insured person makes payments under this section and enters the employment of a contributing employer who is liable to make a statutory contribution in respect of such person, that person shall cease to be eligible to make payments under this section.
18. Every statutory contribution and penalty due to the Fund shall be a debt due to the Fund and may be recovered as such by the Board by suit at anytime within six years after the date on which it was due. *Recovery of contributions from employers and penalty*
19. Nothing in this Act shall be construed as relieving a contributing employer from liability to make contributions to the Fund in respect of any employee- *Contributions when benefit drawn or during bankruptcy of employee*
- (a) who is in receipt of, or becomes entitled to any benefit; or
 - (b) during that employee's bankruptcy or insolvency.
20. - (1) Subject to the provisions of this section the statutory contributions, payments made by insured persons, and any benefits accruing to an insured person shall be inalienable except under this Act and shall not be assets for the benefit of creditors in the event of the bankruptcy or insolvency of an insured person or be liable *Contributions etc. inalienable*

to attachment for an insured person's debt; and any security, pledge or assignment given before or after the coming into operation of this Act which purports to include any such contribution, payment or benefit shall to that extent be void.

(2) Contributions, made to the Fund in respect of an insured person who is bankrupt or insolvent shall, while held in the Fund, be deemed not to be after acquired property for the purposes of the laws relating to bankruptcy or insolvency ;

(3) Where an employee who is an insured person is convicted of an offence involving dishonesty and the convicting court is satisfied that his employer has suffered financial loss as a result of that offence, the court may order payment to be made to be employer out of the Fund of an amount not exceeding the aggregate of statutory contributions made by that employer in respect of that insured person less the employees' shares thereof, and the amount so paid to the employer shall be deducted from the employee's benefits entitlement in the Fund.

PART V

BENEFITS

21. The following classes of benefits are payable under this Act, namely –
- a. retirement pension
 - b. invalidity pension
 - c. survivors pension
 - d. funeral grants
 - e. maternity benefit
 - f. employment injury benefit; and
 - g. health insurance benefit
22. No benefit payable under this Act except the benefits mentioned in paragraphs (a), (b), (c) and (d) of section 21 shall be payable in respect of any period before the date on which the Minister by order in the *Gazette*, declare to be the date on which any benefit becomes payable.
23. Subject to the provisions of this Act retirement pension shall be payable to an insured person who-

Classes of benefits

Operation dates in respect of the benefits

Conditions for retirement pension

- (a) has attained pensionable age; and
- (b) in respect of when not less than 180 monthly contributions have been paid.
- 24.- (1) The monthly retirement pension shall amount to 30 percentum of the average monthly earnings of the retired insured person supplemented by 1.5 percentum of his average monthly earnings for every twelve months of pension insurance additional to the 180 months specified in section 23 to a maximum of 67.5 percentum of the average earnings. *Amount of retirement pension*
- (2) The average earnings is calculated over the best five years in the last ten years prior tno pensionable age.
- (3) The minimum monthly pension shall be 80 percentum of the minimum wage.
25. The retirement pension payment shall commence from the month following the month in which the retired employee satisfies the conditions under section 23 and end with the month in which the pensioner dies *Duration of Retirement pension*
26. A member who has attained pensionable age and has retired from employment but does not meet the qualification prescribed in paragraph (b) of section 23 shall be entitled only to the payment of a special lump sum. *Retirement special lumpsum*
- 27.- (1) An insured person who is within five years of the pensionable age and has paid contributions for at least 180 months, may claim early retirement pension. *Early retirement*
- (2) The amount of the retirement pension paid on early retirement under subsection (1) shall be the amount that would be paid under subsection (1) of section 24 reduced by 0.5 percentum of the monthly average earnings.
- (3) an early retirement pension shall not be payable if the amount of the pension calculated in accordance with subsection (2) would be lower than the minimum pension under subsection (3) of section 24.
- 28.- (1) An invalidity pension shall be payable to an insured person who:- *Conditions for Invalidity pension*
- (a) is suffering from permanent invalidity;

(b) is under pensionable age;

(c) either-

(i) he has made 180 contributions; or

(ii) at least 36 monthly contributions have been paid in respect of him of which twelve or more were paid in the period of 36 months immediately proceeding the date of commencement of invalidity.

(2) For the purposes of this section “permanent invalidity” means the permanent loss of two thirds or more of the earnings capacity because of physical or mental invalidity.

29.- (1) The monthly rate of invalidity pension shall be 30 percentum of the average monthly earnings of the insured person supplemented by 1 percentum of his average monthly earnings for every twelve months of pension contributions in addition to 180 monthly contributions. *Amount of Invalidity pension*

(2) The monthly rate of invalidity pension shall be supplemented by 1 percentum of average monthly earnings for every twelve months between whichever is the later of the pensionable age and-

(a) the date of entitlement of invalidity pension; or

(b) the date of completion of 180 months contributory employment.

