



THE UNITED REPUBLIC OF TANZANIA

CHAPTER 50

THE NATIONAL SOCIAL SECURITY FUND ACT,

[PRINCIPAL LEGISLATION]

REVISED EDITION OF 2015

This Edition of the National Social Security Fund Act, Chapter 50, incorporates all amendments made up to and including 31st December, 2015 and is printed under the authority of section 4 of the Laws Revision Act, Chapter 4.

Dar es Salaam,
30th March, 2016

GEORGE M. MASAJU,
Attorney General

CHAPTER 50

THE NATIONAL SOCIAL SECURITY FUND ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section Title

**PART I
PRELIMINARY PROVISIONS**

1. Short title.
2. Interpretation.

**PART II
NATIONAL SOCIAL SECURITY FUND**

3. Constitution of the National Social Security Fund.
4. Management and administration of Fund.
5. Vesting of existing Fund to the National Social Security Fund.
- 5A. Funds of the National Social Security Fund.

**PART III
INSURED PERSONS AND CONTRIBUTING EMPLOYERS**

6. Insured persons.
7. Insured ministers of religion.
8. [Repealed]
9. Continuity of insurance despite loss of qualifications for registration.
10. Contribution records of insured persons.

**PART IV
REGISTRATION AND CONTRIBUTIONS TO THE FUND**

11. Registration of employers.
12. Statutory contributions by contributing employers.
13. Deductions of employee's share.
14. Payment of contributions.

- 15. Treating unpaid contributions as paid.
- 15A. Non remittance by the Employer.
- 16. Refund of contributions paid in error.
- 17. Payment by an insured person.
- 18. Recovery of contributions.
- 19. Contributions when benefit drawn or during bankruptcy of employee.
- 20. Contributions, etc., inalienable.
- 20A. President may exempt from certain conditions.

**PART V
BENEFITS**

- 21. Classes of benefits.
- 22. Operation dates in respect of the benefits.
- 23. Conditions for retirement pension.
- 24. Amount of retirement pension.
- 25. Duration of retirement pension.
- 26. Retirement special lump sum.
- 27. Early retirement.
- 28. Conditions for invalidity pension.
- 29. Amount of invalidity pension.
- 30. Duration of invalidity pension.
- 31. [Repealed]
- 32. [Repealed].
- 33. Conditions for survivors pension.
- 34. Amount of survivors pension.
- 35. Duration of survivors pension.
- 36. Survivors special lump sum payment.
- 37. Retirement and invalidity grant.
- 38. Funeral grant.
- 39. Employment injury benefit.
- 40. Types of employment injury benefits.
- 41. Condition for health insurance.
- 42. Medical benefits to be provided.
- 43. Agreements with medical providers.
- 44. Conditions for maternity benefit.
- 45. Types of maternity benefits.
- 46. [Repealed]
- 47. Restriction on double payment.
- 48. Adjustment of benefits.
- 49. Penalty for payment of benefits.

- 50. Regulations for benefit provision.
- 51. Repayment of benefit improperly received.
- 52. Benefit to be inalienable.

**PART VI
BOARD OF TRUSTEES OF NATIONAL
SOCIAL SECURITY FUND**

- 53. Establishment of Board of Trustees.
- 54. Management objectives of the Fund.
- 55. Functions of the Board.
- 56. Duties of the Board.
- 57. Powers of the Board.
- 58. Remuneration, allowances and benefits.
- 59. Power to delegate.
- 60. Minister may give directions to the Board.

**PART VII
FINANCIAL PROVISIONS**

- 61. Fund to vest in Board.
- 62. Investment of moneys in the Fund.
- 63. Utilisation of Fund for acquisition of assets.
- 64. Board's liability to insured persons guaranteed.
- 65. Refund of excess contributions.
- 66. Financial resources.
- 67. Annual and supplementary budget.
- 68. Power to borrow.
- 69. Accounts and audit.
- 70. Fund account.
- 71. Accounts of the Fund.
- 71A. Management of the Fund.
- 71.B. Actuarial reports to be furnished to the Bank.

