

Tanzania

## Local Authorities Provident Fund Act Chapter 407

Legislation as at 31 July 2002

Note: This Act was **repealed** on 2005-07-01 by [Local Authorities Pensions Fund Act, 2006](#) (Act 9 of 2006).

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## Tanzania

# Local Authorities Provident Fund Act Chapter 407

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*[This is the version of this document at 31 July 2002.]*

*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[Repealed by [Local Authorities Pensions Fund Act, 2006 \(Act 9 of 2006\)](#) on 1 July 2005]*

*[s. 2; Act No. 6 of 2000]*

**An Act to establish the Local Authorities Provident Fund and to provide for its constitution, administration and other matters related to it.**

### Part I – Preliminary provisions (ss. 1-3)

#### 1. Short title

This Act may be cited as the Local Authorities Provident Fund Act.

#### 2. Omitted

*[Omitted: Commencement date.]*

#### 3. Interpretation

In this Act unless the context requires otherwise—

"**Board**" means the Board of Trustees of the Fund, established by [section 11](#);

"**bonus**" means a sum credited to an individual depositor's account which is not part of the depositor's contribution or accrued by way of interest;

"**contract of service**" has the meaning ascribed to that expression in the Employment Act <sup>1</sup>;

"**contributing employer**" means a local government authority, the local government loans board, the Fund, an institution under ownership of a local government authority, or any other institution which may elect to join the Fund by contributing to it in accordance with the provisions of this Act;

"**contribution credits**" means a number of contributions made in respect of a depositor;

"**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) at intervals of a week or less (except for a daily paid employee), the week in which the wages are paid; or
- (d) daily, the day on which 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 one such period, each such period shall be deemed to be a contribution period;

**"depositor"** means a person in receipt of a salary or wages from the funds of a local government authority, the Local Government Loans Board, the Local Authorities Provident Fund, an institution owned by a local government authority and who is required or permitted to become a depositor in the Fund and any other institution which elects to join the Fund by contributing to the Fund;

**"depositor's account"** means individual depositors' account into which deposits, bonus and accrued interests thereon are credited;

**"Director-General"** means the Director-General of the Fund appointed under [section 7](#);

**"employer"** means the person with whom the employees entered into a contract of service, or apprenticeship, and who is responsible for the payment of the salary or wages of the employees;

**"existing fund"** means the Local Authorities Provident Fund established under the Local Government Service Act <sup>2</sup>;

**"Fund"** means the Local Authorities Provident Fund established under [section 4](#);

**"local government authority"** means a district authority or an urban authority established under the relevant law;

**"Minister"** means the Minister responsible for local government authorities;

**"reserve account"** means an account established under [section 35](#);

**"special contribution"** means contribution to the fund made by the contributing employer for a temporary employee;

**"statutory contribution"** means the statutory contribution payable under [section 21](#);

**"supplementary contribution"** means supplementary contribution payable under [section 23](#) of this Act;

**"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 depositor had been living with as a wife or husband for at least two years.

## Part II – The Local Authorities Provident Fund (ss. 4-10)

### 4. Establishment of the Fund

There is hereby established a fund which shall be known as the Local Authorities Provident Fund.

### 5. Functions of the Fund

- (1) The functions of the Fund shall be—
  - (a) to provide a scheme for the payment of retirement and other benefits to depositors;
  - (b) to formulate, offer and administer retirement and other benefit packages which are attractive to persons and institutions who may become depositors or contributing employer;
  - (c) to work towards the gradual and continuous improvement of retirement and other benefits paid to, local authorities employees.
- (2) All contributions, deposits and other monies required or permitted to be paid by or under this Act shall be paid into the Fund.
- (3) There may be charged on and paid out of the Fund the benefits and other payments, including payments in respect of the expenses of the Board, as may from time to time be authorised by this Act.
- (4) The Fund shall, subject to this Act, be under the control and supervision of the Board.

### 6. Membership of the Fund

Membership of the Fund shall be open to contributing employers and depositors in accordance with this Act.

