

THE UNITED REPUBLIC OF TANZANIA



CHAPTER 135

THE SOCIAL SECURITY (REGULATORY AUTHORITY) ACT

[PRINCIPAL LEGISLATION]

REVISED EDITION OF 2015

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Dar es Salaam,
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CHAPTER 135

THE SOCIAL SECURITY (REGULATORY AUTHORITY) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 135

THE SOCIAL SECURITY (REGULATORY AUTHORITY) ACT

An Act to regulate the Social Security Sector and to provide for related matters.

1st November, 2008]
[G.N. No. 289 of 2008]

Act Nos.
8 of 2008
5 of 2012
10 of 2013

PART I
PRELIMINARY PROVISIONS

- Short title 1. This Act may be cited as the Social Security (Regulatory Authority) Act.
- Application 2. This Act shall apply to Mainland Tanzania.
- Interpretation 3. In this Act, unless the context otherwise requires-
Act No. “Act” means the Social Security (Regulatory Authority) Act;
5 of 2012 “actuarial valuation” means valuation of the assets and liabilities
s. 140A of a scheme made by an actuary who is an expert in the
Cap.135 science of calculations of insurance risks and rates of
 premiums and contributions;
 “administrator” means a person appointed to administer a scheme
 in accordance with such terms and conditions of service

- as may be specified in the instrument of appointment;
- “administration expense” means all costs incidental or in relation to registration of members, collection of members’ contributions, investment and payment of members’ benefits;
- “Authority” means the Social Security Regulatory Authority established under section 4;
- Cap. 197 “Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;
- “Board” means the Board of Directors of the Authority established under section 7;
- “Director-General” means the Director-General of the Authority appointed under section 12;
- Cap. 366 “employee” has the meaning ascribed to it under the Employment and Labour Relations Act;
- “employer” has the meaning ascribed to it under the Employment and Labour Relations Act;
- “formal sector” means the sector which include employers and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of “employee”;
- “informal sector” means the sector which includes worker who work informally and who do not work in terms of an employment contract or any other contract contemplated in the definition of “employee”;
- “inspector” means an officer appointed by the Authority or Bank to inspect matters of Social Security in relation to a scheme, manager custodian or administrator;
- “interim administrator” means a person appointed under section 41 to assume the management, control and conduct of affairs and business of trustee, manager, administrator or as the case may be custodian;
- “manager” means a company whose business includes-
- (a) undertaking, pursuant to a contract or other arrangements, the management of the funds and other

assets of a scheme for purposes of investment;

(b) providing consultancy services of the investment of scheme; or

(c) reporting or disseminating information concerning the assets available for investment of scheme;

“mandatory scheme” means a compulsory scheme established by law and guaranteed by the Government to provide social security benefits to employees;

“member” means an employee or worker registered by a scheme and includes a person entitled to or receiving a benefit under a scheme;

“Minister” means the Minister responsible for matters related to social security;

“occupational scheme” means a scheme offered through an individual’s employment to private or public sector employee;

“private scheme” means a scheme established by private (in contrast to a mandatory scheme established by law) agencies, including commercial, industrial, labour and service organizations, non-profit organizations and non profit religious, educational and charitable organizations;

“scheme” in relation to social security matters, means a social security scheme;

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

“social security scheme” means any public or private programme established for the purpose of providing economical security and form of benefit in kind which include health care needs, basic housing needs, clothing and in the form of cash benefit paid to a member or dependants of the member at the time of need;

“staff” means any person under contract of employment with the Authority;

“supplementary scheme” means a voluntary scheme chosen by the member to compliment benefits of any mandatory scheme;

“Tribunal” means the Social Security Tribunal established under section 43 of this Act; and

“Trustee” means a trustee of a scheme and includes the Chairperson.

PART II

ESTABLISHMENT AND ADMINISTRATION

Establishment
and common
seal of the
Authority

4.-(1) There is established an authority to be known as the Social Security Regulatory Authority.

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

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of its movable and immovable property;
- (c) borrowing and lending;
- (d) entering into contracts; and
- (e) performing all such other things or acts for the proper execution of its functions which may lawfully be performed by a body corporate.

(3) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except by the order of the Board.

Functions and
duties of the
Authority
Act No.
5 of 2012
s. 140B

5.-(1) Subject to the provisions of this Act, the functions and duties of the Authority shall be to-

- (a) register all managers, custodians and schemes;
- (b) regulate and supervise the performance of all managers, custodians and schemes;
- (c) issue guidelines for the efficient and effective

- operation of the social security sector;
- (d) protect and safeguard the interests of members;
- (e) register, regulate and supervise administrators;
- (f) advise the Minister on policy and operational matters relating to social security sector;
- (g) adopt and promulgate broad guidelines applicable to all managers, custodians, administrators and schemes;
- (h) monitor and review regularly the performance of the social security sector;
- (i) initiate studies, recommend, coordinate and implement reforms in the social security sector;
- (j) appoint interim administrator of schemes, where necessary;
- (k) facilitate extension of social security coverage to non covered areas including informal groups; and
- (l) conduct programmes for public awareness, sensitisation and tracing on social security.