(3) The minimum monthly invalidity pension shall be 80 per centum of the national minimum wage.

30. Subject to the provisions of this Act, invalidity pension shall be payable for the duration of a permanent invalidity commencing with the month following the date of the invalidity and ending either- *Duration of invalidity pension*

(a) on pensionable age, if at that time the insured person is entitled to retirement pension at the same or a higher rate; or

(b) on death of the invalid.

31. Where an insured person is suffering from invalidity but does not satisfy the qualifying conditions under paragraph (c) of *Invalidity Special Lump – sum*

subsection (1) of section 28 he shall be entitled to a special lump-sum payment.

32. - (1) A claim to invalidity pension shall be referred to a medical board to the appointed by the Minister to determine in the prescribed manner, whether the claimant is suffering from permanent invalidity. *Medical Examinations*

(2) The Director General may at anytime after the award of an invalidity pension, refer a beneficiary in receipt of an invalidity pension to a medical board to determine the medical state of the permanent invalidity.

(3) A beneficiary of a invalidity pension shall cease to receive his invalidity pension if he fails to comply with directions of the Director General under subsection (2), to be medically examined by medical board and to supply all necessary documents or information as may be necessary for the purposes of determining his continued entitlement.

33.- (1) Subject to the provisions of this Act, where n insured person dies a survivors pension shall be payable to his dependants if at the time of the death, the insured person- *Conditions for Survivors pension*

(a) would have been entitled to an invalidity pension if deemed to have been suffering from permanent invalidity at the time of death; or

(b) had attained pensionable age and would have been entitled to retirement pension had he made a claim to such pension.

Provided that if at the time of death, the insured person was in receipt of retirement of invalidity pension, his dependants will be paid a lump sum equal to the insured person's monthly pension times twelve.

(2) For the purposes of this part "dependant" includes spouse, a child under twenty one years receiving full time education or a child under eighteen years.

34. The survivors pension payable to a dependant shall without prejudice to the relevant laws of inheritance but subject to any will of the deceased, be in the prescribed percentage- *Amount of survivors pension*

(a) in the case of a widow or a widower, 40 percentum of the pension, and where there are more than one widow the

amount shall be divided equally among the widows;

- (b) in the case of widow or a widower and where there are no dependant child, the widow or widower shall be paid 100 percentum of the pension;
- (c) in the case of a dependant child under eighteen years or under twenty one years receiving full time education as the case may be, shall be paid 60 percentum of the pension to be divided equally among such children;
- (d) where there is no widow or widower 100 percentum of the pension shall be divided equally to dependant children;
- (e) in the case where there are no dependant children or dependant spouse, parents of the deceased shall be paid 100 percentum of the pension for life.

35. Survivors pension shall be payable on the following bases, namely –

Durations of Survivors pension

(a) in the case of a widow or widower who, at the date of death of he deceased insured person is of the age of 45 or above or who is under the age of 45 and has the care of dependant children under the age of 15, for life or until re-marriage;

(b) in the case of a widow or widower at the date of death of the deceased insured person is under the age of 45 and does not have the care of children under the age of 15, for a period of two years from the date of death of the insured person;

(c) in the case of a child -

(i) until the age of eighteen; or

(ii) until the child terminates full time education but not later than the age of twenty one; or

(iii) if the child is an invalid, for life.

36. Where a deceased insured person did not satisfy the qualifying conditions specified under section 33, his dependants shall be entitled to a special lump sum payment.

Survivors Special lumpsum

37.(1) Where an insured person qualifies for retirement pension or

Retirement and

invalidity pension he shall be entitled to a lump-sum payment before getting the monthly payment. *Invalidity grant*

(2) Where a deceased insured person qualifies for retirement or invalidity pension prior to his death, the dependants of the deceased insured person are entitled to the lumpsum payment.

(3) The amount of lumpsum payable under this section shall shall be equal to 24 times the monthly amount of the retirement or invalidity pension.

38.(1) A funeral grant shall be paid as reimbursement to a family member who incurred expenses for the burial of a deceased insured person. *Funeral Grant*

(2) The amount payable as funeral grant shall be determined by the Board from time to time having regard to the general economic conditions

39.-(1) For the purposes of this section.

*Employment
injury benefit*

(a) “employment injury” includes commuting accidents, accidents sustained during working hours; at the work place; or at a place where one would not have been except for his employment; and

(b) “occupational diseases” means the diseases occurring in connection with specific activity in a specific occupation; or the diseases that are in casual relationship to specific agents or exposure.

40.-(1) The following types of benefits are payable under the employment injury benefit, namely –

*Types of
employment
injury benefits*

(a) medical care as may be prescribed by a qualified medical practitioner consisting of general practitioner case at hospitals, essential pharmaceuticals or hospitalization;

(b) cash payment in case of -

1. temporary disability benefit payable after certification of a medical board on the disability, an insured person shall be paid 60 percentum of his average daily earnings for up to twenty six weeks.
2. permanent’ disability benefit payable on certification by a medical board that an insured person has

suffered a permanent disability at the rate of 100 percentum, that person shall be paid a maximum of 70 percentum of the average monthly earnings, which shall be paid monthly throughout the period of the disability.