### 7. Management and administration of the Fund

- (1) The management and administration of the Fund shall vest in the Board.
- (2) Subject to this Act, the Board shall be responsible for—
  - (a) the payment of benefits and claims out of the Fund;
  - (b) the investment of surplus funds;
  - (c) accounting for all monies collected, paid or invested under this Act.
- (3) 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.
- (4) The Director-General shall be the chief executive officer of the Fund and shall, subject to any directions of a general or specific character 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;
  - (b) the performance of such other functions and duties as may from time to time be conferred upon him by or through the Board.

### 8. Vesting of existing Fund

The existing Fund shall, with effect from the commencement of this Act, by virtue of this section and without any further assurance, be transferred to the Fund and be vested in the Board which shall, subject to this Act, have the sole management and control of it.

## 9. Appointment of officers

- (1) The Board may establish such offices in the Fund and appoint persons to hold those offices as it may deem necessary for the efficient and effective discharge of the functions and business of the Fund.
- (2) In the discharge of functions pursuant to subsection (1), the Board may establish branch offices of such designation, in such places and for such areas of the country as it may deem necessary for the efficient and effective discharge of the functions and business of the Fund.

## 10. Terms of employment

The Fund may upon such terms and conditions as it may deem fit for proper and efficient conduct of the business and activities of the Fund—

- (a) establish or cause to be established an efficient scheme of service for the staff of the Fund;
- (b) appoint at such salaries and upon such terms and conditions as may deem fit, such other officers and employees of the Fund as it deems necessary or advisable for the effective discharge of the functions of the Fund;
- (c) exercise supervision over the management staff of the Fund;
- (d) grant gratuities, benefits and allowances to the officers and employees of the Fund;
- (e) subject to the provisions of any other law governing superannuation or medical schemes, require any officer or employee of the Fund to contribute to any superannuation fund or medical benefits fund and fix the amounts and method of payment of such contribution.

## Part III – The Board of Trustees of the Fund (ss. 11-18)

### 11. Establishment of the Board of Trustees

- (1) There is hereby established a Board of Trustees of the Local Authorities Provident Fund.
- (2) The Board shall be a body corporate with perpetual succession and a common seal.
- (3) 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;
  - (c) entering into contracts of doing and performing all such other things or acts for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate;
  - (d) subject to the provisions of this Part, the Board shall determine its own procedure.

### 12. Composition of the Board

- (1) The provisions of the Schedule to this Act shall have effect as to the composition of the Board, the appointment and termination of the members, the proceedings of the Board and other matters relevant to the Board and its members.
- (2) The Minister may, by order published in the *Gazette*, amend, vary, alter or replace all or any of the provisions of the Schedule to this Act.



### 13. Functions of the Board

The functions of the Board shall be—

- (a) to formulate, implement and review policy relating to the Fund in accordance with this Act;
- (b) to manage, control and administer the Fund in accordance with the Act;
- (c) subject to this Act, to invest monies available in the Fund;
- (d) to review the penalty provisions whenever need arises and submit the same to the Minister;
- (e) to do all such acts and things and to enter into all such transactions as in the opinion of the Board may be necessary for the proper and efficient administration of the Fund.

### 14. Duties of the Board

It shall be the duty of the Board—

- (a) to manage and administer the Fund in accordance with the highest standards which a person holding any fund in a fiduciary capacity on behalf of another may reasonably be expected to conform to;
- (b) to protect, safeguard and promote the interests of depositors under this Act;
- (c) to advise the Minister on matters pertaining to the administration of this Act;
- (d) generally to do all such acts and things as the Board may reasonably be expected to do, and including but not limited to—
  - (i) uphold and support the credit of the Fund;
  - (ii) obtain and justify the confidence of the people of the United Republic in general and depositors in particular;
  - (iii) avert and minimise any loss to the Fund.

### 15. Powers of the Board

In the performance of its function under this Act the Board shall have power to—

- (a) cause to be carried out actuarial assessment of the Fund after every three years;
- (b) appoint on such salaries and terms and conditions as it may think fit such person or persons as it may deem necessary or desirable for the proper and efficient conduct of the business of the Fund;
- (c) appoint and employ upon such terms and conditions as it may think fit such consultants, agents and contractors as the Board may deem necessary;
- (d) do all such other acts as are necessary to give effect to the provisions of this Act.