**PART VIII
LEGAL PROCEEDINGS, OFFENCES AND PENALTIES**

- 72. Criminal proceedings.
- 73. Joinder in cases of non-payment of contributions.

- 74. Recovery of Contribution.
- 75. Priority for payment of contributions.
- 76. Protection of contributions.
- 77. Protection against attachment.
- 78. Liability for acts of association of persons.
- 79. Certificates as evidence.

**PART IX
DETERMINATION OF CLAIMS TO BENEFIT AND
LIABILITY FOR CONTRIBUTIONS**

- 80. Responsibility of Director-General.
- 81. Determination of claims to benefit.
- 82. Determination of questions as to liability for contributions.
- 83. [Repealed]
- 84. [Repealed]
- 85. [Repealed]

**PART X
GENERAL PROVISIONS**

- 86. Deemed to be in the employment of the first-mentioned person.
- 87. Inspectors.
- 88. Liability of members.
- 89. Regulations.
- 90. Tax exemption.
- 91. Establishment of supplementary schemes.
- 92. Reciprocal agreements.
- 93. [Repeal]
- 94. Savings.
- 95. [Omitted.]

SCHEDULES

CHAPTER 50

THE NATIONAL SOCIAL SECURITY FUND ACT

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

[1st July, 1998]
[G.N. No. 335 of 1998]

Act Nos.
28 of 1997
8 of 1998
1 of 2008
13 of 2009
5 of 2012
24 of 2015

G.N. Nos.
418 of 1998
420 of 1998
421 of 1998
590 of 1998
284 of 1999
286 of 2000
237 of 2001
97 of 2002
394 of 2003
140 of 2005
153 of 2005

**PART I
PRELIMINARY PROVISIONS**

1. This Act may be cited as the National Social Security Fund Act. Short title
2. In this Act, unless the context otherwise requires- Interpre-
tation
- “actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problems especially those involving uncertain future events and that person is a member of an instate, society or association of actuaries approved by the Authority; Act Nos.
5 of 2012
s.41
24 of
2015 s.33
G.N. No.
590 of 1998

- “actuarial valuation” means valuation of assets and liabilities of a scheme made by an actuarial who is an expert in the science of calculations of insurance risks and rates of premiums and contributions;
- “actuarial report” means a report prepared by an actuary who effected actuarial evaluation under this Act;
- “administration expenses” means all cost incidental or in relation to registration of members, collection of members’ contributions, investment and payment of members’ benefits;
- 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;
- “benefit” means a benefit payable under this Act;
- “Board” means the Board of Trustees of the National Social Security Fund;
- “child” includes a step child, a child born out of wedlock and an adopted child in relation to insured person;
- “commuting accident” means accident occurring to the insured person and involving his employer’s means of transport;
- Cap. 366 “contract of service” has the meaning ascribed to it under the Employment and Labour Relations Act;
- “contributing employer” means-
- (a) every person, corporate or unincorporate body of persons having a contract of service or apprenticeship with an employee; and
 - (b) every Government department employing employees not covered under the Government schemes;
- “contributing employment” means employment in respect of an insured person;
- “contribution period” means where wages are paid to an employee-
- (a) at intervals of more than a fortnight, the month during which the wages are paid;
 - (b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the wages are paid; or
 - (c) daily, the day on which the wages are paid:
- Provided that where wages are paid in advance to an employee the contributions period shall be deemed to be the appropriate period to which the wages relate and, if the wages relate to more than such period, each such period shall be deemed to be a contribution period;

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

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

“pensionable age” means the age of sixty years;

“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, Director’s fees or any other additional emoluments;

“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;

“special lump sum” means an average amount of the last sixty months contributions times the number of months of contributions paid to the Fund:

Provided that, where contributions so paid are less than sixty months, the insured person shall be paid his accumulated balance as a lump sum plus accrued interest as may be prescribed by the Social Security Regulatory Authority from time to time;

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

“wage” means remuneration in money paid to an employee under a contract of service or apprenticeship whether at a payable fixed or determinable intervals of time-

- (a) in respect of the normal period of work to be performed by an employee;
- (b) where payment is calculated in relation to set tasks or journeys completed by the employee;
- (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the employee, and included any allowance paid by the employer to the employee directly or indirectly in respect of living termination of employment.

