

GEPF RETIREMENT BENEFITS FUND ACT, 2013

ARRANGEMENT OF SECTIONS

Section *Title*

PART I PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Application.
3. Interpretation.

PART II ESTABLISHMENT AND ADMINISTRATION OF THE FUND

4. Establishment of the Fund.
5. The Fund to be an agent of Government.
6. Establishment of supplementary schemes.
7. Management of the Fund.
8. Establishment of the Board.
9. Appointment and Composition of the Board.
10. Proceedings of the Board.
11. Functions of the Board.
12. Duties of the Board.
13. Committees of the Board.
14. Delegation of powers of the Board.
15. Director General.
16. Appointment of staff of the Fund.
17. Establishment of a Register.
18. Information to members.

PART III
MEMBERSHIP TO THE FUND

19. Membership to the Fund.
20. Cessation of membership to the Fund.

PART IV
CONTRIBUTIONS AND INTEREST TO MEMBERS

21. Retirement age
22. Members Contributions.
23. Recovery of contributions.
24. Rate of pension and gratuity.
25. Protection of contribution.

PART V
BENEFITS PAYABLE OUT OF THE FUND

26. Rights to benefits
27. Benefits payable under the Act.
28. Retirement pension.
29. Persons not qualified for pension.
30. Death Gratuity and Survivors Benefits.
31. Inability benefit.
32. Calculation of benefits payable.
33. Review of calculation of benefit.

PART VI
FINANCIAL PROVISIONS

34. Sources of funds.
35. Annual budget estimates.
36. Accounts and Audit.
37. Exemption from tax.
38. Actuarial Report.
39. Investment of the monies of the Fund.
40. Bank Accounts of the Fund.

- 41. Power to Borrow.
- 42. Remuneration and allowances of members of the Board.

PART VII
GENERAL PROVISIONS

- 43. Exemption from liability.
- 44. Power to make Regulations.
- 45. Reserve Account.
- 46. Collateral for home mortgage.
- 47. Penalty for late payment of benefits.
- 48. Offences and penalties.
- 49. Repeal and savings.

SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



NO. 7 OF 2013

I ASSENT,

Jakaya Mshale

 President

[30th December, 2013]

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

Enacted by the Parliament of the United Republic of Tanzania.

PART I
 PRELIMINARY PROVISIONS

Short title and
 commencement

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

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

Application

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

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

Interpretation

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

“Accounting Officer” means the person charged with the duty of accounting for any service in respect of which money

have been appropriated, and is responsible for overseeing operations and resources of an entity;

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

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

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

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

Cap.135

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

Cap.197

“Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;

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

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

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

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

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

“employee” means an individual who-

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

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

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

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

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

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

Cap.366

Cap. 300

- “employer” has the meaning ascribed to it under the Employment and Labour Relations Act;
- “employer’s contribution” means the prescribed per centum of the employee’s monthly salary paid to the Fund by employer in favour of the employee;
- “financial year” means the period of twelve months ending on the 30th June of each year;
- “formal sector” means the sector which includes employer and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of the term “employee”;
- “Fund” means the GEPF Retirement Benefits Fund established under section 4;
- “government employee” means any employee in the service of government;
- “informal sector” means the sector which includes workers who work informally and who do not work in terms of an employment contract or any other contract contemplated in the definition of the term ‘employee’;
- “mandatory scheme” means a compulsory scheme established by the law and guaranteed by the Government to provide social security benefit to employees;
- “Medical Board” means the Board appointed by the Minister responsible for health matters for the purpose of determining medical issues under this Act;
- “member of the Fund” means a member of the Fund in accordance with the provision of the Act, but shall not include a member appointed under section 9 and the Schedule to the Act;
- “member’s contribution” means the prescribed *per centum* of the members’s monthly contribution which is paid to the Fund;
- “Minister” means the Minister responsible for Finance;

“Register” means the Register of members established under section 17;

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

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

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

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

Cap.135

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

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

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

“trade union” means a registered organization of employees;

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

PART II
ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment
of the Fund

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

- (a) all contributions required to be made under this Act;
- (b) money earned or derived out of any project, scheme or enterprise financed by the Fund;
- (c) money earned from any property, investments, mortgages, charges acquired by or vested in the Fund;
- (d) all other sums which may legally become payable to the Fund;
- (e) all property which may legally be vested in the Board.

The Fund to be an
agent of
Government

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

(2) The retiree under this provision shall include-

- (a) members of the Police Force and Prison Service who have not contributed to the Fund prior to the month of July, 1999 and whose gratuities ought to be paid by the Treasury;
- (b) teachers employed under the contract of services after retirement;
- (c) members of Parliament, Regional Commissioners and District Commissioners; and

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

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

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

(5) The Government shall-

(a) pay to the Fund an agency fee and initial costs at a rate of amount to be agreed upon between the Fund and the Government; and

(b) quarterly or monthly in advance, remit to the Fund such funds that would be paid out as gratuities for the retirees or their beneficiaries.

Establishment
of supplementary
schemes
Cap.135

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

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

Management
of
the Fund

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

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

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

- (a) financial position of the Fund;
- (b) statement of cash flow;
- (4) The Board may, other than the report referred to under subsection (3), submit to the relevant authority such other information as may be required by such authority.

Establishment
of the Board

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

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

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

Appointment
and
composition
of the Board

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

- (a) the chairman who shall be appointed by the President upon advice by the Minister responsible for Finance; and
- (b) nine other members who shall be appointed by the Minister as follows:
 - (i) a representative of the Ministry of Finance;
 - (ii) a State Attorney of a rank of senior or above representing the Office of Attorney General;

- (iii) a representative of the most representative employers organisation;
- (iv) a representatives of employees organisation;
- (v) two representatives representing self employed members and informal sector who possess knowledge and experience in social security matters;
- (vi) two representative from members of the Fund who are not belonging to any employees organisation.

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

Cap.135

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

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

Proceedings
of the Board

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

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

Functions
of
the Board

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

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

- (a) formulate, implement and review the policy relating to the Fund in accordance to the provisions of this Act;
- (b) prudently invest the monies available in the Fund;
- (c) advise the Minister on matters relating to administration of the Act;
- (d) provide policy guidance and advisory services for the purpose of promoting social security programs; and
- (e) do all such acts and to enter into all such transactions, which in the opinion of the Board are necessary for the proper and efficient administration of the Fund.

Director
General

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

(2) The Director General shall-

- (a) be the chief executive officer and Accounting Officer of the Fund;
- (b) be responsible for overseeing the daily operations of the Fund;
- (c) keep in custody the seal of the Fund; and
- (d) perform such functions for efficient management of the Fund as the Board may direct.

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

Appointment
of
staff of the
Fund

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

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

Establishment
of a Register

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

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

Information
to members

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

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

PART III
MEMBERSHIP TO THE FUND

Membership
to the Fund

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

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

- (a) a foreigner or expatriate working in Tanzania on specific project or duration;
or
- (b) a citizen of Tanzania working outside Tanzania, may contribute to the fund.

Cessation of
membership
to the Fund

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

- (a) reaching the prescribed age of retirement;
- (b) retirement on medical ground based on evidence to the satisfaction of the Medical Board that the member is incapable by reason of some infirmity of mind or body of discharging the duties of his office, trade or occupation;
- (c) the termination or resignation of the member's services to the employer and the member decides to withdraw from the membership of the Fund; or
- (d) death of that member;

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

Retirement
age

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

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

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

PART IV

CONTRIBUTIONS AND RATES OF PENSION AND GRATUITY

Members
contributions

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

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

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

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

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

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

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

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

Recovery of
contributions

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

Cap.33

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

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

Rate of
pension
and
gratuity

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

- (a) a reduced annual pension of an amount equal to three-fourths of the specified amount;
- (b) a commuted pension gratuity equal to twelve and one-half times the one fourth of the specified amount; or
- (c) the monthly retirement pension amount to 30 percent of the average monthly salary or earnings of the retiree supplemented by 1.5 percent of this average monthly salary or earnings for every twelve months of pension insurance additional to the 180 months to a maximum of 67.5 percent of the average salary or earnings; and
- (d) a lump sum of twenty four months pension.

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

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

Protection
of
contribution

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

PART V

BENEFITS PAYABLE OUT OF THE FUND

Rights to
benefits

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

Benefits
payable
under the
Act

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

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

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

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

Retirement
pension

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

Persons not
qualified for
pension

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

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

Death Gratuity
and Survivors
Benefits

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

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

Inability
benefit

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

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

Calculation
of benefits
payable

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

Review of
calculation
of benefit

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

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

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

Cap 135

PART VI FINANCIAL PROVISIONS

Sources of
funds

34. The sources of funds shall include-

- (a) members contributions;
- (b) employers contributions;
- (c) money accrued from investments;
- (d) such sums as may be appropriated by the Parliament for the purpose of the Fund;

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

Annual budget estimates

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

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

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

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

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

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

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

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

(8) Notwithstanding subsection (7)-

(a) the Board may-

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

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

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

Cap.189

(2) Notwithstanding subsection (1), nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or any document otherwise liable under the Stamp Duty Act.

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

Actuarial
report

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

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

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

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

Investment
of the monies
of the Fund

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

Cap.135 (2) The Board shall, in considering the appropriateness of the venture for investment, take into account the economic and commercial viability of that venture and guidelines as may be issued under the Social Security (Regulatory Authority) Act.