(d) Provision of artificial limbs after certification of a medical board that the injured person requires to be provided with such artificial limb.

(2) In case the recipient of permanent disability benefit requires constant attendance of another person, an attendance allowance shall be paid at the rate of 25 percentum of that benefit to the helper.

(3) The average daily earnings shall be calculated on the total earnings during the six months preceding the month in which the injury occurred to be divided by one hundred and eighty.

41. Health insurance benefit shall be paid to an insured person, the spouse and four children of the insured if the insured person has contributed to the Fund for a minimum of three months of which three months of contributions were paid to the Fund in the three months immediately preceding the medical contingency.

Condition for Health Insurance

42.- (1) Medical benefits based on health insurance shall be provided by accredited hospitals having such agreements with the Fund.

Medical Benefits to be provided

(2) The medical benefits to be provided shall include preventive and curative care, essential drugs, simple pathology and X-rays, laboratory tests hospitalization where need and minor surgery.

(3) Benefits under this section shall be limited to the medical services to be provided by doctors, nurses and other medical providers in the accredited hospitals.

(4) The forms and procedures for benefits to be paid under this section shall be fully described in the regulations that the Minister shall set out under this Act.

43. The Board shall appoint and enter into agreement with different hospitals and dispensaries which will be accredited to

Agreements with Medical

different hospitals and dispensaries which will be accredited to provide medicare services to insured person and their families. *providers*

44. Maternity benefit shall be payable-

Conditions for Maternity benefit

- (a) to an insured person who has made at least thirty six monthly contributions of which twelve contributions are made in the thirty six months prior to date of confinement; and
- (b) upon the receipt by the Director General of a medical certificate from an accredited medical provider, certifying that the woman expects delivery of a child;
- (c) after three years from the day when the last payment was made to the insured person unless the child dies within a period of twelve months;
- (d) to an insured person, for one month only, in the case of still-birth.

45. The following types of benefits are payable under the maternity benefit, namely –

Types of maternity benefits

- (a) cash benefit at the rate of 100 percentum of the average daily earnings for a period of twelve weeks;
- (b) medical care during pre-natal period by an accredited medical practitioner or midwife;

Provided that where prolonged medical care is required after Delivery, the post natal medical care shall be limited to twelve weeks.

46. The provisions of section 25B of the Employment Ordinance shall not apply to employers registered with the Fund.

Disapplication of section of 25B of the Employment Ordinance

47. No insured person shall be entitled at anytime to more than one benefit, and if he qualifies for more benefits than one at the same time he shall be paid one of them which is the highest.

Restriction on Double benefit

48. Benefit rates shall be reviewed from time to time by the Board and adjusted in line with actuarial valuation of the Fund.

Adjustment of benefits

49. – (1) It shall be a condition of a person having right to a benefit that –

Time and manner of making claims

- (a) he makes a claim to the Director General within the

prescribed time and in the prescribed manner or in such other manner as the Director General accept; and

(b) he produces such certificates, documents, information and evidence for the purpose of determining the right to a benefit as the Director General may require, and for that purpose attend at such places and times as the Director General may require.

(2) Regulations may require contributing employers to make or maintain such records, or reports and to furnish such information as may be prescribed in regulations for the purpose of establishing any person's title to a benefit.

50. Regulations may make provision for –

*Regulations for
benefit provision*

(a) the administration of all benefits payable under this Act.

(b) disqualifying a person from the receipt of any benefit if he fails to make a claim within the prescribed time; provided that any such regulations may provide for extending the time within which such claim shall be made where good causes is shown for the delay.

(c) the prevention of the receipt of more than one benefit and the adjustment of benefits in special circumstances;

(d) the time and manner of payment of a benefit and the information or document to be furnished by any person applying for payment;

(e) suspending payment of a benefit to any person during any period when that person

(i) is absent from Tanzania;

(ii) is serving a prison sentence or is under some other legal custody;

Provided that specifications are prescribed for the circumstances and manner in which payment of the whole or any part of the benefit may instead of being so suspended be paid during any such period to any person nominated by the beneficiary, or for the maintenance of any prescribed person who the Director General is satisfied is dependant of the beneficiary;

(f) enabling a person to be appointed to exercise on behalf of any other person who being a minor or being otherwise enable for the time being to act, any power or right which that other person may be entitled to exercise under this Act and to authorise the person so appointed to receive and deal with any sum payable by way of benefit to that other person; and

(g) enabling a claim to be made or proceeded in the name of the deceased, for authorising payment to or among persons claiming as personal representative, legatees, next of kin, creditors or otherwise and for dispensing with strict proof of title of persons so claiming; and

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

51.- (1) If it is found that any person by reason of non-disclosure or misrepresentation by him of material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) has received any sum by way of benefit, while he was not entitled to that benefit, he shall be liable to repay the sum so received by him.