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

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

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

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

“employee” means an individual who has entered into a contract of employment; or has entered into any other contract in 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
- (iii) is deemed to be an employee by the Minister under section 98(3) of the Employment and Labour Relations Act; Cap. 366
- (iv) is deemed to be an employee in accordance with section 61 of the Labour Institutions Act; Cap. 300

“employee’s share” means that portion of a statutory contribution set out in the First Schedule to this Act to be employees share to such contribution;

“existing Fund” means the National Provident Fund;

“formal sector” means the sector which include employers and employees who have entered into contract of employment or apprenticeship or any other contract;

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

“informal sector” means the sector which include workers who work informally and who do not work in terms of an employment contract or any other contract;

“inspector” means a compliance officer or any other person duly appointed by the Board of Trustees;

“insured person” means an employee or a worker registered by the Fund and includes a person entitled to or receiving benefits under the Fund;

“medical board” means a Board appointed by the Minister;

“member” means any person or employee employed in the formal or informal sector or self employed within mainland Tanzania insured or registered under this Act;

**PART II
NATIONAL SOCIAL SECURITY FUND**

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

Constitu-
tion of
National
Social
Security
Fund

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

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

Manage-
ment and
adminis-
tration of
Fund

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

Act No.
5 of 2012
s.42

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

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

Vesting
of
existing
Fund to
the
National
Social
Security
Fund

5A. The Funds of the National Social Security Fund shall constitute of-

Funds of
National
Social
Security
Fund

- (a) the existing Fund vested in the Board under subsection (1);
- (b) the assets of the existing Fund;
- (c) the combined contributions of eligible employers and the insured persons paid into the Fund at the rates set out in the First Schedule;
- (d) income and capital appreciation derived from the holding of that assets of the Fund in any form; and
- (e) such other sums or assets as may accrue or be granted to the Fund. [S.5]

**PART III
INSURED PERSONS AND CONTRIBUTING EMPLOYERS**

6.-(1) This Act shall apply in Mainland Tanzania in relation to a person who is-

Insured
persons
Act No.
5 of 2012
s.43

- (a) employed in the formal or informal sector; and
- (b) self-employed, other than a person who is registered or insured under any other written law.

(2) Every insured person shall be issued with a registration number upon registration.

Insured
ministers
of religion

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

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

(3) For the purposes of this section-

“minister of religion” includes any clerk in holy orders, pastor, missionary, kadhi, imam, sheikh or other person acting in any of those or similar capacities who is engaged in ministering to the spiritual needs of others; and

“religions organisation” includes any person or body from whom a minister of religion receives his stipend.

[Repealed]
Act No.
5 of 2012
s.44

8. [Repealed]

Continuity
of
insurance
despite
loss of
qualifi-
cations
for
registration
Act No.
5 of
2012
s.45

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

- (a) he is on contract on specific tasks; or
- (b) his employer has been restructured, sold or leased.

Contribu-
tion
records of
insured
persons

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

PART IV REGISTRATION AND CONTRIBUTIONS TO THE FUND

Registra-
tion of
employers

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

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

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

(4) The Minister may, for the purpose of the initial registration of any category of employers by order published in the *Gazette* declare that category of employers shall not be contributing employers until the expiry of such further period as the order may specify.

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

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

12.-(1) A contributing employer shall, for every contribution period following the date of appointment of an insured person, pay to the Fund a contribution that consist of the employer's and employee's share at the rate stipulated in the First Schedule.

Statutory
contributions
by
contributing
employers
Act No.
5 of 2012
s.46

(2) The employer may opt to contribute a greater rate than the amount stipulated in subsection (1).

(3) Where the employer agrees to contribute at a greater rate or the whole contribution rate, such option shall not apply to a member whose contribution rate at any given time does not exceed fifty percent of his contributions.

(4) No contribution shall be paid under this section in respect of an insured person who dies during the contribution period, unless the employer deducts the employee's share of contribution from the salary payable in respect of any part of such period to the estate of the deceased member.