Cap.135 (3) Where an investment is made in breach of subsection (1), each member of the Board of Trustees, director, manager or any officer of the Fund taking part of the decision to invest shall be personally liable to a penalty of fine as prescribed under Social Security (Regulatory Authority) Act.

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

- (a) regulate the Fund to comply with the investment procedure;
- (b) discontinue the investment; or
- (c) take any other measure it consider appropriate.

Bank
Accounts
of the Fund

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

Power to
borrow

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

Remuneration
and
allowances of
members of
the
Board

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

PART VII GENERAL PROVISIONS

Exemption
from liability

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

Power to
make
Regulations

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

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

- (a) procedure for making of contributions to the Fund;
- (b) administration of all benefits payable under the Act;
- (c) the disposal of amounts standing to the credit of accounts in the Fund and to which no lawful claim has been made within a period of three years since such amounts became due and payable in accordance with the provisions of this Act;
- (d) procedure for recording and protection of members information;

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

Reserve
Account

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

- (a) other monies paid into the Reserve Account by the provisions of this Act; and
(b) fines which may be levied under this Act.

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

Collateral for
home
mortgage

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

Penalty for late
payment of
benefits

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

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

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

Offences
and penalties

48.-(1) Any person who-

- (a) knowingly deducts from an employee's salary in respect of a contribution to the Fund, a sum greater than the employees share of the statutory contribution;
- (b) for the purpose of obtaining any benefit or refund for himself or some other person, knowingly makes a false statement or representation, or produces furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular;
- (c) fails without lawful excuse to fill and submit to the Fund the claim form in respect of a member whose benefits are due;
- (d) misrepresent or fails to disclose any material fact;
- (e) in the case of contributing employer, fails to submit employee contributions as a result of which the account of individual members cannot be credited with their contribution; or
- (f) contravenes any of the provisions of this Act where no penalty has been prescribed, commits an offence and shall on conviction-
 - (i) in the case of offences prescribed under subsections (1) (a),(b),(c) and (e), be liable to a fine of not less than twice the amount of loss caused or imprisonment for a term not exceeding six month or both;

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

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

Repeal and
Savings
Cap. 51

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

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

- (a) employers, members and contributions made under the repealed Act, shall be deemed to be employers, members and contributions made under the GEPF Retirement Benefits Fund Act;
- (b) all directives made, given or issued under the repealed Act which are in force before the effective date shall remain in force until revoked by Orders under the Act;
- (c) all subsidiary legislation made under the repealed Act which are in force on the commencement of this Act shall be deemed to be subsidiary legislations under this Act and shall remain in force until revoked or rescinded by subsidiary legislation made under this Act;
- (d) all powers, rights, privileges, duties and liabilities or obligations which, immediately before the commencement date were exercisable by persons in accordance with the provisions of the Provident Fund (Government Employees) Act shall continue in force until otherwise revoked or replaced by the Act or Regulations;

Cap.51

Cap.51

- (e) all appointments and directions made, issued or given under the provisions of the Provident Fund (Government Employees) Act shall continue to be valid unless they are revoked, cancelled or otherwise cease by reason of effluxion of time;
- (f) all the assets and liabilities of the existing Fund immediately before the commencement of this Act shall vest in the Fund together with all the rights and obligations arising out of any contract or otherwise as if this Act had not come into force;
- (g) anything done or any action taken under the repealed Act shall in so far with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;
- (h) where immediately before the commencement of this Act:
 - (i) any person liable to pay any sum of money to the Provident Fund (Government Employees) in relation to any liability arising from the repealed law that person shall make such payment to the Fund as if the liability to make such payment had arisen under this Act; and
 - (ii) any legal proceedings for any offence under the repealed Act or for the recovery of any sum of money due under the repealed ordinance which is pending before any court may be continued and conducted as if it was under this Act.

SCHEDULE

(Made under section 10)

PROVISIONS RELATING TO THE BOARD

Tenure of
appointment

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

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

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

Termination
of
appointment

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

Cessation of
membership

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

Vice-Chairman

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

Power of
Chairman and
Vice-Chairman

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

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

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

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

Meeting
and
procedure
of
the Board

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

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

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

Quorum

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

Decision
by
circulation
of
papers

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

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

Minute of
meetings

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

Authentication
of the Seal

10. The Seal of the Board shall not be affixed to any deed, document and other instruments except in the presence of the Chairman and the Director General, or either the chairman or the Director General and one other member of the Board.

Execution of documents

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

Validity of proceedings

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

The Board to regulate proceedings

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

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



.....
Clerk of the National Assembly

SHERIA YA GEPF YA MFUKO WA MAFAO YA WASTAAFU
YA MWAKA 2013

MPANGILIO WA VIFUNGU

Kifungu *Maelezo*

SEHEMU YA KWANZA
MASHARTI YA UTANGULIZI

1. Jina na kuanza kutumika kwa Sheria.
2. Matumizi.
3. Tafsiri.

SEHEMU YA PILI
UANZISHWAJI NA USIMAMIZI WA MFUKO

4. Kuanzishwa kwa Mfuko.
5. Mfuko kuwa wakala wa Serikali.
6. Kuanzishwa kwa Mipango ya ziada.
7. Usimamizi wa Mfuko.
8. Kuanzishwa kwa Bodi.
9. Uteuzi wa muundo wa Bodi.
10. Mwenendo wa Bodi.
11. Majukumu ya Bodi.
12. Kazi za Bodi.
13. Kamati za Bodi.
14. Kukasimu mamlaka ya Bodi.
15. Mkurugenzi Mkuu.
16. Uteuzi wa watumishi wa Mfuko.
17. Kuanzishwa kwa Daftari
18. Taarifa kwa mwanachama.

SEHEMU YA TATU
UANACHAMA KATIKA MFUKO

19. Uanachama wa Mfuko.
20. Ukomo wa uanachama wa mfuko.
21. Umri wa kustaafu

SEHEMU YA NNE
MICHANGO NA RIBA KWA WANACHAMA

22. Michango ya mwanachama.
23. Ukusanyaji wa michango.
24. Kiwango cha pensheni na kiinua mgongo.
25. Hifadhi ya michango.

SEHEMU YA TANO
FAIDA ZINAZOLIPWA KUTOKA KWENYE MFUKO

26. Haki ya Mafao.
27. Mafao yatakayolipwa chini ya Sheria.
28. Fao la kustaafu.
29. Watu wasiostahili kulipwa pensheni.
30. Fao kwa warithi baada ya kifo.
31. Fao la kutojiweza.
32. Mahesabu ya mafao yatakayolipwa.
33. Marejeo ya hesabu za mafao.

SEHEMU YA SITA
MASHARTI YA FEDHA

34. Vyanzo vya mapato.
35. Makadirio ya Bajeti ya mwaka.
36. Mahesabu na Ukaguzi.
37. Msamaha wa Kodi.
38. Taarifa ya mkadiriaji bima.
39. Uwekezaji wa fedha za mfuko.

-
40. Akaunti za benki za mfuko.
 41. Uwezo wa kukopa.
 42. Malipo na posho za wajumbe wa Bodi.

SEHEMU YA SABA
MASHARTI MENGINEYO

43. Kinga dhidi ya kuwajibika kisheria.
44. Mamlaka ya kutunga kanuni.
45. Akaunti ya Akiba.
46. Dhamana ya mkopo wa nyumba.
47. Fursa ya wanachama kutumia sehemu ya mafao yao.
48. Makosa na adhabu.
49. Kufutwa na masharti ya mpito.

JEDWALI

JAMHURI YA MUUNGANO WA TANZANIA



NA. 7 YA 2013

NAKUBALI,

Jasanyani Kichwile
 Rais

30 Desemba, 2013

Sheria ya kuanzisha Mfuko wa Akiba wa GEPF kwa manufaa ya waajiriwa katika sekta rasmi na isiyo rasmi ikijumuisha watu waliojajiri wenyewe, na kwa masuala mengineyo yanayohusiana na hayo.

Imetungwa na Bunge la Jamhuri ya Muungano wa Tanzania.

SEHEMU YA KWANZA
 MASHARTI YA UTANGULIZI

Jina na kuanza
 kutumika kwa
 sheria

1.-(1) Sheria hii inaitwa Sheria ya GEPF ya Mfuko wa Mafao ya Wastaafu ya mwaka 2013.

(2) Sheria hii itanza kutumika katika tarehe ambayo Waziri anaweza kuiteua, kupitia tangazo litakalochapishwa katika Gazeti la Serikali.

Matumizi

2. Sheria hii itatumika Tanzania Bara na itamhusu mtu ambaye-

- (a) amejajiriwa katika sekta rasmi au isiyo rasimi; na
- (b) amejajiri mwenyewe,

lakini haijumuishi mtu ambaye amesajiliwa au mwenye bima chini ya sheria nyingine yoyote inayohusiana na hifadhi ya jamii.