(2) In performing the functions and duties under subsection (1), the Authority shall, where necessary, collaborate, liaise and consult with relevant authorities and stakeholders in the social security sector.

Powers of the
Authority
Act No.
5 of 2012
s.141

6.-(1) Subject to the provisions of this Act, the Authority shall have powers to exercise and perform supervisory and regulatory functions over all managers, custodians, administrators and schemes.

(2) Without prejudice to subsection (1) the Authority shall have the power to-

- (a) where it deems fit, cause actuarial valuations to be carried out with respect to any of the schemes;
- (b) take disciplinary measures including penalties and sanctions against managers, custodians, administrators and trustees of schemes for non-compliance with the provisions of this Act or the

respective enabling Acts or instruments, or for loss of monies or properties of the social security schemes;

- (c) conduct inspection and examination with or without prior notice on managers, custodians or schemes, premises, equipment, machinery, records, books of accounts or any other document and transaction of the managers, custodians, administrators or a scheme;
- (d) delegate to any person any of its powers other than the powers of delegation, revocation or variation of such delegation, and
- (e) do such other things to ensure efficiency in the management of social security sector.

(3) The Authority shall, in exercising its powers under this section, issue directions in the form of notices, letters, orders or circulars.

Establishment
of the Board of
Directors
Act Nos.
5 of 2012
s. 142
10 of 2013
s.56

7.-(1) There is established the Board of Directors of the Authority to be composed of-

- (a) a Chairman who shall be appointed by the President;
- (b) the Treasury Registrar;
- (c) the Labour Commissioner;
- (d) a representative from the Attorney General's Chambers;
- (e) two members representing most representative employers organisation;
- (f) two members representing the most representative employees organisation; and
- (g) one member from amongst persons who possess knowledge and experience in social security matters.

(2) The tenure, termination of members and proceedings of the Board and such other matters in relation to the Board shall be as set out in the Schedule to this Act.

(3) The Director-General shall be the Secretary to the Board.

Repealed
Act No.
5 of 2012
s.143

8. [Repealed].

Functions of
the Board

9. The Board shall perform its functions under this Act and in particular, the Board shall-

- (a) control, supervise and administer assets of the Authority in such manner and for such purposes so as to promote the objectives for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments on behalf of the Authority and make legitimate disbursement thereof;
- (d) enter into association with other bodies or organizations within or outside Tanzania as the Board may deem fit for the furtherance of the objects for which the Authority is established;
- (e) form committees to perform functions as may be directed by the Board;
- (f) be responsible for the management and control of the Authority in accordance with the provisions of this Act;
- (g) advise the Minister on matters relating to the development or reform in the social security sector; and
- (h) approve all measures and actions which the Authority intends or proposes to take against a scheme, manager, administrator or custodian, as the case may be.

Delegation by

10. The Board may, by resolution either generally or in any particular case, delegate the exercise of its powers to any of

the Board. its committee, director, any employee or agent of the Authority.

Fees and allowances of the Board

11. The member of the Board shall be entitled to such fees and allowances for expenses or any other costs incidental to their responsibilities as the Minister may, upon the recommendation of the Board, determine.

Appointment and functions of Director-General Act No. 5 of 2012 s. 144

12.-(1) There shall be the Director-General of the Authority who shall be appointed by the President.

(2) The Director-General shall be-

- (a) the Chief Executive Officer and shall exercise supervisory powers over the management of officers and staff of the Authority; and
- (b) responsible for the day to day management of the affairs of the Authority and directives of the Board.

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

Appointment of staff of the Authority

13.-(1) The Board may appoint such staff for the proper discharge of the functions of the Authority under this Act or any other written law upon such terms and conditions of service as the Board may determine.

(2) The Authority shall, by internal rules, establish a competitive procedure for appointment of staff of the Authority.

PART III
REGISTRATION OF SCHEMES, MANAGERS,
ADMINISTRATORS AND CUSTODIANS

Registration

14. A person intending to establish or continue to operate a scheme or act as a manager, administrator or custodian shall not operate or act as such unless such person is registered under this Act.

Conditions for registration of schemes

15.-(1) A scheme shall not be registered under this Act unless-

- (a) the scheme-
 - (i) is established under a written law or an irrevocable trust deed;
 - (ii) presents an initial actuarial valuation report; and
 - (iii) protects the rights and interests of its members and public; and
- (b) the trustees thereof satisfy the requirements specified in the regulations.

(2) Any trust deed establishing a scheme shall be approved by the Authority.