(5) A voluntary contributing employer of an insured person shall remit to the Fund contribution at the percentage stipulated in the First Schedule or a higher contribution rate or segmentation of benefit rate to be regulated by the Minister following the results of actuarial valuation.

(6) An employer of a non-citizen shall remit contribution for such employee in accordance with the provision of this Act.

(7) Every contribution shall be paid to the Fund within one month after the end of the month to which the contribution relates.

Deductions of employee's share

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

- (a) from the wages due from him to the employee in respect of the contribution period to which the statutory contribution relates; or
- (b) from the wages due from him to the employee in respect of any period within six months after the end of the contribution period to which the statutory contribution relates,

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

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

Payment of contributions

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

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

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

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

Treating unpaid contributions as paid

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

15A.-(1) Where the Director-General is satisfied that there is evidence of non remittance of the member's contribution to the Fund by an employer as required under this Act, he shall report such default to the Authority.

Non remittance by the employer

(2) Without prejudice to subsection (1), the Director-General shall report to the Authority any unusual occurrence which in his opinion, is likely to jeopardize interests or rights of members of the Fund.

Act No. 5 of 2012 s.47

16. Where the Director-General is satisfied that any amount has been paid to the Fund as contributions which were not properly payable and that the amount was paid as a result of error a *bona fide* error, the amount paid in error shall be refunded or applied, with the consent of the person who made the payment, to any current liability.

Refund of contributions paid in error

17.-(1) Any insured person other than an insured employed by a contributing employer who is personally to make a statutory contribution in respect of that insured person may apply to the Director-General for approval to his contributing to the Fund on his own behalf.

Payment by an insured person

(2) If the Director-General approves the application, the insured person may-

- (a) make consecutive monthly payments to the Fund of an amount not greater than the statutory contribution;
- (b) make consecutive monthly payments to the Fund of an amount not less than the employee's share of the contribution last paid in respect of the insured person by a contributing employer; or
- (c) if the contribution period for the statutory contributions was other than a month, the corresponding monthly statutory contributions or employee's share thereof.

(3) Where an insured person makes payments under this section enters the employment of a contributing employer who is liable to make a statutory contribution in respect of such person, that person shall cease to be eligible to make payments under this section.

18.-(1) Every statutory contribution due to the Fund may be recovered by way of a summary suit under Order XXXV of the Civil Procedure Code at any time after the date on which it is due.

Recovery of contributions

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

Cap. 33 Act No. 5 of 2012 s.48

19. Nothing in this Act shall be construed as relieving a contributing employer from liability to make contributions to the Fund in respect of any employee-

Contributions when benefit drawn or during bankruptcy of employee

- 000. 135 (a) who is in receipt of or becomes entitled to any benefit; or
- (b) during the employee's bankruptcy or insolvency.

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0.49

20.-(1) Subject to the provisions of this section the statutory contributions, payments made by insured persons, and any benefits accruing to an insured person shall be inalienable except under this Act and shall not be assets for the benefit of creditors in the event of the bankruptcy or insolvency of an insured person or be liable to attachment for an insured person's debt; and any security, pledge or assignment given before or after the coming into operation of this Act which purports to include any such contribution, payment or benefit shall to that extent be void.

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

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

(4) Without prejudice to subsections (1), (2) and (3), benefit for entitled person may be used as collateral for home mortgage for a member who has not attained the age of retirement.

(5) The amount to be considered as the value out of collateral for home mortgage shall be determined and set at the rate prescribed under regulations and guidelines made under the Social Security (Regulatory Authority) Act.

President
may
exempt
from
certain
conditions

20A.-(1) A member who is a public officer may by application to the President, supported by an affidavit and on the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act.

Act No.
5 of
2012
s.50

(2) For the purpose of subsection (1), the expression "specified authority" means -

- (a) in relation to a public officer serving under a District or Regional Administration, the Regional Administrative Secretary;
- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary;

Cap. 135

- (c) in relation to a public officer serving in an extra-Ministerial Department or public institution, the head of the department or the public institution; and Act No. 5 of 2012 s.51
- (d) in relation to a public officer serving in a Local Government Authority, the City Director, Municipal Director or District Executive Director.