Tafsiri

3. Katika Sheria hii, isipokuwa kama muktadha utahitaji vinginevyo:

“Afisa Masuhuli” maana yake ni mtu mwenye wajibu wa kufanya uhasibu kwa ajili ya huduma yoyote ambayo pesa zimetolewa, na anawajibika kusimamia utendaji na rasilimali za Taasisi;

“Mtakwimu wa Bima” maana yake ni mtu aliebobea katika Sayansi ya mahesabu ya hatari ya Bima na viwango vya malipo na michango;

“Ripoti ya Takwimu ya Bima” maana yake ni ripoti ya tathmini iliyoandaliwa na mtathmini wa Bima chini ya Sheria hii;

“Tathmini ya Takwimu ya Bima” maana yake ni tathmini iliyotengenezwa na Mtakwimu wa Bima;

“Ripoti ya takwimu ya Bima” maana yake ni ripoti ya tathmini iliyoandaliwa na mtathmini wa Bima chini ya sheria hii;

“gharama za kiutawala” maana yake ni gharama zote zitokanazo au zinazohusiana na usajili wa wanachama, ukusanyaji wa michango, ulipaji wa mafao ya wanachama, uwekezaji, michakato ya utoaji maamuzi au utawala;

“Mamlaka” maana yake ni Mamlaka ya kusimamia Mifuko ya Hifadhi ya jamii iliyoanzishwa chini ya Sheria ya Mdhibiti na Msimamizi wa Sekta ya Hifadhi ya Jamii;

“Benki” maana yake ni Benki Kuu ya Tanzania iliyoanzishwa chini ya Sheria ya Benki Kuu ya Tanzania;

Sura
ya 157

“mnufaika” maana yake ni mtu anayestahili kupokea mafao chini ya Sheria hii;

“Bodi” maana yake ni Bodi ya Wadhamini wa Mfuko iliyoanzishwa chini ya kifungu cha 8 cha Sheria hii;

“michango” maana yake ni mchango katika Mfuko unaotolewa kwa masharti ya Sheria hii;

“mwajiri mchangiaji” maana yake ni mwajiri ambaye ana jukumu la kutoa michango kwa ajili ya watumishi wake katika mfuko kwa masharti Sheria hii;

“Mkurugenzi Mkuu” maana yake ni Mkurugenzi Mkuu wa Mfuko aliyeteuliwa chini ya kifungu cha 15 cha Sheria hii;

“mwajiriwa” maana yake ni mtu ambaye-

- (a) ameingia mkataba wa ajira;
- (b) ameingia mkataba mwingine wowote ambao anawajibika kufanya kazi kwa upande mwingine wa mkataba na ambapo upande mwingine si mteja wa taaluma, biashara au kazi inayofanywa na mtu huyo;
- (c) Waziri anamchukulia kuwa ni mwajiriwa chini ya kifungu cha 98(3) cha Sheria ya Ajira na Mahusiano Kazini; au
- (d) anachukuliwa kuwa ni mwajiriwa kwa mujibu wa kifungu cha 61 cha Sheria ya Taasisi za Ajira;

Sura ya 366

Sura ya 300

“mchango wa mwajiriwa” maana yake ni kiwango cha asilimia kilichoainishwa cha mshahara wa mwezi wa mwajiriwa kinacholipwa katika Mfuko;

“mwajiri” ina maana iliyoainishwa katika Sheria ya Ajira na Mahusiano Kazini;

“mchango wa mwajiri” maana yake ni kiwango cha asilimia kilichoainishwa cha mshahara wa mwezi wa mwajiriwa ambacho kinalipwa kwenye Mfuko na mwajiri kwa ajili ya mwajiriwa;

- “mwaka wa fedha” maana yake ni kipindi cha miezi kumi na mbili kinachoishia tarehe 30 Juni ya kila mwaka;
- “sekta rasmi” maana yake ni sekta inayojumuisha mwajiri na waajiriwa ambao wameingia mkataba wa ajira au mafunzo ya kazi au mkataba mwingine wowote uliokusudiwa katika maana ya neno “mwajiriwa”;
- “mfuko” maana yake ni Mfuko wa Akiba wa GEPF wa Mafao ya Wastaafu ulioanzishwa chini ya kifungu cha 4 cha Sheria hii;
- “muajiriwa wa Serikali” maana yake ni mwajiriwa yeyote katika utumishi wa Serikali;
- “sekta isiyo rami” maana yake ni sekta inayojumuisha wafanyakazi ambao wanafanya kazi zisizo rasmi na ambao hawafanyi kazi kwa masharti ya mkataba wa ajira au mkataba mwingine wowote uliowekwa katika tafsiri ya neno “mwajiriwa”;
- “muundo wa lazima” maana yake ni muundo wa lazima ulioanzishwa na sheria na kudhaminiwa na Serikali kutoa mafao ya hifadhi ya jamii kwa waajiriwa;
- “Bodi ya utabibu” maana yake ni Bodi iliyoteuliwa na Waziri mwenye dhamana na masuala ya afya kwa madhumuni ya kuamua masuala ya kitabibu chini ya Sheria hii;
- “mwanachama wa Mfuko” maana yake ni mwanachama wa Mfuko kufuatana na masharti ya Sheria hii, lakini hajiumishi mwanachama alieteuliwa chini ya kifungu cha 9 na Jedwali katika Sheria hii;
- “amana ya mwanachama” maana yake ni michango ya mwajiriwa, michango ya mwajiri na riba yake ambayo ipo kwenye akaunti ya mwanachama;
- “Waziri” maana yake ni waziri mwenye dhamana na masuala ya fedha;
- “pensheni ya ujira” maana yake ni mshahara au mapato yatokanayo na mapato ya makato ya michango ambayo itazingatiwa katika ukadiriaji pensheni, au mafao mengine chini ya Sheria hii;
- “Daftari” maana yake ni Daftari la wanachama lililoanzishwa chini ya kifungu cha 17;

- “Akaunti ya Akiba” maana yake ni akaunti kuu iliyoanzishwa na Bodi chini ya kifungu cha 46;
- “mshahara” maana yake ni mshahara wa mwisho mwanachama baada ya makato unaolipwa kwa mwajiriwa kama malipo ya utumishi wake chini ya mkataba wa utumishi au uanagenzi au aina yoyote ya wito isipokuwa bonsai, faida, gharama za maisha, malipo ya muda baada ya kazi, ada ya wakurugenzi au nyongeza nyingine yoyote ya maslahi;
- “aliejajiri” maana yake ni mtu ambaye hafanyi kazi kwa mujibu wa mkataba wa ajira au uanagenzi au mkataba mwingine wowote uliokusudiwa kwenye tafsiri ya neno “mwajiriwa”;
- “muundo wa hifadhi ya jamii” maana yake ni kama ilivyoainishwa kwenye Sheria ya Mdhibiti na Msimamizi wa Sekta ya Hifadhi ya Jamii;
- “mpango wa hifadhi ya jamii” ina maana iliyotolewa kwake na Sheria ya Mdhibiti na Msimamizi wa Sekta ya Hifadhi ya Jamii;
- “muundo wa nyongeza” maana yake ni muundo ulioanzishwa na Bodi kwa mujibu wa kifungu cha 6 cha Sheria hii;
- “kiasi kilichotajwa” maana yake ni kiasi kilicho sawa na moja ya tano na themanini na pensheni ya mjumbe kwa kila mwezi uliokusudiwa kipindi cha huduma ambacho kinalipiwa pensheni au vipindi vya uchangiaji;
- “mpango wa ziada” maana yake ni mpango ulioanzishwa na Bodi kwa mujibu wa kifungu cha 6 cha Sheria hii;
- “chama cha wafanyakazi” maana yake ni chama cha wafanyakazi kilichosajiliwa;
- “mdhamini” maana yake ni mjumbe wa Bodi ya Wadhamini na inajumuisha Mwenyekiti.

SEHEMU YA PILI
KUANZISHWA NA USIMAMIZI WA MFUKO

Kuanzishwa kwa
Mfuko

4. Unaanzishwa Mfuko wa Hifadhi ya Jamii wa Mafao ya Wastaafu utakaojulikana kama Mfuko wa Hifadhi ya Jamii wa Mafao ya Wastaafu wa GEPP, ambamo ndani yake italipwa-

- (a) michango yote itakayohitajika kutolewa chini ya Sheria hii;
- (b) fedha zilizopatiokana kutokana na mradi wowote, mpango au shughuli ya ujasiriamali inayofadhiliwa na Mfuko;
- (c) fedha zilizopatikana kutokana na mali yoyote, uwekezaji, uwekaji rehani, fedha zilizotokana na au kuwekezwa katika Mfuko;
- (d) fedha zingine zozote ambazo zimepatikana kihalali zinazotakiwa kulipwa kwa Mfuko; na
- (e) Mali zote ambazo zimewekezwa kihalali katika Bodi.

Mfuko kuwa
wakala wa
Serikali

5.- (1) Mfuko utakuwa ni wakala wa Serikali kwa madhumuni ya malipo ya mafao ya mwisho yawastaafu.

(2) Mstaafu, chini ya kifungu hiki itajumuisha-

- (a) waajiriwa wa Jeshi la polisi na Watumishi wa Magereza ambao hawajachangia kwenye Mfuko kabla ya mwezi wa Julai, mwaka 1999 na ambao kiinua mgongo chao kinapaswa kulipwa na Hazina;
- (b) walimu waliaojiriwa chini ya mkataba wa utumishi baada ya kustaafu;
- (c) Wabunge, Wakuu wa Mikoa na Wakuu wa Wilaya; na
- (d) waajiriwa wengine wa Serikali ambao wanaweza kutambulika ipasavyo.