Repayment of benefit improperly received

(2) where any person is liable to repay any sum received by him by way of benefit, that sum may be recovered without prejudice to any other remedy by means of deductions from any payment or benefit to which he thereafter becomes entitled.

52. Every assignment or charge on benefit and every agreement to assign or charge any benefit shall be void, and on bankruptcy of a beneficiary the benefit shall not pass to any trustee or other person acting on behalf of creditors.

Benefit to be inalienable

PART VI

BOARD OF TRUSTEES OF NATIONAL SOCIAL SECURITY FUND

Establishment of Board of Trustees

53.- (1) There is established a Board of Trustees of the National Social Security Fund.

(2) The Board shall, in its corporate name be capable of –

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of property, movable or immovable; and
- (c) entering into contracts and performing all such others acts for the proper performance of its functions under this Act which may lawfully be performed by a body corporate.

(3) The provisions of the Third Schedule to this Act shall have effect as to the composition of the Board, the appointment and termination of appointment of its members, the proceedings of the Board and such other matters in relation to the Board and its members.

(4) The Minister may be order in the Gazette, amend, vary or replace all or any of the provisions of the Third Schedule to this Act.

54. The Board shall manage the Fund in accordance with the following objectives-

*Management
objectives of the
Fund*

- (a) business or financial commitments undertaken shall be consistent with the basic objectives of the scheme and the interest of contributors.
- (b) the concept of the financing of pensions shall be observed together with the need to take account of long-term liabilities, and the linkage between higher benefits and higher contributions;
- (c) adequate arrangements shall be made for preservation of pension rights;
- (d) contribution credits for insured person shall be maintained and be available for inspection by such insured person;
- (e) the Fund shall be administered in such manner as to give greater priority to the improvements of the benefits payable to contributors and control internal administration costs;

(f) adequate steps shall be taken to avoid non-compliance and evasion of Board's obligations under this Act;

(g) all such other aspects of management as are incidental to the foregoing or conducive to the attainment of the objectives of the Fund shall be performed.

55. The functions of the Board shall be –

Functions of the Board

(a) to formulate, implement and review the policy relating to the National Social Security Fund in accordance with this Act;

(b) to control and administer the Fund in accordance with this Act;

(c) subject to the provisions of this Act to invest monies available in the Fund;

(d) to provide technical assistance and advisory service for the purposes of promoting social security programmes;

(e) to promote occupational health and safety measures in collaboration with other authorities.

(f) to do all such acts 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.

56. It shall be the duty of the Board –

Duties of the Board

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

(b) to protect, safeguard and promote the interests of the insured persons under this Act;

(c) generally to do all such acts as the Board may reasonably be expected to do, and in particular to-

(i) uphold and support the credit of the Board;

(ii) obtain and justify the confidence of the people of the United Republic in general and of the insured persons in

particular;

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

57. In the performance of its functions the Board shall have power to *Powers of the Board*

(a) cause to be carried out actuarial assessment of the Fund after every three years;

(b) appoint on salaries upon such terms and conditions as it may think fit such person or persons as it may deem necessary for proper and efficient conduct of the business of the Board;

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

(d) Appoint Auditors for purposes of this Act;

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

58. The Trustees shall be entitled to receive such remuneration, allowances and other benefits as the Minister may direct. *Remuneration, allowances and benefits*

59.- (1) The Board may from time to time in writing under the seal of the Board delegate, subject to such terms, conditions and restrictions, to any Committee of the Board, or to the Director General, or any other employee of the Board all or any of the functions, powers, or duties conferred upon the Board under this Act. *Power to delegate*

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

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

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

(5) Any delegation made under this section shall be published in the *Gazette*, and shall be presumed to be in force unless the contrary is Proved.

(6) The Board shall not have power under this section to delegate-

(a) its power to delegate; and

(b) the power to approve the annual budget or any supplementary budget of receipts and expenditure, the annual balance sheet or any statement of account.

60. Without prejudice to the provisions of section 62 the Minister may give may, subject to relevant government procedures, give the Board directions of general specific nature as to the performance of the Board of any of its functions in relation to any matter appearing to the Minister to affect national interest, and the Board shall give effect to every such directions.

*Minister may
give directions to
Board*

PART VII

FINANCIAL PROVISIONS

61. - (1) An account styled “the National Social Security Fund account shall be kept with such bank or banks as the Board shall approve from time to time, and all moneys payable into the Fund together with the income from investments of the Fund and other moneys required to be paid into the Fund shall be deposited in the Social Security Fund Account.

*Fund to vest in
Board*

(2) The reserve account under the existing fund shall be transferred to the National Social Security Fund Account and form part of that account.