Application for registration
Act No.
5 of 2012
s.140C

16.-(1) A person intending to establish a scheme, act as a manager, custodian or administrator shall submit an application to the Authority in a prescribed form.

(2) The application under subsection (1), shall be accompanied by a prescribed fee.

(3) The Authority after receiving the application under subsection (1), shall process the same in the manner prescribed in the regulations.

Register
Act No.
5 of 2012
s. 140D

17.-(1) The Authority shall keep a register for all schemes, managers, administrators and custodians registered under this Act in such form as the Board may determine and shall enter therein such particulars as the Board may specify.

(2) The Board may determine the time or times during which and the extent to which a person may, on payment of the prescribed fee, inspect the register kept under this section or obtain copies thereof.

Issuance of
certificates

18. The Authority may, subject to the provisions of this Act, register and issue the applicant with a Certificate of registration.

Refusal of
registration
Act No
5 of 2012
s. 140E

19.-(1) The Authority may refuse to register any scheme or any person proposing to act as a manager, a custodian or administrator if it is satisfied that the application for registration does not meet the requirements provided for under this Act.

(2) Where the Authority refuses to register any scheme, manager, administrator or custodian, it shall notify the applicant specifying the reasons for the refusal.

De- registra-
tion of scheme
Act No.
5 of 2015
s.140F

20.-(1) The Authority may de-register a scheme, manager, administrator or custodian if-

- (a) the operation of such scheme, manager, administrator or custodian is being conducted in an unlawful or imprudent manner or contrary to public interest;
- (b) continuation of activities of such scheme, manager, administrator or custodian is detrimental to the interests of its members;
- (c) such scheme, manager, administrator or custodian is wound up or is otherwise dissolved;
- (d) it discovers after registration that a false statement

was made in connection with the application while the applicant knew to be false or untrue in any material particular; or

- (e) such scheme, manager, administrator or custodian does not conform to the provisions of this Act or directions or any condition of the certificate of registration.

(2) Notwithstanding subsection (1), the Authority may de-register a manager, administrator or custodian where an event occurs which renders such manager, administrator or custodian ineligible to manager or provide custodial or administration services.

(3) The Authority shall, before de-registering a scheme, manager administrator or custodian give at least thirty days notice of its intention requiring such scheme, manager, administrator or custodian to show cause why the respective scheme, manager, administrator or custodian should not be de-registered.

(4) The Authority shall consider any representation made to it by a scheme, manager, administrator or custodian in compliance with subsection (3), before de-registering such scheme, manager, administrator or custodian.

(5) The notice under subsection (3), shall be in the prescribed form and shall specify reasons for the intended de-registration.

Effect of de-registration

21.-(1) The de-registration of a scheme, manager, administrator or custodian shall not in any way prejudice the rights of members under the scheme.

(2) Where the Authority de-register a scheme and the assets of such scheme are insufficient to fully discharge obligations to its members, the Authority may, subject to the approval of the Board, take over the distribution or transfer of the assets and the supervision of the scheme in order to protect the interests of members.

Appeal **22.** Notwithstanding the provisions of section 46 a person aggrieved by the decision of the Authority may within twenty one days from the date of the decision of the Authority appeal to the board.

PART IV
REGULATION AND SUPERVISION OF SCHEMES, MANAGERS,
ADMINISTRATORS AND CUSTODIANS

Identification and membership numbers **23.** Every scheme registered under this Act shall issue an identification number to every employer and a membership number to every employee who is a member of the scheme upon his registration.

Scheme funds **24.**-(1) There shall be, in respect of every scheme, a fund.

(2) The sources of funds for every scheme shall include-

(a) contributions from employers and employees;

(b) incomes derived from investments;

(c) any penalties paid under respective Acts or trust deeds;

(d) any grant or subsidy from the Government;

(e) donations and bequests; and

(f) any other incomes legally acquired.

(3) The funds of the scheme shall at all times be maintained separately from other funds under the control of the trustees, managers, administrators or the custodians held by them in their other capacities.

(4) Subject to the provisions of this Act, the Minister may, in consultation with the Authority and the Bank, make regulations with regard to the funding, investment, vesting of benefits, custody, management, application and transfer of scheme funds and accounting for such funds.

(5) Every scheme shall maintain a reserve account into which accumulated revenues not needed to meet the costs of the current financial year shall be deposited for purposes of investment.

Setting of
contributions
rates and
benefits

25.-(1) Notwithstanding any other written law, the Authority may, by rules set contribution rates payable to the schemes by the members and the minimum benefits enjoyed by beneficiaries.

(2) Before setting contribution rates and minimum benefits the Authority shall undertake or cause the scheme to undertake actuarial valuation.

(3) Contribution rates may be reviewed by the Authority and be adjusted in line with an actuarial valuation of a scheme.

(4) The Authority may, in consultation with the schemes, set contribution rates and minimum benefits for groups of informal sector workers and employees.