(3) Mfuko utapokea na kutunza michango kutoka Hazina kwa wastaafu waliorejewa katika kifungu kidogo cha (2).

(4) Mfuko utaingia katika mkataba wa uwakala na Serikali ambao utaelezea utaratibu na namna ambavyo majukumu ya wakalala na Serikali yatakavyo tekelezwa.

(5) Serikali ita-

- (a) lipa kwenye Mfuko ada yoyote ya uwakala na gharama za msingi kwa kiwango ambacho kitakubaliwa kati ya Mfuko na Serikali;
- (b) lipa kwenye Mfuko, kwa kila robo mwaka au kwa mwezi, kiasi cha fedha ambacho kitalipwa kama kiinua mgongo kwa wastaafu au wairthi wao;

Kuanzishwa
kwa
mipango
ya ziada
Sura
ya 135.

6.-(1) Bila kujali masharti ya kifungu cha (4), Bodi inaweza kuanzisha mipango ya ziada kwa mujibu wa masharti ya Sheria ya Mdhibiti wa Hifadhi ya Jamii.

(2) Bodi inaweza kusimamia mipango ya ziada iliyoanzishwa na mwajiri au mwajiriwa ambaye anadhaminiwa chini ya akaunti tofauti.

Usimamizi
wa Mfuko

7.-(1) Bodi itawajibika kwa usimamizi na utawala wa Mfuko kwa mujibu wa masharti ya Sheria hii, Sheria ya Mdhibiti wa Hifadhi ya Jamii na kanuni husika.

(2) Bodi itawasilisha kwa Mamlaka taarifa za fedha na taarifa nyingine zozote kuhusiana na shughuli za Mfuko za kila mwaka au katika muda wowote ambao Mamlaka inaweza kuzihitaji.

(3) Taarifa za fedha zilizorejewa katika kifungu kidogo cha (2), zitajumuisha-

- (a) hali ya kifedha ya Mfuko;
- (b) maelezo ya matumizi ya fedha;
- (c) taarifa nyingine yoyote kadri ambavyo Mamlaka inaweza kuhitaji.

Kuanzishwa
kwa Bodi

8.-(1) Inaanzishwa Bodi itakayojulikana kama Bodi ya Wadhamini ya Mfuko.

(2) Bodi itakuwa ni chombo cha kisheria kilicho na uwezo wa kudumu, mhuri rasmi na kwa jina lake la kibiashara, itakuwa na uwezo wa-

- (a) kushitaki na kushitakiwa;
- (b) kununua au vinginevyo kujipatia, kumilki, kutoza;
- (c) kuuza mali yake inayohamishika na mali isiyohamishika;
- (d) kukopa na kukopesha;
- (e) kuingia katika mikataba; na
- (f) kutekeleza majukumu mengine ambayo yanaweza kutkelezwa kihalali na kampuni.

Uteuzi na
muundo
wa Bodi

9.-(1) Bodi itakuwa na wajumbe wafuatao-

- (a) Mwenyekiti ambaye atateuliwa na Rais; na
- (b) wajumbe nane watakaoteuliwa na Waziri kama ifuatavyo-

- (i) mwakilishi wa Wizara ya Fedha;
- (ii) Wakili wa Serikali mwenye cheo cha Mfawidhi au zaidi atakayeiwakilisha Ofisi ya Mwanasheria Mkuu wa Serikali;
- (iii) mwakilishi kutoka katika chama kilicho na uwakilishi wa juu zaidi cha waajiri;
- (iv) wawakilishi wawili wa chama cha waajiri;
- (v) wawakilishi wawili wa chama cha wajumbe waliojiajiri na kutoka katika sekta isiyo rasmi, walio na ujuzi na uzoefu katika mambo ya hifadhi ya jamii;
- (vi) wawakilishi wawili kutoka wajumbe wa Mfuko ambao hawako katika chama chochote cha waajiriwa.

(2) Mkurugenzi Mkuu atakiwa ni Katibu wa Bodi.

(3) Uchaguzi wa watu kwa uteuzi chini ya kifungu cha 9(1)(b) utazingatia masharti kuhusiana na sifa kama zitakavyo ainishwa na Mamlaka,

Isipokuwa kwamba, masharti yatakayo ainishwa yatazingatia uwakilishi wa kijinsia.

Mwenendo
wa Bodi

10.-(1) Masharti yaliyomo kwenye Jedwali yataweka muda wa kuwa madarakani, vikao na taratibu nyingine za Bodi.

(2) Waziri anaweza, kwa Amri itakayo chapishwa katika *Gazeti la Serikali*, kurekebisha, kubadilisha au kuweka masharti mengine badala ya masharti yaliyopo katika Jedwali, isipokuwa kwa aya ya (1) ya jedwali hilo.

Majukumu
ya Bodi

11.-(1) Bodi itakuwa na jukumu la ujumla la udhibiti na usimamizi wa Mfuko.

(2) Bila kuathiri ujumla wa kifungu kidogo cha (1), majukumu ya Bodi yatakuwa ni-

- (a) kutunga, kutekeleza na kupitia sera kuhusiana na Mfuko kwa mujibu wa masharti ya Sheria hii;
- (b) kuwekeza fedha za Mfuko kwa uangalifu;
- (c) kumshauri Waziri kuhusiana na masuala ya usimamizi wa Sheria;
- (d) kutoa mwongozo wakisera na huduma za ushauri kwa madhumuni ya kukuza program za masuala ya hifadhi za jamii; na
- (e) kutekeleza mambo yoyote na kuingia katika mikataba ambayo kwa maoni ya Bodi ni muhimu kwa usimamizi bora wa Mfuko.

Kazi za Bodi

12. Litakuwa ni jukumu la Bodi-

- (a) kusimamia Mfuko kwa mujibu wa viwango vya juu zaidi ambavyo mtu aliye na maslahi ya wakifedha katika Mfuko mwingine wowote ulioanzishwa na sheria anaweza kutarajiwa kutekeleza;
- (b) kulinda na kukuza masuala ya wajumbe wa Bodi; na
- (c) katika utekelezaji wa majukumu yake, kutekeleza mkataba wa Bodi na kwa ujumla kukuza misingi ya utawala bora.

Kamati za
Bodi

13.-(1) Kwa madhumuni ya utekelezaji wa majukumu yake, Bodi itaanzisha idadi za kamati kwa ajili ya utekelezaji wa majukumu yake kuhusiana na usimamizi uwekezaji na utawala wa Mfuko.

(2) Kamati zilizoanzishwa chini ya kifungu kidogo cha (1) zitatekeleza majukumu zilizopewa kwa mujibu wa vigezo na masharti kama Bodi itakavyoweza kuamuliwa.

Kukasimu
mamlaka
ya Bodi

14.-(1) Bodi, kwa maandishi na kwa mhuri wake rasmi na kwa kuzingatia masharti na vigezo ambavyo itaviainisha, inaweza kukasimu yoyote kati ya majukumu yake yaliyoainishwa chini ya Sheria hii, kwa kamati yoyote ya Bodi, Mkurugenzi Mkuu au afisa mwingine yeyote wa Mfuko.

(2) Ukasimishaji unaofanywa chini ya kifungu hiki hautazuia Bodi kutekeleza majukumu iliyoyakasimisha.

(3) Bila kujali kifungu kidogo cha (1), Bodi haitakuwa na mamlaka ya kukasimu yoyote kati ya majukumu yake yanayohusu uidhinishaji wa bajeti ya mwaka, bajeti ya nyongeza au mahesabu ya mwaka.

Mkurugenzi
Mkuu

15.-(1) Kutakuwa na Mkurugenzi Mkuu atakayeteuliwa na Rais.

(2) Mkurugenzi Mkuu ata-

(a) kuwa ni afisa mtendaji mkuu na Afisa Masuhuli wa Mfuko;

(b) wajibika kwa uangalizi wa shughuli zote za Mfuko;

(c) tunza mhuri wa Mfuko; na

(d) tekeleza majukumu mengine yoyote kwa usimamizi bora wa Mfuko, kwa kadri ambavyo Bodi itaelekeza.

(3) Mkurugenzi Mkuu atakuwa madarakani kwa muda wa miaka mitano na, kwa kuzingatia utekelezaji unaoridhisha, anaweza kuteuliwa tena.

Uteuzi wa
watumishi
wa Mfuko

16.-(1) Bodi inaweza, kwa masharti na vigezo vya utumishi, kuteua watumishi kwa utekelezaji bora wa majukumu ya Bodi.

(2) Watumishi wa Mfuko watakuwa chini ya uangalizi wa moja kwa moja wa Mkurugenzi Mkuu na wataongozwa na kanuni na taratibu za ndani, kama Bodi itakavyoamua.

Kuanzishwa
kwa Daftari

17.-(1) Kunaanzishwa Daftari ambalo ndani yake zitatunzwa kumbukumbu na maelezo ya Mfuko.

(2) Mkurugenzi Mkuu atatunza kumbukumbu na maelezo ya wajumbe wa Mfuko na michango ya Mfuko katika Daftari, katika namna itakayo ainishwa katika Kanuni.

Taarifa kwa
wajumbe

18.-(1) Kila mwisho wa mwaka wa fedha, Mkurugenzi Mkuu atatoa kwa kila mwanachama maelezo ya mchango wake.