### 16. Remuneration, allowances and benefits of members

The members of the Board shall be paid such remuneration, allowances and other benefits as the Minister may direct and all the remuneration, allowances and other benefits shall be charged on the Fund.

### 17. Power to delegate

- (1) Subject to subsection (6), the Board may from time to time, by writing, under the seal of the Board delegate, subject to such terms, conditions and restrictions as it may specify, to any committee of the Board, the Director-General or any other officer or employee of the Board, all or any of the functions, powers authorities or duties conferred upon the Board by or under this Act, and where

any delegation is so made, the delegated function, power, authority or duty may be performed or as the case may be, exercised by the delegate subject to the terms, conditions and restrictions specified in writing.

- (2) Any delegation under this subsection 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 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) 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, authority or duty delegated.
- (5) Any delegation made under this section may be published in the *Gazette* and, upon such publication, shall be judicially noticed and 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 of delegation; or
  - (b) the power to approve the annual budget or any supplementary budget and the annual balance sheet or any statement of account.

## 18. Minister may give directions to the Board

Without prejudice to the provisions of [section 31](#), the Minister may, subject to relevant established procedure, give to the Board directions of a general or specific character 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 direction.

## Part IV – Depositors and contributing employers (ss. 19-23)

### 19. Depositors

Subject to the provisions of this Part—

- (a) all employees in the service of a contributing employer shall with effect from the date of commencement of this Act, be depositors of the Fund and shall be registered as such;
- (b) every employee of an institution which elects to be a contributing employer shall be registered as a depositor of the Fund following upon the payment of the depositor's contribution to the Fund.

### 20. Contributing employers

Subject to the provisions of this Part—

- (a) every local government authority, the Local Government Loans Board, the Local Authorities Provident Fund and any institution owned by a local government authority shall, with effect from the commencement of this Act;
- (b) every institution which elects to join the Fund shall, on payment of the contribution to the Fund, become a contributing employer of the Fund and shall be registered as such.

### 21. Statutory contribution

Every contributing employer shall, for every contribution period, after the appointed day, during which he employs a depositor, pay to the Fund the statutory contribution in respect of that depositor.

## 22. Special contribution

- (1) Every contributing employer shall, for every contributing period during which he employs a temporary employee, whether or not such temporary employee is a depositor of the Fund, pay into the Fund within one month after the end of the month in which the last day of the contributing period to which it relates, a special contribution in respect of that employee or employees.
- (2) Every contribution due under this section shall be paid to the reserve account of the Fund notwithstanding that any employee on whose account it is paid is a depositor or not of the Fund and no part thereof shall be made to such depositor's account in the Fund.
- (3) The amount of special contribution to be made by the contributing employer in pursuant to the provisions of this section shall be the sum equivalent to fifteen percent of the temporary employee's monthly emoluments.

## 23. Supplementary contribution

- (1) Contributing employers and depositors may, in addition to the statutory contribution make supplementary contribution to the Fund.
- (2) Any contributing employer or depositor intending to make a supplementary contribution shall make an application to that effect to the Director-General and upon approval shall be registered.

## Part V – Deposits and withdrawals (ss. 24-28)

### 24. Depositor's contribution and bonus pay

- (1) Every depositor shall contribute to the Fund the sum equivalent to five percent of his monthly salary which sum shall be deducted by the contributing employer from the depositor's salary and the contributing employer shall contribute in the depositor's account the sum equivalent to fifteen percent of the depositor's monthly salary.
- (2) The contributing employer shall remit to the Fund within thirty days after the end of each calendar month a sum equivalent to the total deposits which ought to be contributed by all depositors in the employment of the said contributing employer in respect of that month, together with a statement showing details of all individual deposits and the basis upon which they were calculated.
- (3) Within thirty days after the end of every month, each contributing employer shall forward to the Board a sum to be known as bonus which shall be equal to the total amount paid in as deposits by each of its depositors and the amount so paid, shall forthwith be credited to the depositor's account by the Board.
- (4) In the event the depositor's account is closed in any month, a bonus calculated as provided for in subsection (3) up to the end of the previous month shall be paid, notwithstanding the closure of the depositor's account.