Investment
guidelines and
policies

26.-(1) The schemes, managers, administrators and custodians may use funds of the scheme for investment in accordance with the provisions of this Act.

(2) The Bank shall, in consultation with the Authority, issue investment guidelines regarding scheme funds.

(3) Every scheme, manager, administrator or custodian shall formulate and implement its investment policy in accordance with the investment guidelines issued by the Bank.

(4) Subject to the provisions of this Act and guidelines issued by the Bank, a scheme, manager, administrator or custodian shall invest moneys in any viable venture and financial instruments as they may consider appropriate.

(5) Every scheme, manager and custodian shall submit to the Authority, report of all investments of the scheme funds in such form, manner and at such intervals as may be prescribed by the Bank.

(6) The Authority shall within fourteen days after receipt of the report, submit that report to the Bank.

Management
of funds of
schemes

27.-(1) Every trustee, manager, administrator or custodian shall-

- (a) ensure that funds of the scheme are at all times managed in accordance with this Act, the relevant laws or enabling instrument;
- (b) ensure that its management is carried out in the best interest of members of the scheme and in that regard shall give greater priority to the improvement of benefits payable to members;
- (c) report to the Authority forthwith any unusual occurrence which in his view could jeopardise rights of members of the schemes;
- (d) report to the Authority forthwith if any contributions into a fund of the scheme remain due for a period of more than thirty days; and
- (e) ensure prompt payment of benefits to eligible members or beneficiaries.

(2) Every scheme shall keep and maintain one or more accounts with such bank or banks, as the board of trustees of the scheme shall approve subject to guidelines issued by the Authority, into which all moneys payable to the scheme and income derived from investments of the funds shall be deposited.

(3) The account or accounts under subsection (2) shall be held by the board in trust for the members of the scheme and administered by the board in accordance with the provisions of this Act.

(4) The respective boards may authorise payment out of the account or accounts of the scheme for any purpose for which payments are authorised by guidelines issued under this Act, trust deed or other written law.

(5) The use, disbursement, administration and management of funds shall be governed by resolution of the respective boards, subject to guidelines issued under this Act and to the following limitations, namely-

- (a) that all funds under the management and control of

schemes shall be subject to rules and regulations applicable to public funds; and

- (b) that the administration expenses, shall not exceed ratios or percentages as may be determined by the Authority.

Accounts and
audits of
schemes
Act No.
5 of 2012
s. 145

28.-(1) Every scheme shall keep proper records of books of accounts, financial statements, assets and liabilities of the scheme.

(2) Every scheme shall within a period of three months after the end of each financial year, prepare-

- (a) a balance sheet;
(b) a statement of income and expenditure;
(c) a statement of the assets and liabilities of the scheme as on the last day of that year; and
(d) any other statement as the Authority may require.

(3) The accounts of the scheme in respect of each financial year shall be audited by the Controller and Auditor-General or as the case may be a person registered under the Accountants and Auditors (Registration) Act.

Cap. 286

(4) Every scheme shall, within six months after the end of each financial year, submit a copy of its audited accounts to the Authority and the Bank.

(5) Every scheme shall publish its annual audited accounts in such manner as the Minister may, in consultation with the Authority, prescribe.

(6) Where a scheme has failed to submit a copy of its audited accounts to the Authority and to the Bank pursuant to subsection (4), the Authority shall require the Chairman of the board of trustees and the Director-General of the scheme to show cause why the Authority should not recommend their disqualification.

(7) Where the Chairman of the Board of trustees or the Director-General of the scheme fails to show cause within fourteen days of receipt of the requirement under subsection (6),

the Authority shall recommend disqualification of that Chairman or Director-General to the respective appointing authority.

(8) Where, in the opinion of the Authority, the representation by the Chairman of the Board of trustees or Director-General of the scheme is unsatisfactory, the Authority shall recommend disqualification of that Chairman or Director-General.

Prohibition of
certain
conducts

29.-(1) Where, in the opinion of the Authority, a trustee, manager, administrator or custodian is pursuing an act or course of conduct which is unsafe or unsound or in any way detrimental to the scheme or other schemes, the Authority shall, by notice in writing, direct the trustee, manager, administrator or custodian to refrain from committing such acts or pursuing that course of conduct.

(2) A trustee, manager, administrator or custodian who acts in contravention of a direction issued under subsection (1), commits an offence and on conviction, shall be liable to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding two years, or both.

(3) For purposes of this section, unsafe and unsound conducts shall include-

- (a) registration of an employee and issuing him with a membership number while knowing that such an employee is registered with another scheme;
- (b) misrepresentation of facts with intention to win confidence of the stakeholders, contributing employer or employees;
- (c) making, producing, furnishing or causing to be produced or furnished any document or information which he knows to be false in any material particular;
- (d) obtaining of consent of employees or employers by duress or undue influence; and
- (e) commission of other acts which, in the opinion of the Authority, may constitute unsafe or unsound practices in the industry.