(2) Mfuko utaitisha Mkutano Mkuu wa Mwaka wa wajumbe na wadau kwa ajili ya utowaji wa taarifa ya utekelezaji wa Mfuko.

SEHEMU YA TATU UJUMBE WA MFUKO

Uanachama
wa Mfuko

19.-(1) Mtu atawajibika kuwa mwanachama wa Mfuko iwapo mtu huyo ni mwajiriwa katika sekta rasmi au sekta isiyo rasmi na ambaye hajaandikishwa au kudhaminiwa chini ya sheria nyingine yoyote ya hifadhi ya jamii.

(2) Bilakujali masharti ya kifungu kidogo cha (1)-

(a) raia wa kigeni au raia anaye ishi nje ya nchi anayefanya kazi ndani ya Tanzania katika mradi au muda maalum; au

(b) raia wa Tanzania anayefanya kazi nje ya Tanzania,

anaweza kuchangia katika Mfuko.

Ukomo wa
mwanachama
wa Mfuko

20.-(1) Mwanachama wa Mfuko atakoma kuwa mwanachama-

(a) atakapo fikia umri uliyotajwa wa kustaafu;

(b) atastaafu kwa sababu za kiafya kutokana na ushahidi utakaoiridhisha Bodi ya Madaktari kuwa mwanachama hana uwezo wa kutekeleza majukumu yake kutokana na sababu ya kutokuwa na akili kimamu au udhaifu wa kimwili.

(c) kutokana na ajira ya mwanachama kusitishwa au mwanachama huyo kujiuzulu kutoka katika utumishi wa mwajiri wake na mwanachama huyo anaamua kujiondoa katika uanachama wa Mfuko; au

(d) iwapo mwanachama anafariki.

(2) Mwajiriwa ambaye masharti ya ajira yameisha kabla ya kufikia umri wa kustaafu anaweza kuendelea kuwa mwanachama na kutunza akaunti yake na Mfuko ikiwa ataendelea kuchangia katika Mfuko, katika utaratibu utakaoweza kuamuliwa kati ya Mfuko na mwanachama mwenyewe.

Umri wa
kustaafu

21.-(1) Umri wa kustaafu wa hiari utakuwa miaka hamsini na tano.

(2) Mwanachama ambaye anafikia umri wa miaka hamsini na tano anaweza, katika muda wowote baada ya hapo, kuamua kustaafu kwa hiari, isipokuwa kama hajaamua kufanya hivyo, anaweza kuendelea kuwa mjumbe hadi hapo atakapo fikia umri wa miaka sitini.

(3) Wanachama ambao masharti yao ya kisheria ya ajira yanaainisha kipindi kifupi zaidi cha kustaafu kinyume na masharti ya kifungu kidogo cha (2), watastaafu kwa mujibu wa masharti yatakayoainishwa.

SEHEMU YA NNE

MICHANGO NA VIWANGO VYA PENSHEMI NA KIINUA MGONGO

Michango ya
wajumbe

22.-(1) Mjumbe anayechangia, kwa kila kipindi cha uchangiaji, baada ya siku iliyoteuliwa ambayo mwajiri anamwajiri mjumbe, atalipa kwa Mfuko kiasi cha mchango kitakachokuwa na mchango wa mwajiri na mchango wa mwajiriwa.

(2) Bila kuathiri masharti ya kifungu hiki, mchango utachukuliwa, kwa madhumuni ya Sheria hii, kuwa umelipwa kwa Mfuko kwa tarehe ya mwisho ya mwezi huo ambao kuhusiana nao malipo ya mshahara wa mwezi au sehemu ya mshahara wa mwezi yanafanyika kwake, na Afisa Masuhuli atakata mchango huo kutoka katika mshahara wa wajumbe.

(3) kila mchango unaodaiwa chini ya kifungu hiki utalipwa kwa Mfuko ndani ya mwezi mmoja baada ya kuisha kwa mwezi ambao mchango wa mwisho ulilipwa.

(4) Kila mjumbe atachangia kwa Mfuko kiasi kilicho sawa na asilimia moja ya mshahara wake wa mwezi, kwa kila kipindi cha uchangiaji.

(5) Mtu aliyedhaminiwa atachangia katika Mfukio kiasi ambacho ni sawa na asilimia tano ya mshahara wake wa mwezi, ambacho kitakatwa na mwajiri anayechangia kutoka katika mshahara wa mtu huyo anayedhaminiwa, na mwajiri anayechangia atachangia kwa ajili ya mtu huyo aliyedhaminiwa kiasi ambacho ni sawa na asilimia kumi na tano ya mshahara wa mtu huyo aliyedhaminiwa au kiasi ambacho Waziri anaweza, kwa Amri itakayochapishwa katika *Gazeti la Serikali*, kuamua.

(6) Mwajiri au mwajiriwa anaweza kuamua kuchangia kiasi ambacho nikikubwa zaidi ya kile kilichotajwa katika kifungu kidogo cha (5), isipokuwa kwamba kiwango cha mchango wa mwajiriwa hakitazidi asilimia kumi na tano ya mchango yote.

(7) Bila kuathiri masharti ya kifungu kidogo cha (5), wajumbe waliojajiri watachangia asilimia mia moja ya mchango kama ilivyoainishwa katika Kanuni.

(8) Mfuko utakuwa na haki ya kutoza tozo ya asilimia tano kwa kila mchango uliyocheleweshwa katika namna itakayoainishwa katika Kanuni.

(9) Kwa madhumuni ya kifungu hiki, "kipindi cha uchangiaji" maana yake ni kipindi kinachoishia katika tarehe ya mwisho ya kila mwezi.

Ukusanyaji wa
michango

23.-(1) Hatua yoyote ya ukusanyaji wa mchango chini ya kifungu cha 48 inaweza kuchukuliwa na Bodi, na iwapo hatua hiyo inachukuliwa mbele ya mahakama, afisa yeyote wa Mfuko au wakili aliyeteuliwa na Mfuko, kwa niaba hiyo, anaweza kufika na kuendesha kesi.

Sura ya 33

(2) Kila mchango halali unaodaiwa kwa Mfuko unaweza kupatikana kwa njia ya kesi chini ya amri ya XXXV ya Sheria ya Mwenendo wa Kesi za Madai.

(3) Pale ambapo kosa limetendwa kutokana na sababu ya kutokulipa kwa mchango unaotakiwa kulipwa kwa mujibu wa sheria, hakuna shitaka la jinai litakalofunguliwa pasipo kuwa na kibali cha Mkurugenzi wa Mashtaka.

Kiwango cha
pensheni na
kiinua mgongo

24.-(1) Kwa kuzingatia masharti ya kifungu hiki, mjumbe wa Mfuko ambaye atakuwa na si chini ya takriban miaka kumi na tano ya uchangiaji anaweza, baada ya kustaafu, kustahili ama-

- (a) kupata punguzo la pensheni ya mwaka ya kiasi kilichosawa na miezi mitatu hadi minne ya kiasi kilichotajwa;
- (b) punguzo la pensheni ya kiinua mgongo iliyosawa na mara kumi na mbili na nusu ya robo ya kiasi kilicho tajwa;
- (c) pensheni ya kustaafua ya kila mwezi kwa kiasi cha asilimia thelathini ya kiwango cha mshahara wa mwezi au mapato ya mstaafu yaliyo na nyongeza ya asilimia kumi na tano ya mshahara wake wa kawaida au mapato kwa kila miezi kumi na mbili ya bima ya pensheni ambayo ni nyongeza ya miezi mia moja themanini kwa kiasi cha ukomo wa juu wa asilimia sitini na saba nukta tano (67.5) ya mshahara wa kawaida au mapato; na
- (d) malipo ya mkupuo ya pensheni ya miezi ishirini na nne.

(2) Mjumbe ambaye amekuwa anachangia kwa Mfuko kwa miaka kumi na tano au zaidi, atastahili kulipwa pensheni kwa mujibu wa masharti ya kifungu kidogo cha (1) pindi atakapo staafu.

(3) Kwa madhumuni ya kupiga mahesabu ya kiasi cha pensheni au kiinua mgongo ya mjumbe chini ya Sheria hii, kiasi cha kawaida cha ujira cha mjumbe

alichokuwa anapata ndani ya miezi sita kabla ya kustaafu kitatumika katika kupigia mahesabu pensheni au kiinua mgongo chake.

Hifadhi ya
michango

25. Kiasi kinachotakiwa kulipwa kwa mjumbe, kitabaki kuwa mali ya Mfuko, hadi hapo kitakapolipwa kwa mujibu wa masharti ya Sheria hii, na hakitakuwa sehemu ya mali za mjumbe iwapo anafilisika au mali yake inakamatwa ili kulipia madeni, isipokuwa kama kiasi hicho kinahusiana na mkopo wa nyumba, ambapo mkopaji atakuwa na haki ya kuruhusu kiasi cha mchango wake kutumika kama dhamana kwa mkopo huo.

SEHEMU YA TANO MAFAO YATOLEWAYO NA MFUKO

Haki ya
mafao

26. Endapo mwanachama atakoma kuwa mwanachama kulingana na kifungu cha 20, kiasi kitakachokuwa kimewekwa kwenye mfuko wakati wa kuifunga akaunti hiyo kitalipwa kutoka kwenye Mfuko kwa mwanachama au mtu yeyote ambaye kisheria anastahili.