### 25. Rate of interest

- (1) There shall be payable in respect of each depositor's accumulated contributions and bonus an interest per annum at the rate to be fixed from time to time by resolution of the Board with the prior approval of the Minister.
- (2) Interest payable under this subsection shall be credited to each depositor's account at the beginning of each financial year on balance brought forward from the previous financial year.
- (3) For the purposes of calculating interest, both deposits and bonuses shall be deemed to have been credited to a depositor's account on the last day of the month in respect of which they are paid.

## 26. Opening of accounts

- (1) The Board shall upon receipt of contributions cause to be kept a list of depositors and shall open and maintain a separate account for each depositor which shall contain the following information—
  - (a) Full name of depositor;
  - (b) Membership account number;
  - (c) Title or post;
  - (d) Salary check number;
  - (e) Monthly salary;
  - (f) Date the contributor started contributing to the Fund.
- (2) Within six months after the end of every financial year each contributing employer shall be informed of the amount standing to the credit of all depositors under his employment and the contributing employer shall within one month after receiving such notification inform the said depositors accordingly.
- (3) Any depositor shall on application made by him in that behalf be informed of the amount standing to his credit in the Fund at the end of the month proceeding the month in which the application was made.
- (4) The Board shall be notified of any transfer of a depositor from one contributing employer to another.

## 27. Withdrawals

The total amount standing to the depositor shall be paid to him or his heirs—

- (a) on his retirement on reaching the prescribed retirement age;
- (b) on his termination of service;
- (c) on termination of appointment on medical grounds, abolition of office, or for any other cause; or
- (d) on death.

## 28. Amount outstanding

- (1) Where the amounts standing to the credit of a depositor at the date of closing of his account by reason of his death, resignation or dismissal or for any other cause remain unclaimed for a period of three years from the date of his death, resignation, dismissal or any cause as the case may be, the whole amount will be credited to a special suspense account and, shall be paid to the beneficiaries on demand.
- (2) Notwithstanding the provision of subsection (1) above, the Board shall on application by depositor or his heir, order that a depositor be paid from the Fund an amount equal to that standing to his credit on closure of his account under that subsection plus interest.

## Part VI – Financial provisions (ss. 29-41)

### 29. Fund to vest in Board

- (1) An account "the Local Authorities Provident Fund Account" shall be kept with such bank or banks as the Board may from time to time approve and, subject to [section 35](#), all monies paid 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 Local Authorities Provident Fund Account.

- (2) The reserve account under the existing Fund shall be transferred to the Local Authorities Provident 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 on it as are authorised by this Act.
- (4) The Minister shall upon the commencement of this Act, by order published in the *Gazette*, dissolve the account of the existing fund.

### **30. Financial resources of the Board**

- (1) The funds and resources of the Board shall consist of—
  - (a) any income from investments of the Fund approved under this Act;
  - (b) such sums as may be provided 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) income from the investment of money in the reserve account;
  - (e) 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.
- (2) The amount of income of the Board under subsection (1)(a) shall be at such a rate as the Minister shall by regulations prescribe.

### **31. Investment of moneys in the Fund**

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.

### **32. Utilisation of Fund for acquisition of assets**

The Board may, subject to [section 37](#), utilise moneys in the Fund for the acquisition of land, or the acquisition or construction of buildings and acquisition of equipment and other assets required for the administration of the Board and the efficient performance by it of its functions.

### **33. Board's liability to depositors guaranteed**

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

### **34. Refund of excess contributions**

Any money paid to the Fund in excess of the amount for which a contributing employer is liable in respect of a depositor or in excess of the maximum statutory contribution payable for a contribution period may be refunded to the contributing employer or the depositor or both, as the case may be, in such manner as the Board may determine.

### **35. Special accounts**

The Board may, with the prior approval of the Minister, establish and maintain such special accounts of the Board as it may consider necessary or expedient, and shall make into or from such account such payments as the Board may deem fit.