- Membership coverage **30.** Every employer in the formal sector shall be required to register his employees with any of the mandatory schemes.
Provided that it shall be the right of the employee to choose a mandatory scheme under which the employee shall be registered.
- Supplementary scheme **31.** Any person may, subject to the terms and conditions prescribed in the regulations, establish a supplementary scheme whose membership shall be voluntary.
- Indexation of pensions **32.** Subject to the provisions of this Act and guidelines issued by the Authority and the Bank in relation-
(a) to pension benefits, the Authority may, where necessary set rates of indexation of members' benefits to the current levels of earnings of contributors; and
(b) to defined contribution schemes and GEPF retirement benefits funds the boards of respective schemes shall annually set interest rate to be allowed on members' accounts with the scheme at the beginning of each financial year.
- Taxation **33.** The Authority shall, in consultation with the Minister responsible for finance, determine matters relating to taxation on schemes.
- Collection of contributions and collection agencies **34.**-(1) All contributions shall be collected and remitted in accordance with the laws and trust deeds establishing the respective schemes.
(2) Notwithstanding subsection (1), the Authority may make rules providing for-
(a) the qualifications for the collection agencies; and
(b) the manner in which contributions may be collected or remitted.

Rights to
benefits

35. Notwithstanding the provisions of the laws and trust deeds establishing the respective schemes, a member of a scheme is entitled to be paid benefits by the scheme provided the member meets the qualifying conditions.

Minimum
benefits
packages
Act No.
5 of 2012
s. 146

36.-(1) Subject to the provisions of this Act, a member of the scheme shall have the right to receive and enjoy minimum benefits or package to be prescribed by the Authority in line with his contributions.

(2) A member of any of the mandatory schemes shall be entitled to short or long term or both benefits to be determined and reviewed by the Authority in consultation with the respective schemes.

(3) The Authority shall, in discharging its regulatory and supervisory powers with regards to technical matters on the provisions of health service, consult with the Minister responsible for health.

Restriction on
double benefit

37.-(1) A member or dependant shall not be entitled to receive more than one benefit paid out in respect of the same contingency.

(2) Subsection (1) shall not apply to a member of both mandatory and supplementary schemes.

(3) Subject to the provisions of subsection (1), a member or dependant who qualifies for more than one benefit, in respect of the same contingency, shall be entitled to be paid the benefit which is the highest.

Collateral for
home
mortgage

38.-(1) The Minister may, in consultation with the Authority, make regulations for using benefit entitlements as collateral for home mortgage purposes for a member who has not attained the age of retirement.

(2) The collateral for home mortgage granted to a member

under subsection (1) shall not exceed fifty percent of the total benefit entitlement at the time of award.

(3) The provisions of subsections (1) and (2) shall apply to the Fund offering long term benefits.

Retirement
benefits
Committee
Acts Nos.
5 of 2012
s. 147

Caps. 407,
395, 50, 372,
371, 51

38A.-(1) There is established a Committee to be known as a Retirement Benefits Committee whose functions shall be to advise the President on matters relating to exemption of application of certain conditions on payment or award of terminal benefits under the LAPF Pensions Fund Act, the National Health Insurance Fund Act, the National Social Security Fund Act, the PPF Pensions Fund Act, the Public Service Pensions Fund Act and the GEPF Retirement Benefits Fund Act.

(2) The Committee shall be composed of-

- (a) the Permanent Secretary (Establishment), who shall be the Chairman;
- (b) the Deputy Attorney General;
- (c) the Director-General;
- (d) the Labour Commissioner; and
- (e) a member representing an organization of employees.

(3) The application made in terms of subsection (1) shall be supported by recommendations by a specified authority or the last employer of the applicant.

(4) The Committee shall, within thirty days from the date of receipt of an application convene and determine that application and make recommendations to the President about whether or not, within the circumstances, the application be granted.

(5) Where the President has received recommendations from the Committee, he may order that the applicant be granted terminal or any other benefits which would otherwise be lawfully withheld in accordance with the relevant law governing such terminal or any other benefits.

PART V
INSPECTORS, INSPECTION AND EXAMINATION

Appointment,
functions and
powers of
inspectors

39.-(1) There shall be inspectors of the Authority to be appointed by the Director-General.

(2) An inspector shall inspect or examine the actuarial valuation reports, books of accounts, records or any document at the premises where they are produced.

(3) An inspector may require the scheme in respect of which inspection or examination is carried out to make copies of any actuarial valuation report, books of accounts, records or any other documents and shall have the powers to inspect or examine them.

(4) The Authority or the Bank shall, before the inspection or examination, provide information to each other on the intended inspection or examination.