Mafao
yatakayolipwa
chini ya Sheria

27.-(1) Mafao yafuatayo yatalipwa chini ya sheria hii-

- (a) fao la kustaafu;
- (b) fao la warithi;
- (c) fao la kutojiweza;
- (d) fao la matibabu.
- (e) fao la mazishi;
- (f) fao la kifo;
- (g) fao la elimu.

(2) Bila ya kuathiri kifungu kidogo cha (1), Mfuko waweza kubuni mafao mengine.

Fao la
kustaafu

28. Kwa kuzingatia kifungu cha 27 fao la kustaafu litalipwa kwa mtu yeyote ambaye ni mwanachama ambaye amestaafu kutoka kwenye ajira katika umri uliowekwa.

Watu
wasio tahili
kulipwa
pensheni

29. Kila Mwanachama, ambaye ana vigezo vya kulipwa pensheni, ambaye hajatimiza umri wa chini uliowekwa wa miaka kumi na tano wa kuchangia anaweza, wakati wa kustaafu, kupewa kiinua mgongo ambacho hakitazidi mara tano ya kiwango kilichowekwa, ambacho kinachukuliwa kuwa kimehesabiwa kama hakuna kipindi kilichowekwa:

Isipokuwa kwamba malipo chini ya kifungu hiki hayatakuwa chini ya kiwango alichochangia mwanachama na mwajiri, katika mfuko pamoja na riba.

Fao kwa warithi
baada ya kifo

30.-(1) Pale mwanachama anapofariki kabla hajatimiza umri uliowekwa wa kustaafu, Bodi itampa wawakilishi wake kiinua mgongo kisichozidi pensheni yake ya mshahara wake wa mwaka au mahesabu yake ya kiinua mgongo, kama yapo ambalo ni kubwa

(2) Mkurugenzi Mkuu anaweza, baada ya kujiridhisha kwa ushahidi uliotolewa, atalipa kwa mrithi kulingana na utaratibu uliowekwa katika Kanuni na vifungu vya sheria vinavyohusiana na usimamizi wa mali za narehemu.

Fao la
kutojiweza

31.-(1) Fao la kutojiweza litakalo tolewa chini ya kifungu hiki litalipwa kwa mwanachama ambaye kimwili au kiakili ni mlemavu kiasi cha kumfanya mtu huyo hasiweze kuajiriwa.

(2) Vigezo na utaratibu uliowekwa wa usimamizi wa mafao chini ya kifungu hiki utakuwa kama utakavyowekwa katika Kanuni.

Mahesabu ya
mafao
yatakayolipwa

32. Mkurugenzi Mkuu atafanya mahesabu ya malipo ya mafao ya mwanachama, na taratibu za kulipa mafao zitakuwa kama itakavyoainishwa kwenye kanuni.

Marejeo ya
hesabu za
mafao

33.-(1) Mwanachama yeyote ambaye hajaridhika wa mafao chini ya kifungu cha 32 anaweza, ndani ya miezi sita baada ya maamuzi ya Mkurugenzi Mkuu, kuiomba Bodi kwa maandishi ifanye marejeo.

(2) Bodi itapitia na kutoa maamuzi chini ya kifungu kidogo cha (1) kwa namna iliyowekwa katika Kanuni.

Sura ya 135

(3) Mwanachama asiyeridhishwa na maamuzi ya Bodi anaweza kukata rufaa kwa Mamlaka kwa namna iliyowekwa chini ya Sheria ya Mamlaka Udhhibiti wa Mifuko ya Ustawi wa Jamii.

SEHEMU YA SITA MASHARTI YA FEDHA

Vyanzo vya
mapato

- 34.** Vyanzo vya mapato vitajumuisha -
- (a) michango ya wanachama;
 - (b) michango ya waajiri;
 - (c) fedha zinazotokana na uwekezaji;
 - (d) kiasi cha fedha ambacho kitapitishwa na Bunge kwa ajili ya Mfuko;
 - (e) kiasi chochote cha fedha ambacho kimekopwa na Bodi kulingana na masharti ya Sheria hii;
 - (f) fedha zinazopatikana kutokana na zawadi au msaada; na
 - (g) chanzo kingine chochote halali cha fedha kilichopo katika Mfuko.

Makadirio
ya Bajeti
ya
mwaka

35.-(1) Kabla ya kuanza kwa mwaka mpya wa fedha Mkurugenzi Mkuu, ataandaa au atawezesha kuandaliwa kwa makadirio ya mapato na matumizi ya mwaka wa fedha unaofuatia na kuyawasilisha kwenye Bodi.

(2) Baada ya kupokea makadirio kwa mujibu wa kifungu kidogo cha (1), Bodi itayaangalia na kuyachukua makadirio hayo kulingana na marekebisho kama Bodi itakavyoona inafaa.

(3) Makadirio ya Bajeti ya mwaka yataweka masharti kwa makadirio yote ya matumizi kwa mwaka ujao wa fedha na yatahusu-

- (a) malipo ya mafao kwa wanachama;

- (b) malipo ya mishahara, posho na gharama nyingine zinazohusu Bodi, Kamati za Bodi na watumishi wa Mfuko;
 - (c) malipo kwa ajili ya ujenzi, matengenezo ya majengo au mali za Mfuko zisizohamishika;
 - (d) malipo kwa ajili ya matengenezo na ununuzi wa samani na vifaa vingine vya Mfuko; na
 - (e) kuanzisha mfuko wa akiba kwa ajili ya kutimiza majukumu ya matumizi kadri Bodi itakavyoona inafaa.
- (4) Matumizi hayatafanywa kwa ajili ya Mfuko isipokuwa kulingana na masharti ya makadirio ya bajeti ya mwaka au makadirio ya Nyongeza yatakayofanywa na Bodi.
- (5) Usimamizi wa mwaka wa matumizi ya mfuko hayatazidi asilimia kumi na tano ya mapato yote ya mfuko.
- (6) Nakala ya Makadirio ya mwaka baada ya kuidhinishwa na Bodi itapelekwa kwa Waziri.
- (7) Bajeti itakayoidhinishwa na Bodi itatumika kulingana na matumizi yaliyoainishwa ya Mfuko na kwa kiasi kilichoainishwa kwenye bajeti ya mwaka au bajeti ya nyongeza.
- (8) Bila ya kujali masharti ya kifungu kidogo cha
- (6)-
- (a) Bodi inaweza-
 - (i) kuhamisha kiasi kutoka kwenye matumizi yaliyowekwa kwa ajili ya Bajeti kuu kulingana na kitu chochote, ambacho kimewekwa katika bajeti iliyopita na kinyume chake; au
 - (ii) kubadilisha kiwango cha matumizi kulingana na mazingira ambayo hayakuonekana wakati wa kuandaa bajeti, kulingana na kuwasilisha kwa bajeti ya nyongeza katika Bodi ndani ya miezi miwili ya mabadiliko hayo ya matumizi; na

- (b) Mkurugenzi Mkuu anaweza kubadili matumizi ya fedha kutoka kifungu kimoja cha bajeti kwenda kifungu kingine ndani ya usimamizi uliowekwa au matumizi.

Mahesabu na
Ukaguzi

36.-(1) Hesabu za Mfuko yatafanywa na Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali au kampuni nyingine ya ukaguzi iliyoidhinishwa na Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali.

(2) Hesabu za Mfuko, ndani ya miezi mitatu baada ya mwaka wa fedha kumalizika, zitawasilishwa kwa ukaguzi.

(3) Hesabu zote zilizokaguliwa zitawasilishwa kwenye mkutano wa Bodi kwa ajili ya kuidhinishwa na kupokelewa.

(4) Bodi, Mara baada ya hesabu za Mfuko kukaguliwa, na kwa namna yoyote si zaidi ya miezi sita baada ya mwaka wa fedha kumalizika, itawasilisha nakala ya taarifa za hesabu zilizokaguliwa pamoja na nakala ya taarifa kwa Waziri, Mamlaka na Benki.

(5) Waziri baada ya kupokea taarifa iliyorejewa chini ya kifungu kidogo cha (4) atawasilisha Bungeni taarifa itakayokuwa na-

- (a) nakala ya taarifa za hesabu za Mfuko zilizokaguliwa; na
(b) nakala ya taarifa kuhusu shughuli za Mfuko kwa mwaka wa fedha unaofuata.

Msamaha wa kodi

37.-(1) Kodi ya Ushuru wa stempu, na Kodi ya ushuru wa bidhaa na ongezeko la thamani haitatozwa kwenye risiti, hati ya mkataba au nyaraka zozote inazotolewa na Bodi kwa niaba ya Mfuko au mtu yeyote anayepokea mafao au marejesho ya michango chini ya Sheria hii.

(2) Bila kujali kifungu kidogo cha (1), kifungu hiki hakitatafsiriwa kutoa msamaha kwa mtu ambaye anawajibika kulipia ushuru wa stempu au aliyepewa mamlaka kisheria kulipwa kwa niaba yake au nyaraka yoyote ambayo ingetakiwa kulipiwa kodi hiyo chini ya Sheria ya Kodi ya ushuru wa stamp.

Sura ya 189

(3) Kodi ya Mapato juu ya michango na mafao yaliyolipwa chini ya mpango au kodi ya makampuni au kodi yeyote ambayo inaweza kuwasilishwa kwenye mfuko haitatakiwa kuwasilishwa katika Mfuko.