(3) Upon recommendation by the specified authority, the application shall be submitted by the specified authority to the Authority for determination and recommendation to the President in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) The President may grant the exemption if he is satisfied that the application of such condition under the Act to a member who is a public officer would unfairly disqualify that member from grant of benefits.

**PART V
BENEFITS**

21.-(1) The following classes of benefits are payable under this Act, namely- Classes of benefits

- (a) retirement pension;
- (b) invalidity pension;
- (c) survivors pension;
- (d) funeral grants;
- (e) maternity benefit;
- (f) employment injury benefit; and
- (g) health insurance benefit.

(2) The benefits payable under this Act may be segmented in accordance with the provisions of this Act.

22. No benefit payable under this Act except the benefits mentioned in paragraphs (a), (b), (c) and (d) of section 21 shall be payable in respect of any period before the date on which the Minister by Order in the *Gazette*, declare to be the date on which any benefit becomes payable. Operation dates in respect of the benefits

23. Subject to the provisions of this Act retirement pension shall be payable to an insured person who- Conditions for retirement pension

- (a) has attained pensionable age; and
- (b) in respect of whom not less than 180 monthly contributions have been paid.

24.-(1) The monthly retirement pension shall amount to 30 *per centum* of the average monthly earnings of the retired insured person supplemented by 1.5 *per centum* of his average monthly earnings for every twelve months of pension insurance additional to the 180 months specified in Amount of retirement pension Act No. 5 of 2012 s.52

section 23 to a maximum of 67.5 *per centum* of the average earnings.

(2) The average earnings is calculated over the best five years in the last ten years prior to pensionable age.

(3) The minimum monthly pension may be recommended by the Board upon consultation with the Authority and based on actuarial valuation.

Duration of retirement pension

25. The retirement pension payment shall commence from the month following the month in which the retired employee satisfies the conditions under section 23 and end with the month in which the pensioner dies.

Retirement special lump sum

26. A member who has attained pensionable age and has retired from employment but does not meet the qualification prescribed in paragraph (b) of section 23 shall be entitled only to the payment of a special lump sum.

Early retirement

27.-(1) An insured person who is within five years of the pensionable age and has paid contributions for at least 180 months, may claim early retirement pension.

(2) The amount of the retirement pension paid on early retirement under subsection (1) shall be the amount that would be paid under subsection (1) of section 24 reduced by 0.5 *per centum* of the monthly average earnings for each completed month less than the pensionable age.

(3) An early retirement pension shall not be payable if the amount of the pension calculated in accordance with subsection (2) would be lower than the minimum pension under subsection (3) of section 24.

Conditions for invalidity pension

28.-(1) An invalidity pension shall be payable to an insured person who-

- (a) is suffering from permanent invalidity;
- (b) is under pensionable age; or
- (c) either-
 - (i) has made 180 contributions; or
 - (ii) at least 36 monthly contributions have been paid in respect of him of which twelve or more were paid in the period of 36 months immediately preceding the date of commencement of invalidity.

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

(a) The date of entitlement to invalidity pension; or

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

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

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

Amount of invalidity pension

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

- (a) the date of entitlement to invalidity pension; or
- (b) the date of completion of 180 months contributory employment.

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

Duration of invalidity pension

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

31. [Repealed]

[Repealed Act No. 5 of 2012 s.53A]

32. [Repealed]

[Repealed Act No. 5 of 2012 s.53A]

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

Conditions for survivors pension

- (a) would have been entitled to an invalidity pension if deemed to have been suffering from permanent invalidity at the time of death; or
- (b) had attained pensionable age and would have been entitled to retirement pension had he made a claim to such pension:

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

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

34. The survivors pension payable to a dependant shall be in the prescribed pension percentage-

Amount of survivors pension

- (a) in the case of a widow or a widower, 40 *per centum* of the pension, and where there are more than one widow the amount

shall be divided equally among the widows;