(5) In complying with inspection or examination requirements under this section, a Chief Executive Officer of the scheme, a manager, administrator, a custodian, an officer, trustee or employee shall make available to the inspector all the books of accounts, records, current actuarial valuation reports or any other documents of the scheme.

(6) Any information obtained in the course of inspection or examination shall be confidential and used solely for the purpose of this Act.

(7) The Authority or the Bank shall, upon conclusion of the inspection or examination, furnish and forward a copy of the inspection or examination to each other.

(8) The Authority or the Bank shall, upon conclusion of any inspection or examination under this section, furnish and forward a copy of the inspection or examination to the Chairman of the Board of Trustees of the scheme, manager or custodian inspected or examined.

(9) The Authority shall, after furnishing the Chairman of the Board of Trustees of the scheme, manager or custodian with the copy of the inspection or examination report, require that chairman, manager or custodian to provide within twenty one days satisfactory explanation regarding actions to be taken on issues raised in the report.

(10) After receipt of an explanation under subsection (9), the Authority may, by notice in the prescribed form, require the trustees, manager or custodian of a scheme inspected under this Part to comply, within the period of fourteen days, with such directions as the Authority considers necessary in connection with any matter arising out of the report made under this section,

(11) A person commits an offence if he-

- (a) refuses or fails to comply with a requirement of an inspector;
- (b) obstructs or hinders the inspector in the exercise of his powers under this Act; and
- (c) furnishes information or makes a false statement which he knows to be false or misleading.

(12) A person convicted of an offence under subsection (11), shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three year or to both.

(13) For the purposes of Part V and Part VII of this Act, the term “financial matters” shall include control of fund reserve, monitoring investments and investment decisions.

Inspection and
examination

40.-(1) The Authority may twice a year inspect or cause an inspection or an examination of any manager, administrator, custodian or scheme to be conducted:

Provided that, when necessary, the Authority may conduct an emergency inspection or an examination at any time.

(2) The Bank may direct the Authority to examine, inspect or cause an inspection or an examination on financial matters to

managers, custodians, administrators or schemes to be conducted.

(3) Where exigencies of the matter requires the Bank and the Authority to conduct an inspection or examination, the Bank and the Authority may conduct joint inspection on examination of finance matters of any manager, administrator, custodian, administrators or scheme.

Appointment
of an interim
administrator

41.-(1) Where a trustee, manager, administrator or custodian is found to have failed to discharge his duties in a diligent manner, the Authority may, with the approval of the Board appoint any person as an interim administrator to assume the management, control and conduct of the affairs and business of the trustees, the manager, administrator or the custodian.

(2) The appointment of interim administrators shall be exercised in the circumstances where-

- (a) a mandatory scheme is proved to be actuarially unsound;
- (b) the trustees of a scheme, managers, administrators or custodians fail to submit to the Authority the annual accounts required under section 28 for over six months after the end of the financial year to which they relate;
- (c) the trustees, managers or custodians are found to have submitted or provided any actuarial reports, books of accounts, returns, financial statements, records, documents or other information relating to the scheme which are false or misleading; or
- (d) the Authority, whether on inspection or otherwise, becomes aware of any fact or circumstance which, in its opinion, warrants the exercise of the relevant powers in the interest of members of the scheme.

(3) An interim administrator appointed under subsection (1) shall, upon assuming the management, control and conduct of affairs and business of the trustees, manager or custodian, discharge his duties with diligence and in accordance with sound

actuarial and financial principles and in particular with due regard to the interest of members of the scheme.

(4) The appointment of an interim administrator under this section shall be for a period of twelve months as the Authority may specify in the instrument of appointment, but may be extended by the Authority.

Functions of
an interim
administrator

42.-(1) The functions of an interim administrator shall be to-

- (a) trace, preserve and secure all the assets and property of the scheme;
- (b) recover all debts and other sums of money due to and owing to the scheme;
- (c) evaluate capital adequacy and reserves in order to determine the solvency and liquidity of the scheme;
- (d) assess the scheme's, manager's, administrator's or custodian's compliance with the provisions of this Act;
- (e) evaluate the staff for purposes of restructuring or reorganisation if considered necessary;
- (f) obtain from any former trustee, manager, administrator or custodian of the scheme or an officer, employee or agent, any documents, records, books of accounts, statements, correspondence or any other information relating to the scheme; and
- (g) suspend operations of social security services including receipt of contributions and payments.

(2) Where the interim administrator suspends operations of any social security services under subsection (1)(g), the interim administrator in consultation with the Authority shall set conditions for receipt of contributions and payment of benefits.

(3) The interim administrator shall, within a period of three months from the date of his appointment, prepare and submit to the Authority and the Bank, a report on the financial position and the management of the scheme with recommendations as to

whether the scheme-

- (a) be re-structured or re-organised;
- (b) is capable of being revived; or
- (c) be de-registered.