Taarifa ya
mkadiriaji
bima

38.-(1) Kila baada ya miaka mitatu au ndani ya muda ambao Bodi inaweza kuelekeza, Mamlaka itawezesha mali na madeni ya Mfuko kuthaminiwa na Mkadiriaji bima.

(2) Bila ya kujali masharti ya kifungu kidogo cha (1), Bodi inaweza kulipa kulingana na asili na mazingira ya utendaji wa mfuko, kwa ruhusa ya Mamlaka, chini ya kifungu kidogo cha (1).

(3) Taarifa ya uthamini itawasilishwa kwenye Mamlaka na kwa Waziri.

(4) Baada ya kupokea taarifa, mamlaka inaweza kuelekeza Mfuko kuchukua hatua zinazostahili kurekebisha mapungufu yaliyobainishwa katika taarifa.

Uwekezaji wa
fedha za
mfuko

39.-(1) Bodi inaweza kuwekeza fedha za Mfuko katika vitega uchumi ambayo itaona vinafaa, na uwekezaji utafanyika baada ya Bodi kujiridhisha kuwa vitega uchumi hivyo vinalipa.

(2) Kwa kuzingatia usahihi wa biashara inayokusudiwa kufanyiwa uwekezaji, Bodi itazingatia uhalisia wa kiuchumi na kibiashara wa biashara hiyo na miongozo kama itakavyotolewa chini ya Sheria ya Mdhibiti na Msimamizi wa Hifadhi ya Jamii.

(3) Iwapo uwekezaji utafanywa kwa kukiuka masharti ya kifungu kidogo cha (1), kila mwanachama wa Bodi ya wadhamini, mkurugenzi, meneja au afisa yeyote wa Mfuko aliyeshiriki katika kufanya maamuzi ya uwekezaji atawajibika yeye mwenyewe kulipa faini kama ilivyoelekezwa chini ya Sheria ya Mdhibiti na Msimamizi wa Hifadhi ya Jamii.

Sura ya 135

(4) Bila kujali adhabu iliyotolewa chini ya kifungu kidogo cha (3) Benki Kuu itakuwa na mamlaka ya-

(a) kusimamia Mfuko ili uweze kuzingatia taratibu za uwekezaji;

(b) kusitisha uwekezaji; au

- (c) kuchukua hatua nyingine yoyote inayoona kuwa inafaa.

Akaunti za benki
za Mfuko

40. Mfuko utamiliki akaunti moja ya benki au zaidi kama Bodi itakavyoidhinisha, kwa kuzingatia miongozo iliyotolewa na Mamlaka ambamo fedha zote zinazolipwa kwenye Mfuko na mapato yote yanayotokana na uwekezaji wa Mfuko zitawekwa.

Uwezo wa
kukopa

41. Bodi inaweza, baada ya kupata idhini ya Waziri, kukopa fedha kwa madhumuni ya shughuli za Bodi kwa njia ya mkopo au mkopo wa deni katika akaunti ya Benki, kwa dhamana na masharti yanayohusiana na ulipaji wa kiasi kilichokopwa pamoja na riba, kama Bodi inavyoona inafaa.

Marupurupu na
posho za
wajumbe wa
Bodi

42. Wajumbe wa Bodi watastahili kulipwa malipo ambayo yameidhinishwa na Waziri, baada ya kupokea mapendekezo ya Bodi.

SEHEMU YA SABA MASHARTI MENGINEYO

Kinga dhidi ya
kuwajibika
kisheria

43. Tendo au jambo lolote lililofanywa, au ambalo halijafanywa na mdhamini yeyote, au mwajiriwa au wakala wa Mfuko halitamfanya mtu huyo achukuliwe hatua au awajibishwe iwapo jambo hilo limefanywa au halijafanywa kwa nia njema katika kutekeleza au dhana ya utekelezaji wa majukumu yake kama mdhamini, mwajiriwa wa Mfuko au wakala.

Mamlaka ya
kutunga Kanuni

44.-(1) Waziri baada ya kushauriana na Bodi, anaweza kutunga Kanuni kwa lengo la kutekeleza masharti ya Sheria hii kikamilifu.

(2) Bila ya kuathiri masharti ya jumla ya kifungu kidogo cha (1), waziri anaweza kutunga Kanuni zinaelezea-

- (a) utaratibu wa kuchangia kwenye mfuko;
- (b) utaratibu wa kusimamia mafao yanayotolewa chini ya sheria hii;
- (c) namna ya kutumia fedha zilizopo kwenye akaunti ya Mfuko na ambazo hakuna madai halali yaliyofanywa ndani ya kipindi cha miaka mitatu tangu kiasi hicho cha fedha kilipopaswa kulipwa kulingana na masharti ya Sheria hii;
- (d) utaratibu wa namna mfuko utakavyoweka na kutunza taarifa za wanachama; na
- (e) suala jingine muhimu kwa madhumuni ya usimamizi bora wa Mfuko ikiwa ni pamoja na kufafanua wajibu wa wadau, waajiri na wanufaishwa.

Akaunti ya Akiba

45.-(1) Bodi itaanzisha, kutunza, na kusimamia Akaunti ya Akiba ambayo ndani yake-

- (a) zitawekwa fedha zitakazolipwa kwenye Akaunti ya Akiba kwa mujibu wa Sheria hii; na
- (b) zitawekwa faini zitakazotowwa chini ya Sheria hii.

(2) Fedha zitakazolipwa kwenye Akaunti ya Akiba kwa mujibu wa kifungu kidogo cha (1), zinaweza kutumika zote au sehemu yake kufidia hasara na kulipa gharama nyingine kama itakavyoamuliwa na Bodi.

Dhamana ya mkopo wa nyumba

46. Mwanachama wa Mfuko anaweza kutumia sehemu ya mafao yake kama dhamana ya mkopo wa nyumba ya makazi kulingana na utaratibu ulioelekezwa na Mamlaka.

Adhabu kwa ucheleweshaji wa ulipaji wa mafao

47.-(1) Mwajiri, ndani ya kipindi cha miezi sita kabla ya tarehe ya kustaafu kwa mwajiriwa, ataufahamisha Mfuko kwa maandishi kuhusu tarehe ya kustaafu kwa mwajiriwa husika.

(2) Mfuko utahakikisha kwamba, baada ya kupokea taarifa ya kustaafu kwa mwajiriwa ambaye ni mwanachama, unamlipa mwanachama huyo mafao yake ya kustaafu anayostahili ndani ya siku sitini.

(3) Pale ambapo Mfuko utashindwa kumlipa mwanachama mafao ya kustaafu ndani ya kipindi kilichoainishwa katika kifungu kidogo cha (2), na mwanachama hakusababisha kushindwa huko, Mfuko utamlipa mwanachama huyo kiasi cha jumla ya mafao anayostahili kama malipo ya kustaafu, pamoja na asilimia kumi na tano ya kiasi hicho kwa mwaka kama adhabu.

Makosa na
adhabu

48.-(1) Mtu yeyote ambaye -

- (a) kwa makusudi atoa kutoka kwenye mshahara wa mtumishi ambaye anachangia kwenye mfuko, kiasi cha fedha ambazo ni zaidi ya kiwango kilichowekwa kisheria;
- (b) kwa lengo la kujipatia faida au malipo kwa ajili yake au mtu mwingine yeyote, kwa makusudi anatoa taarifa za uongo au anamwakilisha mtu mwingine, anawasilisha au anasababisha kuwasilishwa kwa taarifa ambazo anajua ni za uongo;
- (c) bila kuwa na sababu ya msingi, atashindwa kuwasilisha kwenye mfuko, fomu za mwanachama ambaye mafao yake yameiva;
- (d) atadanganya au kushindwa kutoa taarifa sahihi;
- (e) akiwa ni mwajiri atashindwa kuwasilisha michango ya watumishi wake wanaochangia kwenye mfuko, na kusababishia watumishi hao kutokuingiziwa michango yao;
- (f) atakiuka masharti ya sheria hii pale ambapo hakuna adhabu iliyoainishwa,

atakuwa ametenda kosa na atawajibika, baada ya kutiwa hatiani-

- (i) ikiwa kosa limetendeka chini ya kifungu cha (1)(a),(b),(c) na (e) kulipa faini isiyopungua mara mbili ya kiasi cha hasara iliyotokea au kifungo kwa kipichi kisichozidi miezi sita au vyote;
- (ii) ikiwa kosa limetendeka chini ya kifungu kidogo (1) (d) na (f) atawajibika kulipa faini isiyozidi shilingi milioni mbili au kifungo kwa kipindi kisichozidi miezi sita au vyote.

(2) Pamoja na adhabu zilizoainishwa katika kifungu kidogo cha (1)(i), mahakama itatoa amri ya ulipwaji wa gharama ya hasara iliyopatikana.

Kufutwa na
masharti ya
mpito
Sura ya 51

49.-(1) Sheria ya Mfuko wa Akiba ya Wafanyakazi wa Serikali ya mwaka 1942 inafutwa.