(3) The Fund shall vest in the Board which shall hold the fund as trustees and shall manage, administer and operate the Fund in accordance with this Act and may make such payments

thereon as are authorized by this Act.

(4) Subject to any direction given in that behalf by the Minister, the Board may at the close of any financial year transfer to itself for administrative expenses from the investment income an amount not exceeding fifteen per centum of the total income collected in that year.

(5) The Minister upon commencement of this Act shall by an order Published in the *Gazette* dissolve the account of the existing fund.

62. Investment of money shall be done by the Board in any viable venture as it may consider appropriate having regard to the economic and commercial viability. *Investment of moneys in the Fund*

63. The Board may, subject to Provisions of section 67 utilize moneys in the Fund for the acquisition of land, or acquisition or construction of buildings and acquisition of equipment and others assets required for the administration of the Board and the efficient performance by it of its functions. *Utilization of Fund for acquisition of assets*

64. To the extent that the Board is, by reason of insufficiency of funds at its disposal, unable to meet its liability to any insured person for any benefit to which such person is entitled under this Act, or for any portion of any such benefit, the entitlement of such insured person to such benefit or such portion of benefit shall constitute a charge on and be paid out of the Consolidated Fund. *Board's liability to insured persons guaranteed*

65. Any moneys paid to the Fund in excess of the amount for which an employer is liable in respect of an employee or in excess of the maximum statutory contribution payable for a contribution period may be refunded to the employer or the employee or both, as the case may be, in such manner as the Board may determine. *Refund of excess contributions*

66. The funds and resources of the Board shall consist of— *Financial Resources*

(a) any income from investments of the Fund approved under this Act.

(b) such sums as may be provided for by way of loan or

grant for the purposes of the Board;

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

(d) any sums which may in any manner become payable to or vested in the Board as a result of the performance by the Board of its functions under this Act or any other written law.

67.- (1) In this Act “financial year” means any period not exceeding twelve consecutive months designated in that behalf by the Board. *Annual and supplementary budget*

(2) Not less than two months 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 detailed budget (in this Act called the annual budget) of the amounts respectively-

(a) expected to be received; and

(b) expected to be disbursed, by the Board 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 the amount provided for, in the annual budget for the 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 included such details as the Minister may direct.

(5) Forthwith upon passing of any annual budget or any supplementary budget the Board shall submit the same to the Minister for approval.

(6) The Minister shall, upon receipt of the annual budget or any 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 any annual budget or any supplementary budget, the budget, shall be binding on the Board which, subject to the provisions of subsection (8), shall confine 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 of the Minister, make a disbursement notwithstanding that the disbursement is not provided for in any budget;

(b) from the amount of expenditure provided for in any 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 budget;

(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.

68. The Board may, 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.

Power to borrow

69.- (1) The Board shall cause to be provided and kept proper books of accounts and records with respect to-

Accounts and Audit

(a) the receipt and expenditure of moneys by, and other financial transactions of the Board;

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

(2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Board relating to that financial year shall be audited by the Auditors

appointed by the Board from time to time.

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

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

(5) The Board shall, within six months after the end of each year, make a report to the Minister on the conduct of the Board's business during that financial year, and the Minister shall lay a copy of that report before the National Assembly together with a copy of the statement of accounts required to be laid before the National Assembly.

70. For the avoidance of doubt it is hereby declared that the Fund and the monies in the account established pursuant to section 61 shall not constitute or be regarded as funds of the Board but shall, for the purposes of this Act and all other written laws, be deemed to be funds held by the Board in trust for the insured persons and the Government of the United Republic to be administered by the Board in accordance with the provisions of this Act:

Fund Account

Provided that it shall be lawful for the Board to make payments out of the Fund for any of the purposes for which payments out of the Fund Account are expressly authorized by this Act.

71. The Board shall cause to be kept, maintained and audited the accounts of the Fund in the same manner and to the same extent as the accounts of the Board are required to be kept, maintained and audited by section 69 and the provisions of subsections (2), (3) and (4) of section 69 shall apply *mutatis mutandis*, in relation to the accounts, the statement of accounts and auditors report in relation to the Fund and the Reserve Account.

Accounts of the Fund

PART VIII**LEGAL PROCEEDINGS OFFENCES AND PENALTIES***Criminal
proceedings*

72.(1) Any person who –

- a. for the purpose of evading payment of any contribution by him or some other knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in material particulars;
- b. for the purpose of obtaining any benefit or refund for himself or some other person, knowingly makes any false statement or representation or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular;
- c. misrepresents or fails to disclose any material fact;
- d. fails to pay to the Board within the prescribed period any contributions which he is liable to pay under this Act;
- e. fails to comply with any regulations made under this Act as a result of which there is loss to the Fund or as a result of which the individual insured person records or contribution cannot be maintained;
- f. fails without lawful excuse to produce documents required to be produced under this Act;
- g. obtains the consent of employees required under this Act by duress or undue influence;
- h. knowingly deducts from an employee's wages any sum in respect of contribution to the Fund greater than the employee's share of the statutory contribution.
- i. Misrepresents or fail to disclose any material fact as a result of which he obtains benefits from the Fund which he would have not been entitled.