(4) The Authority shall, after taking into account the report of the interim administrator and recommendations of the Bank make appropriate decision on the matter.

PART VI DISPUTES SETTLEMENT

Establishment
of the Social
Security
Tribunal

43.-(1) There is established a Social Security Tribunal which shall have jurisdiction to determine appeals against any decision of the Authority.

(2) The Tribunal shall consist of-

- (a) a Chairman who shall be a Judge of the High Court of Tanzania or a person who qualifies to be appointed a Judge of the High Court;
- (b) two members with experience in social security matters; and
- (c) one member with experience in occupational safety and health.

(3) The Chairman and members of the Tribunal shall be appointed by the Minister after consultation with the Chief Justice.

(4) Members of the Tribunal shall hold office on part time basis and they shall meet when there is business to transact.

(5) The Minister may make regulations prescribing the powers, procedures and fees payable to the Tribunal and allowances payable to the members of the Tribunal.

Review of
decision

44.-(1) Any member or beneficiary who is aggrieved by a decision of a scheme under laws or trust deed establishing the respective scheme may within thirty days of receipt of the decision apply in writing to the Authority for review of the

decision.

(2) The Authority shall, within thirty days of receipt of a written application made under subsection (1), review the decision and communicate in writing to the person with reasons for the decision.

(3) A dispute between-

(a) a member or beneficiary and scheme shall be referred to the Authority;

(b) a scheme and a scheme shall be referred to the Authority;

(c) a member and a manager shall be referred to the Authority; and

(d) a scheme and the Authority shall be referred to the Tribunal.

Authority may
review
decisions of
schemes

45.-(1) The Authority may, after notice to the party concerned, may after giving the party an opportunity to submit representations, review decisions by a scheme in connection with any matter provided for in this Act.

(2) The Authority may, after considering the evidence and representation submitted and making such inquiry as it may deem necessary, confirm, amend or set aside its decision, and may suspend, discontinue, reduce or increase compensation awarded.

Appeals
against
decisions of
Authority

46.-(1) Any person aggrieved by a decision of the Authority may, within thirty days after the decision, appeal in the prescribed manner against such a decision to the Tribunal.

(2) The Tribunal may, in connection with proceedings under this section, make such order in relation to costs and payment as it may deem equitable.

PART VII
RELATIONSHIP BETWEEN THE BANK AND THE AUTHORITY

- Relationship with Bank
- 47.-(1) The relationship between the Authority and the Bank shall be as provided by this Act.
- (2) Without prejudice to the provisions of this Act and notwithstanding the provisions of other written laws, powers relating to regulation and supervision of financial matters shall be vested in the Bank.
- Specific powers and responsibilities of the Bank
48. For avoidance of doubt, the Bank shall have the powers to-
- (a) issue investment guidelines;
 - (b) monitor and ensure compliance to the investment guidelines by the schemes, managers and custodians; or
 - (c) inspect and examine schemes, managers, administrators and custodians on all financial matters.

PART VIII
FINANCIAL PROVISIONS

- Funds of the Authority
Act No. 5 of 2012
s. 148
- 49.-(1) The funds of the Authority shall consist of-
- (a) moneys appropriated by the National Assembly for the purposes of the Authority;
 - (b) registration fees received from managers, custodians and schemes as prescribed by the regulations;
 - (c) annual social security levy charged from the schemes;
 - (d) grants received by the Authority; and
 - (e) any other moneys legally acquired and received by the Authority for the execution of its function.

- (2) The funds of the Authority shall be used for payment of-
- (a) salaries and allowances of staff members of the Authority;
 - (b) fees and allowances as prescribed under section 11 of this Act; and
 - (c) any other expenses incurred by the Authority in the execution of its functions.

Social security
levy
Act No.
5 of 2012
s. 149

49A.-(1) There shall be a levy payable to the Authority by the schemes.

(2) A levy imposed under this section shall be based on the total income of each scheme at a rate to be determined by the Minister upon consultation with the Minister responsible for Finance and the Bank and shall be specified in an Order published in the *Gazette* by the Minister.

(3) An Order made by the Minister shall contain provisions as to the time during which any amount payable by way of levy shall become due.

(4) Where the levy imposed is not paid into the Fund on or before the date prescribed in the Order, the amount due shall become a civil debt recoverable summarily by the Authority under Order XXXV of the Civil Procedure Code.

Cap. 33

(5) The Authority may deposit with the Bank or banks as it may determine, monies not immediately required for the purposed of the Authority.

Financial year

50. The financial year of the Authority shall be the period of one year ending on the 30th June.

Budget

51.-(1) The Authority shall, before the end of each financial year, prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following year.

(2) The Authority shall, subject to subsection (1), submit to the Minister the annual budget and every supplementary budget for approval.