**36. Interest on depositors' accounts**

- (1) Subject to the provisions of this section, the Board may from time to time fix the rate of interest to be allowed on depositors' accounts at the end of each financial year on the balances standing to the credit of those depositors at the beginning of that financial year.
- (2) In determining the rate of interest, the Board shall have regard to the net income of the Fund for the financial year and the rate shall be fixed so that the amount of interest allocated shall not exceed the net income of that financial year.

**37. Annual and supplementary budget**

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

### 38. Power to borrow

- (1) The Board may from time to time, with the 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.
- (2) A person lending money to the Board shall not be required to inquire or even know whether the borrowing of the money by the Board has been approved by the Minister, and for the purposes of this section the liability of the Board to him shall not be affected by whether or not the Minister's approval was obtained by the Board.

### 39. Accounts, audit and records

- (1) The Board shall cause to be provided and kept proper books of accounts and records with respect to —
  - (a) the receipt and expenditure of moneys by, and other financial transactions of the Board and of the Fund, and
  - (b) the assets and liabilities of the Board and of the Fund, and shall cause to be made out for every financial year a balance sheet and statement showing details of the income and expenditure of the Board and the Fund and all the assets and liabilities thereof.
- (2) Not later than six months after the close of every financial year the accounts including the balance sheet and statement of income and expenditure of the Board relating to that financial year shall be audited by the Tanzania Audit Corporation or any other 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 of accounts together with a copy of the report submitted to him pursuant to subsection (3), the Minister shall lay a copy of the statement of accounts together with 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.

### 40. Fund account

For the avoidance of doubt, it is hereby declared that the Fund and the monies in the account established pursuant to [section 29](#) 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 depositors and the Government of the United Republic to be administered by the Board in accordance with the provisions of this Act; save 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 authorised by this Act.

### 41. Accounts of the Fund

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 39](#), and the provisions of subsections (2), (3) and (4) of that section 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.

## Part VII – Offences, legal proceedings and penalties (ss. 42-53)

### 42. Offences

- (1) Any person who—
- (a) for the purpose of evading payment of any contribution or deposit by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in 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 contribution deposit or penalty which he is liable to pay under this Act;
  - (e) obstructs or assaults any officer or servant of the Board in the discharge of his duties as such;
  - (f) fails to comply with any regulations made under this Act as a result of which there is a loss to the Fund or as a result of which the depositor's 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;
  - (i) knowingly deducts from the depositor's salary a sum in respect of a contribution to the Fund, greater than the depositor's share of the statutory contribution;
  - (j) misrepresents or fails to disclose any material fact as a result of which he obtains benefits from the Fund which he would not be entitled to,

commits an offence and is liable on conviction to a fine of not exceeding five 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 that person or contributing employer to pay to the Board, the amount of any contributions, 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 and shall be paid into the Fund.
- (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) Every magistrate other than a primary court magistrate, shall have jurisdiction to try offences under this section, notwithstanding anything to the contrary contained in any law relating to the jurisdiction of such magistrate, in all cases or arising under this Act.

### 43. Contribution to be debt to Board

Every statutory contribution and special contribution 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.



#### 44. Penalty for non-payment of statutory contribution

If any statutory contribution for which a contributing employer is liable to pay is not paid within the time prescribed by the provisions of this Act, a sum equal to five *per centum* of the amount unpaid and accrued interest on the unpaid amount 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 or special contribution as the case may be.

#### 45. Joinder in cases of non-payment of contributions

- (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 depositor, the magistrate may permit one plaint or charge sheet to be made or filed, as the case may be, by a person authorised to lay the charge or institute a suit, in respect of all contributions claimed to be due:

Provided that, the charge or plaint, shall have annexed thereto a schedule setting forth the names of such depositors, their addresses, descriptions and details of the contributions due for each depositor.

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

#### 46. Summary recovery

- (1) Where any contribution or penalty under this Act is due from any contributing employer and such 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 authorised 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 and stating—
  - (a) the name and address of the contributing employer from whom the contribution or penalty is due;
  - (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 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 the said certificate till the date of payment and such 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 such contribution or penalty.