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

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

conviction, and the amount may be recovered in the same manner as a fine and shall be paid into the Fund for the credit of the concerned insured persons.

(3) Proceedings in respect of any offence under this Act may be commenced at any time when it comes to the knowledge of the Director General that there is evidence to justify a prosecution for the offence.

(4) Every magistrate, other than a primary court magistrate, shall have jurisdiction, notwithstanding anything to the contrary contained in any law respecting the jurisdiction of such magistrate, in all cases or matters arising under this Act.

73.- (1) Notwithstanding anything to the contrary contained in any other law in force, in any proceedings against an employer in respect of contributions due for more than one of his employees, the magistrate may permit one plaint or one charge sheet to be made or filed in respect of all contributions claimed to be due.

*Joinder in cases
of non-payment
of contributions*

(2) All claims shall rank equally between themselves, and shall be entered in full to the insured persons' contribution records, unless the amount recovered from the employer be less than the total amount of the claims with costs, in which case, after payment of the costs, all the claims shall, subject to marginal adjustments, abate in equal proportions among themselves and be entered to the insured persons' contribution records accordingly.

74. Any action for the recovery of contributions and all criminal proceedings under section 72 may be instituted by the Director General, an inspector, or other officer of the Board appointed by the Board in that behalf, and where action is instituted before any court, any person authorized by this section may appear and conduct the case.

*Legal
Proceedings*

75. Where the Director General has given the court written notice of a claim under this Act and -

*Priority for
payment of
contributions*

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

(b) on the application of a creditor the property of an employer is sold,

the proceeds of the sale or other realization of such 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 amounts due in respect of contributions payable by the employee under this Act before the date of such order.

76. 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 of contributions*

77. Notwithstanding anything to the contrary contained in any other written law, where any judgement or order has been obtained against a contributory 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. *Protection against attachment*

78. Where an offence under this Act by any association of persons, whether corporate or unincorporate, is found to have been committed 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, the persons in apparent control and the association of persons shall be deemed to have committed the offence. *Liability for acts of association of persons*

79. A copy of an entry in the accounts of the Fund or other extract from the records of the Fund shall, when certified by the Director General or any other officer of the Board nominated by the Board in that behalf by writing under the seal of the Board, be received in all court as *prima-facie* evidence of the truth of the contents thereof and, as the case may be, of the debt due to the Fund by any person. *Certificates as evidence*

PART IX

DETERMINATION OF CLAIMS TO BENEFIT AND LIABILITY FOR CONTRIBUTIONS

80. The Director General shall be responsible for the determination of claims to benefits and liability for the payment of contributions. *Responsibility of Director General*
- 81.- (1) All claims to benefit shall be determined in the first instance by the Director General. *Determination of claims to benefit*
- (2) Where entitlement is dependent on medical question reference shall be made to a medical board, for determination.
- (3) Where the Director General or an insured person is dissatisfied with the decision made by the medical board, he may refer the decision to the Tribunal established by section 84.
- (4) All decisions on claims to benefit shall be notified to the claimant in writing.
- 82.- (1) The Director General shall be responsible for determining- *Determination of questions as to liability for contributions*
- (a) whether an establishment and each one of its employees is or was insurable under this Act and is or was liable for payment of contributions;
- (b) an individual person is insurable and liable for contributions under this Act;
- (c) the amount of earnings shall be taken into account to determine liability;
- (d) which person or organisation is or was liable for the payment of contributions in the first instance;
- (2) The Director General may on request notify such determination in writing.
- (3) Where a person is dissatisfied with the decision on a claim to benefit or a question as to liability, an application for review may be made to the Appeals Tribunal.
- (4) In any review where new facts are revealed or it is concluded that the initial decision was in error, the aggrieved person shall be paid the arrears of the benefit or the contribution liability adjusted.

(5) Where there is no basis for review and the issue is one of insurability or liability the decision of the Director General shall be final except where the matter is a question of law the same may be referred to a competent court for determination.

(6) All appeals under this section shall be in writing and shall be made within one month.

83.- (1) There is established a Social Security Appeals Tribunal (hereinafter to be referred to as the Appeals Tribunal) which shall have jurisdiction to adjudicate appeals against decisions of the Director General on claims for benefit under section 81. *Establishment of Social Security Appeals Tribunal*

(2) The Appeals Tribunal shall consist of a chairman who shall be a lawyer, and two other members with experience in social security matters. The Chairman and members of the Tribunal shall be appointed by the Minister.

(3) Regulations shall prescribe the powers, rules, procedures and fees for the Appeals Tribunal.