Accounts and
audit

52.-(1) The accounts of the Authority shall, at the end of each financial year, be audited by the Controller and Auditor-General.

(2) The Authority shall cause to be kept all proper books and audit records of accounts of the income, expenditure and assets of the Authority.

(3) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General the accounts of the Authority together with-

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

Annual report
Act No.
5 of 12
s. 150

53.-(1) The Authority shall on or before the 30th December of each year, prepare an annual report in respect of that financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay it before the National Assembly.

(2) The annual report shall consist of-

- (a) detailed information regarding the activities of the Authority during the year to which it relates;
- (b) a copy of the audited accounts; and
- (c) any other information as the Authority may be required to provide by this Act.

PART IX MISCELLANEOUS PROVISIONS

Regulations

54.-(1) The Minister may make regulations providing for

all matters which under the provisions of this Act are required or permitted for better carrying out or giving effect to the provisions of this Act.

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

- (a) prescribing conditions and procedures for portability of benefits' rights of a member from one scheme to another;
- (b) prescribing the liability for payment of benefits by schemes and other conditions and procedures relating to the transfer of membership and contributions;
- (c) prescribing minimum standards and procedures for registration of schemes, managers, administrators and custodians;
- (d) providing for appointment, tenure and remuneration of a member of the Board;
- (e) prescribing the conduct of affairs of the Board of Directors;
- (f) providing for removal and disqualification of managers, administrators and custodians of schemes;
- (g) prescribing procedures for resolution of disputes;
- (h) prescribing for portability of benefit rights and international reciprocal agreements for transfer of benefits;
- (i) prescribing the manner in which contributions and remittances shall be made;
- (j) prescribing the minimum benefit packages;
- (k) for the extension or establishment of social security coverage to the informal sector employees; and
- (l) prescribing criteria for indexation, modalities and interest rates applied to member's benefits as prescribed under section 25.

Offences by body corporate and partner ship	<p>55.-(1) Where an offence is committed by a body corporate, that body corporate and every director or officer who had knowledge or ought to have knowledge of the commission of the offence and who did not exercise due diligence to ensure compliance with this Act, commits an offence.</p> <p>(2) Anybody corporate which commits an offence under subsection (1) shall be liable, on conviction, to a fine of not less than twenty million shillings.</p>
Use of register in evidence	<p>56.-(1) For the purposes of ascertaining the facts concerning the registration of a scheme, manager, administrator or custodian entries in the register shall be <i>prima facie</i> evidence as to the facts specified in the register.</p> <p>(2) A document certified by the Director-General as a true copy or extract from the register shall be admissible in court.</p>
Indemnity	<p>57. No action or proceedings shall lie or be instituted personally against any member of the Board or officer or staff of the Authority or an interim administrator appointed by the Authority for or in respect of any act or thing done in good faith in the performance of the functions or the exercise of powers conferred under this Act.</p>
Rules	<p>58.-(1) The Authority may make internal rules in respect of its functions and operations within the framework of the provisions of this Act.</p> <p>(2) Rules made under this section shall be published in the <i>Government Gazette</i>.</p>
Conflict of laws	<p>59. Where there is a conflict between the provisions of this Act and the provisions of any other written law with regard to the functions or powers of the Authority, the provisions of this Act shall prevail.</p>
Omitted	<p>60. [Omitted].</p>

SCHEDULE

(Made under section 7(2))

- Tenure of office
1. A member of the Board shall hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment and may be eligible for re-appointment for one more term.
- Vacation of office
2. A persons who is member by virtue of his position may-
- (a) at any time resign from office by notice in writing to the Minister; or
 - (b) be removed from office by the Minister if the member-
 - (i) has been absent from three consecutive meetings of the Board without permission from the Chairman;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is otherwise unable to discharge his functions.
- Meetings
- 3.-(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) The quorum of the meeting of the Board shall be half of the total number of members.
- (3) The Chairman shall preside at every meeting of the Board, and in his absence, members present shall elect one among them to be the Chairman.
- (4) Unless a unanimous decision is reached a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairman or the person presiding shall have a casting vote.
- (5) Subject to subparagraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among members of the Board.

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(6) Subject to subparagraph (2), the Board may determine its own procedure and the procedure for any committee of the Board.

Disclosure of interest

4.-(1) Where a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, before the opening of the meeting disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1), shall be recorded in the minutes of the meeting at which it is made.

The common seal

5.-(1) The common seal of the Authority shall be authenticated by the signatures of the Chairman and the Director -General on any document required by law to be made under seal.

(2) The decisions of the Board may be authenticated by signatures of the Chairman and the Secretary.

(3) In the absence of either the Chairman or the Director-General, the Board shall nominate one member to authenticate the seal of the Board on behalf of the Chairman or Director-General.

Proceedings

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specifically authorised by the Authority for that purpose.

Minutes

7. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.