#### 47. Legal proceedings

Any action for the recovery of contributions and all criminal proceedings under [section 42](#) 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 authorised by this section may appear and conduct the case.

#### **48. Suits against the Board**

- (1) No suit shall be commenced against the Board until three months at least after written notice of the intention to commence the suit has been served upon the Board by the intending plaintiff or his agent.
- (2) The notice under this section shall state the cause of action, the name and address 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, save that the Director-General shall cause to be paid out of the revenue of the Fund such amount as may by judgment or order be awarded against the Board to the person entitled to it;
  - (b) no property of the Fund shall be seized or taken by any person having by law power to attach or distrain property without the prior permission in writing of the Minister.

#### **49. Certificates as evidence**

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 as the case may be, of the debt due to the Fund by any person.

#### **50. Priority for payment of contributions**

Where the Director-General has given the 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 and any such property is seized or sold or otherwise realised in pursuance of such execution; or
- (b) on the application of the Board, the property of the contributing employer is sold,

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

#### **51. Protection of contributions**

The sum standing to the credit of a depositor 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.

#### **52. Protection against attachment**

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

#### **53. Liability for acts of bodies of persons**

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 and the association of persons shall be deemed to have committed the offence.

## **Part VIII – Miscellaneous provisions (ss. 54-61)**

### **54. Exemption from tax**

Notwithstanding any other written law—

- (a) no stamp duty shall be payable on any receipt, contract, instrument or other document given or executed by the Board on behalf of the Fund or by any person in respect of benefits or 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 otherwise liable under the Stamp Duty Act <sup>3</sup>;
- (b) no income tax on the contributions and benefits payable under the Fund, or corporate tax or any other tax which would have otherwise been levied on the Fund, be levied on the Fund.

### **55. Persons deemed to be in the employment of the first-mentioned person**

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 employer, the employees shall, unless the Director-General otherwise requires, be deemed for the purposes of this Act to be in the employment of the first mentioned person.

### **56. Inspectors**

- (1) The Board may from time to time, appoint inspectors for the purposes of this Act.
- (2) If an inspector 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 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 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 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.

### **57. Liability of members**

Without prejudice to the provisions of section 284A of the Penal Code <sup>4</sup> or the Public Officers (Recovery of Debts) Act <sup>5</sup>, no act or thing done or omitted to be done by any trustee or by any officer, servant or agent

<sup>3</sup>

[Cap. 189](#)

<sup>4</sup>

[Cap. 16](#)

of the Board if done or omitted *bona fide* in the execution or purported execution of his duties as such trustee, officer, servant or agent shall, subject any such person to any action, liability or demand.

## 58. Contributions inalienable

- (1) Subject to the provisions of this section, contributions payment made by depositor to the Fund and interest credited to depositors account shall be inalienable except under this Act and shall not be assets for benefits of creditors in the event of bankruptcy or insolvency of a depositor of the fund or be attachment for depositor's debts and any security pledge or given before the coming into operation of this Act which purports to include payment or interest shall be the extent be void.
- (2) Contributions made to the Fund in respect of a depositor who is bankrupt or insolvent, interest credited to his account, shall whilst held in the fund, be deemed not to be after acquired property for the purpose of the laws relating to bankruptcy or insolvency.
- (3) When an employee who is a depositor is convicted of an offence involving dishonesty and the court is satisfied that the contributing employer has suffered financial loss as a result of such offence, the court may order payment to be made to the contributing employer out of the Fund an amount not exceeding the aggregate of contributions made by the contributing employer out of the Fund an amount not exceeding the aggregate of contributions made by the contributing employer in respect of that depositor, less the depositor's share thereof, plus interest credited in respect of such contributions less the depositor's shares and the amount so paid to the contributing employer shall be deducted from the depositor's account with the Fund.

## 59. Regulations

The Minister may make regulations for carrying into effect the purposes and provisions of this Act and without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the manner of contribution, remittance and benefit withdrawals;
- (b) prescribing forms in which particulars and returns shall be submitted;
- (c) prescribing the procedure for dealing with unclaimed money in the Fund; and
- (d) prescribing anything which under the provisions of this Act may be prescribed.