84.- (1) There shall be established a Medical Appeals Tribunal (hereinafter referred to as the Tribunal) which shall adjudicate on appeals against the decision of the medical board appointed under section 32 on medical questions relating to benefit claims. *Establishment of Medical Appeals Tribunal*

(2) The Tribunal shall consist of a Chairman and two members, all of whom are experienced medical practitioners. The Chairman and members of the Tribunal shall be appointed by the Minister.

(3) Regulations shall prescribe the powers, rules, procedures and fees for the Tribunal.

85. The expenses and remuneration of members of medical boards, the Appeals Tribunal and the Tribunal shall be paid by the Board after determination by the Minister in consultation with the Board. *Expenses of Medical Boards and Tribunal*

PART X

GENERAL PROVISIONS

86. Where a person enters into a contract whereby some other person is to provide employers for any lawful purpose of the first mentioned person and it is not clear from the contract which of the two persons is the employer, the employees shall, unless the Director general otherwise requires, be deemed for the purposes of this Act to be in the employ of the first mentioned person. *Deemed to be in the employ of the first mentioned person*
- 87.- (1) The Board may, appoint inspectors for the purposes of this Act. *Inspectors*
- (2) An inspector under this Act, if he has reasonable cause to believe that there are employees on any premises who are registrable, or in respect of whom contributions are payable under this Act may, on production of a certificate under the hand of the Director General of his appointment as an inspector, enter at all reasonable times on the premises or place and there 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 employer to produce any employee employed by him and any documents relating to contributions or liability to contribute to the Fund, for inspection by him on the premises or place.
- (4) For the purpose of this section-“document” means any matter expressed or described upon any substance by 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.
88. Without prejudice to the provisions of section 284A of the Penal Code or of the Specified officers (Recovery of Debts) Act, 1970 or of the Parastatal Employees (Recovery of Debts), Act 1974, no act done or omitted to be done, by any trustee or by any officer, employee or agent of the Board shall, when done or omitted *bona fide* in execution or purported execution of his duties as such trustee, officer, employee or agent, subject any such person to any action, liability or demand. *Liability of members*
89. - (1) The Minister may make regulations necessary or desirable to give effect to the provisions of this Act, and without limiting the general power it is hereby declared that *Regulations*

regulations may be made for all or any of the following purposes-

- (a) describing conditions for registration under this Act;
- (b) Prescribing the mode of collecting contributions, the payment of Claims and the computation of annuities;
- (c) prescribing that any provisions of this Act shall not apply or shall apply with such modifications (if any) as may be specified in the regulations to any person or class or persons;
- (d) prescribing any forms for the purposes of this Act.
- (e) Prescribing the establishment of medical boards, the rules and procedure to be followed by such medical boards and types of medical examination to be done for the purposes of this Act.
- (f) prescribing the procedure for dealing with unclaimed moneys in the Fund;
- (g) prescribing the duties of employers respecting registration of employees.

(2) Regulations made under this section shall be published in the *Gazette*.

90. Notwithstanding any other enactment –

Tax exemptions

(a) no stamp duty shall 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 refund of contributions under this Act; but nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or on any document other wise liable under the Stamp Duty Act, 1972

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

91. The employer of any employee and who is an insured person may also establish a supplementary retirement fund in relation

Establishment of supplementary

may also establish a supplementary retirement fund in relation to his employees in addition to the National Social Security Fund.

Retirement fund

92.- (1) The Government of Tanzania may enter into a reciprocal agreement with the Government of any other territory in which a Scheme similar to the Scheme has been established and there may be included in the agreement the following provisions-

Reciprocal agreements

(a) that any period of insurance of such scheme in the territory of that Government may be treated as a period of insurance on the Scheme and vice versa; and

(b) that, subject to such conditions as may be agreed, any amount standing to the credit of an insured person under this Act who works for any employer in the territory of that Government may be transferred to his credit in such Scheme, and vice versa.

(2) Any reciprocal agreement made under this section may modify, Adapt amend the provisions of this law to give effect to the agreement.

93.- (1) The National Provident Fund Act is hereby repealed.

*Repeal of Laws:
Cap. 564 Act
No. 2 of 1975*

(2) The Board of Trustees of National Provident Fund (Establishment Act, 1975 is hereby repealed.

94. Notwithstanding the repeals made under section 93 –

Savings

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

(b) anything done or any action taken under the repealed Acts shall in so far as it is not inconsistent with the provisions of this Act, be deemed done or taken under the corresponding provisions of this Act;

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

under this Act;

(d) Where immediately before the commencement of this Act-

(i) any person is liable to pay any sum of money to the National Provident Fund or to the Director General or to the Board in relation to any liability arising from the repealed Acts that person shall make such payment to the Fund, Board or the Director General as if the liability to make such payment had arisen under this Act;

(ii) any legal proceedings for any offence under the National Provident Fund Act or for the recovery of any sum of money due under the repealed Acts is pending before my court, those proceedings may be continued and conducted.