(2) Bila kujali kufutwa kwa Sheria ya Mfuko wa Akiba ya Wafanyakazi wa Serikali-

- (a) waajiri na wanachama wote waliokuwa wanachangia mfuko chini ya Sheria iliyofutwa watatambulika kuwa wamechangia chini ya Sheria hii;
- (b) maelekezo yote yaliyotolewa chini ya Sheria iliyofutwa na ambayo yanaendelea kutekelezwa mara kabla ya kuanza kwa Sheria hii yataendelea kutumika hadi hapo yatakapotolewa chini ya Sheria hii.
- (c) Sheria Ndogo zote zilizotengenezwa chini ya Sheria iliyofutwa zitatambulika kuwa zimetengenezwa chini ya Sheria hii na zitaendelea kutumika hadi hapo zitakapofutwa au kutenguliwa na Sheria Ndogo zitakazotengenezwa chini ya Sheria hii;

- (d) mamlaka, haki, marupurupu, majukumu na stahili au madeni ambayo kabla ya kuanza kutumika kwa sheria hii yalikuwepo kwa mujibu wa sheria iliyofutwa yatatambulika kuwa yamewekwa chini ya Sheria hii;
- (e) teuzi zote na hatua zilizochukuliwa kihalali chini ya Sheria iliyofutwa zitaendelea kuwa halali hadi zitakapofutwa au kubadilishwa chini ya Sheria hii au kanuni;
- (f) mali zote na madeni yaliyokuwepo mara kabla ya kuanza kutumika kwa sheria hii yatakabidhiwa kwenye mfuko pamoja na haki na wajibu unaotokana na mkataba wowote au vinginevyo utaendelea kama vile Sheria hii haijaanza kutumika;
- (g) kila kitu kilichofanyika au hatua iliyochukuliwa chini ya sheria iliyofutwa kama haitakinzana na masharti ya Sheria hii, itatambulika kuwa imefanyika au imeelekezwa chini ya masharti yanayouwiana katika Sheria hii;
- (h) ikiwa mara kabla ya kuanza kwa Sheria hii-
 - (i) mtu aliwajibika kulipa kiasi cha fedha kwenye Mfuko wa Akiba ya Wafanyakazi Serikalini kutokana na deni ambalo alikuwa akidaiwa chini ya sheria inayofutwa, mtu huyo anapaswa kufanya malipo hayo kwenye Mfuko kama vile deni hilo linatokana na Sheria hii; na
 - (ii) shauri lolote linalotokana na kosa lililotendeka chini ya sheria inayofutwa au kwa ajili ya kukusanya kiasi cha fedha zilizokuwa zinadaiwa chini ya sheria iliyofutwa, ambalo linaendelea katika mahakama yoyote, litaendelea kama vile limefunguliwa chini ya Sheria hii.

JEDWALI

(Limetengenezwa chini ya kifungu cha 10)

MASHARTI YANAYOHUSIANA NA BODI

- Muda wa uteuzi
- 1.-(1) Kila mjumbe wa Bodi ataendelea kushika nafasi hiyo kwa miaka mitatu kuanzia tarehe aliyoteuliwa na anaweza kuteuliwa tena kwa kipindi kingine.
- (2) Bila kuathiri aya ya (1), mjumbe anaweza kujiuzulu muda wowote kwa kutoa notisi ya maandishi kwa mamlaka ya uteuzi na atakoma kuwa mjumbe kuanzia tarehe iliyotajwa kwenye notisi na endapo hakuna tarehe iliyotajwa kwenye notisi, kuanzia tarehe ambayo mamlaka ya uteuzi itaipokea notisi hiyo.
- (3) Mtu ambaye ni mjumbe kutokana na kuwa mtumishi katika ofisi nyingine, atakoma kuwa mjumbe pindi atakapoacha kuwa mtumishi kwenye ofisi ambayo kwayo alikuwa mjumbe.
- Kusitishwa kwa uteuzi
2. Pale mjumbe yeyote wa Bodi ataacha kuhudhuria vikao vitatu vya Bodi mfululizo bila sababu ya msingi, Bodi itaishauri mamlaka ya uteuzi kuhusu kutokahudhuria huko na mamlaka ya uteuzi itaweza kusitisha uteuzi wa mjumbe huyo na kumteua mjumbe mwingine kushika nafasi yake.
- Kukoma kwa mjumbe
3. Pale mjumbe wa Bodi atakapokoma kuwa mjumbe kwa sababu ya kujiuzulu au kifo au akishindwa kutekeleza majukumu yake kwa sababu ya kuwa nje ya nchi au kwa sababu ya ulemavu au ugonjwa wa akili au endapo mamlaka ya uteuzi itasitisha uteuzi wake chini ya aya ya 2, mamlaka ya uteuzi itaweza kumteua mjumbe mwingine kushika nafasi yake, na mjumbe atakayeteuliwa atashika nafasi hiyo kwa mujibu wa jedwali hili kwa kipindi kilichobaki cha mtangulizi wake kwa muda uliobakia wa mjumbe aliyetangulia.
- Makamu Mwenyekiti
4. Bodi itamteua mmoja wa wajumbe wake kuwa Makamu Mwenyekiti na endapo ataendelea kuwa mjumbe, atashika wadhifa huo wa Makamu Mwenyekiti kwa kipindi kitakachowekwa na Bodi na ataweza kuteuliwa kwa kipindi kingine baada ya muda huo kwisha.
- Mamlaka ya Mwenyekiti na Makamu Mwenyekiti
5. -(1) Mwenyekiti ataongoza vikao vyote vya Bodi.
- (2) Endapo kwenye kikao chochote cha Bodi Mwenyekiti hatakuwepo, Makamu Mwenyekiti atakiongoza kikao hicho.

(3) Endapo wote Mwenyekiti na Makamu Mwenyekiti hawatakuwepo kwenye kikao chochote cha Bodi, wajumbe watakaokuwepo watamteua mmoja kati yako kuwa Mwenyekiti wa muda ambaye atakiongoza kikao hicho.

(4) Mwenyekiti, Makamu Mwenyekiti au Mwenyekiti wa muda watakuwa na haki ya kupiga kura, na endapo kura zitafungana, watakuwa na kura ya ziada ya turufu.

Mikutano na utaratibu wa kuendesha mikutano

6.-(1) Mkutano wa kawaida wa Bodi utaitishwa na Mwenyekiti na notisi/taarifa inayoainisha mahali, tarehe na muda wa mkutano itatumwa kwa kila mjumbe kupitia sehemu yake ya kawaida anapofanyia shughuli au anapoishi katika kipindi kisichopungua siku kumi na nne kabla ya tarehe ya mkutano huo.

(2) Bodi itafanya mikutano yake ya kawaida mara nne kwa mwaka, isipokuwa Mwenyekiti anaweza kuitisha mkutano wa dharura pale patakapokuwa na haja ya kufanya hiyo.

(3) Mwenyekiti wa Bodi anaweza kumkaribisha mtu yeyote ambaye si mjumbe wa Bodi kushiriki katika majadiliano ya vikao vya Bodi lakini mtu huyo hatakuwa na haki ya kupiga kura.

Akidi

7.-(1) Akidi ya kikao chochote cha Bodi itakuwa ni nusu ya wajumbe wote.

(2) Endapo Mwenyekiti hatakuwepo kwenye kikao cha Bodi, wajumbe waliopo watamteua mjumbe mmoja kati yako kuwa Mwenyekiti wa muda wa kikao hicho.

Maamuzi kwa kusambaza nyaraka

8.-(1) Bila kujali masharti ya aya ya 3, pale mwenyekiti atakapoelekeza, maamuzi yanaweza kufanywa na Bodi bila kufanya mkutano kwa kusambaza nyaraka muhimu kwa wajumbe wote na watotoa maoni yako kwa maandishi.

(2) Mjumbe yeyote anaweza kupendekeza maamuzi hayo yasizingatiwe na suala hilo lishughulikiwe kwenye kikao cha Bodi.

Dondoo za kikao

9. Dondoo za kila kikao cha Bodi zilizowekwa katika mfumo sahihi zitathibitishwa na Bodi katika kikao kinachofuata na zitasainiwa na Mwenyekiti kwenye kikao.

Uhalali wa lakiri

10. Lakiri ya Bodi haitawekwa kwenye hati au nyaraka yoyote isipokuwa kwa kushuhudiwa na Mwenyekiti na Mkurugenzi Mkuu au kwa kushuhudiwa na aidha Mwenyekiti ama Mkurugenzi Mkuu na mjumbe mmoja wa Bodi atakayeteuliwa na Bodi kwa ajili hiyo.

Kutiwa saini kwa nyaraka

11. Nyaraka zote ambazo Bodi inahusika isipokuwa nyaraka ambazo zinapaswa kisheria kuwekwa lakiri, maamuzi yote ya Bodi yanaweza kutiwa saini na Mkurugenzi Mkuu au afisa mwingine atakayeidhinishwa na Mkurugenzi Mkuu kwa ajili hiyo.

Uhalali wa
vikao

12. Hakuna jambo au kikao cha Bodi kitakachokuwa batili kwa sababu ya kutotimia kwa akidi wakati jambo au kikao hicho kikifanyika au mapungufu katika uteuzi wa mjumbe yeyote au kutokana na ukweli kwamba mjumbe yeyote alibatilishwa au hakustahili kushiriki wakati wa jambo au kikao hicho.

Bodi kujiwekea
utaratibu

13. Kwa kuzingatia masharti ya jedwali hili, Bodi yaweza kujiwekea utaratibu.

Umepitishwa na Bunge tarehe 5 Novemba, 2013.



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Katibu wa Bunge