## 60. Amendment of Act [No. 10 of 1982](#)

*[Repeals section 16 of the Local Government Service Act.]*

## 61. Savings and transitional provisions

Notwithstanding the repeal of section 16 of the Local Government Service Act <sup>6</sup>—

- (a) the Local Authorities Provident Fund established by section 16 of the Local Government Service shall continue to operate as if established under this Act and all contributing employers and depositors now contributing to the Local Authorities Provident Fund established as aforesaid, shall be taken to have joined the Fund from the date they joined the Local Authorities Provident Fund established under the repealed section.
- (b) save as they are at variance or in conflict with the provisions of this Act, all regulations, directions made, given or issued under the repealed section which are in force before the effective date shall

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[Cap. 76](#)

6

Act [No. 10 of 1982](#)

remain in force after the effective date until they are repealed or replaced by regulations and directions made under this Act.

- (c) on or after the coming into effect of this Act—
- (i) any permanent employee working with the Local Authorities Provident Fund established under the existing Fund, shall have his appointment remaining in force until it is revoked or is offered a new appointment under this Act; and
  - (ii) any employee of the Central Government or any other institution or organisation who joins the Local Government Service and who is serving on terms and conditions of service other than those applicable to Public Staff prior to joining the Local Government Service shall be entitled to superannuation and pension benefits applicable to him before the coming into effect of this Act or joining the Local Government Service;
- (d) the employees dealt with in para (c) above may be entitled to superannuation and pension benefits applicable to Local Government Staff where such benefits give them the same or more favourable superannuation and pensions benefits except that in no event shall staff be subjected to any term and condition of service which is less favourable than any similar condition which applied to him immediately before the coming into effect of this Act;
- (e) all the assets and liabilities of the existing fund existing immediately before the commencement of this Act shall vest in the Local Authorities Provident Fund together with all the rights and obligations arising out of any contract or otherwise as if this Act had not come into force;
- (f) anything done or any action taken under the repealed section shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;
- (g) All subsidiary legislation made under the repealed section 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;
- (h) where immediately before the commencement of this Act—
- (i) any person is liable to pay any sum of money to the Local Authorities Provident Fund in relation to any liability arising from the repealed section 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 Local Government Service Act<sup>7</sup> or for the recovery of any sum of money due under the repealed section which is pending before any court, may be continued and conducted as if it was under this Act.

## **First Schedule (Section 12)**

### **Composition and proceedings of the Board**

#### **1. Composition of the Board**

- (1) The Board shall consist of—
- (a) a Chairman who shall be appointed by the President;
  - (b) the following members who shall be appointed by the Minister—
    - (i) the representative of the Ministry responsible for local government;
    - (ii) two members representing ALAT;

- (iii) two members representing the Tanzania Local Government Workers Union;
  - (iv) one member representing the Treasury;
  - (v) three members appointed from among persons with experience in social security, financial matters, administration and local government.
- (2) In appointing members of the Board, the Minister shall have regard to the need to appoint persons who in addition to having sound integrity, are properly qualified and appropriately experienced in relation to the business of the Fund.
2. 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.
3. **Vice-Chairman**
- Every member, shall, unless he sooner dies, resigns or removed by the Minister, hold office for a term of three years and shall be eligible for re-appointment.
4. **Tenure of office**
- 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.
5. **Secretary of the Board**
- (1) In the performance of its functions, the Board shall meet four times in a year, but the Chairman may, once in a year, call for an extraordinary meeting of the Board.
  - (2) The Board may, upon such terms as it may approve, invite to its meetings, such persons as it may deem to be qualified or necessary to contribute to the proper and efficient discharge of the functions of the Board as provided under this Act.
6. **Meetings of the Board, procedure and quorum**
- (1) One half of the total number of members present at meeting shall constitute the quorum.
  - (2) The Chairman shall preside over the meetings of the Board and in his absence the Vice-Chairman and, in the event of both the Chairman and Vice-Chairman being absent, members present shall appoint one of the number to preside over the meeting.
  - (3) At a 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 persons presiding over the meeting, shall have a casting vote.
  - (4) 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

### Form

*[Editorial note: The form has not been reproduced.]*