95. The Minister may, at any time before the commencement of this Act, by order in the *Gazette* make such transitional and consequential provisions, as he may deem necessary upon the repeal of the laws referred to in section 93.

Transitional and consequential provisions.

FIRST SCHEDULE

(Section 5 (2) (c) and (16))

CONTRIBUTIONS FOR EMPLOYEES

<i>Contribution Period</i>	<i>Employee's share deductible From wages by Employer</i>	<i>Statutory Contributions for each employee</i>
(a) One month	Ten cents for every complete shillings of wages	Twenty cents for every complete shillings of wages
(b) One fortnight	Ten cents for every complete shillings of wages	Twenty cents for every complete shillings of wages
(c) One week	Ten cents for every complete shillings of wages	Twenty cents for every complete shillings of wages
(d) One day	Ten cents for every complete shillings of wages	Twenty cents for every complete shillings of wages

SECOND SCHEDULE*(Section 53 [3])***COMPOSITION AND PROCEEDING OF THE BOARD**

1. In this schedule unless the context requires otherwise “member” means a member of the Board and includes the Chairman. *Construction*
2. – (1) The members of the Board shall be – *Composition*
 - (a) a Chairman, who shall be appointed by the President;
 - (b) three representatives from the Association of Tanzania Employers;
 - (c) three representatives from the Tanzania Federal of Trade Union;
 - (d) three representatives from the Government;
 - (e) person holding or acting in the office of the Principal Secretary to the Ministry responsible for social security matters, who shall be an ex-officio member.
- (2) The representatives referred to in paragraph (b), (c), and (d) of subsection (1) shall be nominated by the organisation or Ministry concerned and shall be appointed by the Minister.
- (3) The nominations and appointments to be made under subsection (2) shall be made from amongst persons with experience in social security, financial matters or administration.
- (4) The office of a member of the Board shall become vacant-
 - (a) if the member ceases to belong to the nominating organisation or ministry;
 - (b) if the member is withdrawn by the nominating organisation or ministry;
 - (c) at the expiration of a period of three years from the date of appointment; Provided that a member whose term of office has come to an end by effluxion of Time may be re-appointed to the office.

(5) All the members of the Board shall serve on a part-time basis and shall be entitled to receive such remuneration and allowances as the Minister may determine.

3. Every member of the Board shall continue to hold office until his appointment is revoked or his office becomes vacant for reasons specified in sub-paragraph (4) of paragraph 2

Tenure of appointment

4. The Board shall elect one of its members to be the Vice-Chairman for a term of one year from the date of his election and the person so elected shall be eligible for re-election upon the expiry of his term of office as Vice-Chairman.

Vice chairman

5. The Director General shall be the Secretary of the Board.

Secretary

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.

Meetings of the board

(2) In case the Chairman is unable to act by reason of illness, absence from Mainland Tanzania, or other sufficient cause, the Vice Chairman may convene such meeting.

(3) The Chairman, or in his absence, The Vice Chairman, shall be bound to convene a special meeting of the Board upon receipt of request in writing in that behalf signed by not less than five members of the Board, and not less than fourteen days notice of such meeting shall be given to all members of the Board in the manner prescribed in sub-paragraph (2).

(4) The Chairman, the Vice Chairman, or the temporary Chairman elected in accordance with the provisions of paragraph 7 (2) (c) presiding at any meeting of the Board may invite any person who is not a member to participate in the deliberations of the Board, but any such person shall not be entitled to vote.

7. - (1) One half of the total number of the members in office shall form a quorum for a meeting of the Board.

Procedure and Quorum

(2) There shall preside at any meeting of the Board-

(a) the Chairman

(b) in the absence of the Chairman, the Vice Chairman; or

(c) in the absence of both the Chairman and the Vice Chairman, such member as the members present may elect from amongst themselves for the purpose of the meeting.

(3) At any meeting of the Board a decision of the majority of the members Present And voting shall be deemed to be a decision of the Board, and in the event of an equality Of votes the Chairman of the meeting shall have a casting vote in addition to his deliberative Vote.

8. Where any member absent himself from three consecutive meetings of the Board without reasonable excuse the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place. *Absent from three consecutive meetings*
9. Notwithstanding the provisions of paragraph 7 where the Chairman, or in his absence the Vice 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, but any member shall be entitled to require that any such decision shall be deferred until the subject matter is considered at a meeting of the Board. *Decision by circulation of papers*
10. 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 of the meeting. *Minutes of meetings*
11. The Seal of the Board shall not be affixed to any instrument except in the presence of the Director General or such other officer of the Board as the Board may appoint in that behalf. *Seal*
12. Subject to the provisions of this Schedule the Board shall have power to regulate its own proceedings. *Board may regulate its own proceedings.*

Passed in the National Assembly on the 28th October 1997.

GEORGE F. MLAWA
Clerk of the National Assembly