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

Duration
of
survivors
pension

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

- (a) in the case of a widow or widower who, at the date of death of the deceased insured person is of the age of 45 or above or who is under the age of 45 and has the care of dependent children under the age of 15, for life or until remarriage;
- (b) in the case of a widow or widower at the date of death of the deceased insured person is under the age of 45 and does not have the care of children under the age of 15, for a period of two years from the date of death of the insured person;
- (c) in the case of dependant child under eighteen years or under twenty one years receiving full time education as the case may be, shall be paid 60 *per centum* of the pension to be divided equally among such children;
- (d) where there is no widow or widower 100 *per centum* of the pension shall be divided equally to dependant children; or
- (e) in the case where there are no dependant children or dependant spouse, parents of the deceased shall be paid 100 *per centum* of the pension for life.

Survivors
special
lump sum
payment

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

Retire-
ment and
invalidity
grant

37.-(1) Where an insured person qualifies for retirement pension or invalidity pension he shall be entitled to a lump-sum payment before getting the monthly payment.

(2) Where a deceased insured person had not received a retirement or invalidity pension prior to his death, the dependants of the deceased insured

person are entitled to the lump sum payment.

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

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

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

39. For the purposes of this section-

- (a) "employment injury" includes commuting accidents, accidents sustained during working hours; at the work place; or at a place where one would not have been except for his employment; and Employment injury benefit
- (b) "occupational diseases" means the diseases occurring in connection with specific activity in a specific occupation; or the diseases that are in causal relationship to specific agents or exposure.

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

- (a) medical care as may be prescribed by a qualified medical practitioner consisting of general practitioner case at hospitals, essential pharmaceuticals or hospitalisation;
- (b) cash payment in case of-
- (i) temporary disability benefit payable after certification of a medical board on the disability, an insured person shall be paid 60 *per centum* of his average daily earnings for up to twenty six weeks; or
- (ii) permanent disability benefit payable on certification by a medical board that an insured person has suffered a permanent disability at the rate of 100 *per centum*, that person shall be paid a maximum of 70 *per centum* of the average monthly earnings, which shall be paid monthly throughout the period of the disability; and
- (c) provision of artificial limbs after certification of a medical board that the injured person requires to be provided with such artificial limb.

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

(3) The average daily earnings shall be calculated on the total earnings during the six months preceding the month in which the injury occurred to

be divided by one hundred and eighty.

Condition
for health
insurance

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

Medical
benefits
to be
provided
Act No.
5 of 2012
s.54

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

(2) Subject to the provisions of the Social Security (Regulatory Authority) Act, medical benefits to be granted shall include preventive and curative care including but not limited to essential drugs, clinical pathology and X-rays, laboratory tests, hospitalization, minor and major surgery or any other benefits as may be determined by the Board.

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

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

Agreements
with
medical
providers

43. The Board shall appoint and enter into agreement with different hospitals and dispensaries which will be accredited to provide medicare services to insured persons and their families.

Conditions
for
maternity
benefit

44. Maternity benefit shall be payable-

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

Types of
maternity
benefits

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

- (a) cash benefit at the rate of 100 *per centum* of the average daily earnings for a period of twelve weeks; and

- (b) medical care during pre-natal and post-natal period by an accredited medical practitioner or midwife:

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

46. [Repealed].

[Repealed
Act No.
5 of 2012
s.53]

47.-(1) An insured person or his dependant shall not be entitled to receive more than one benefit paid out in respect of the same contingency.

Restriction
on double
payment
Act No.
5 of 2012
s.56

(2) The provision of subsection (1) shall not apply to an insured person who is a member of both mandatory and supplementary schemes.

(3) Subject to the provision of subsection (1), an insured person or his 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 or greater.

48.-(1) The rates of benefit payable shall be determined and be set in conformity with standards and guidelines issued in accordance with the provisions of the Social Security (Regulatory Authority) Act.

Adjustment of
benefits
Act No.
5 of 2012
s.57
Cap. 135

(2) Benefit rates shall be received from time to time by the Board and adjusted in line with actuarial valuation of the Fund as may be directed by the Authority.

49.-(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.

Penalty
for delay in
payment
of
benefits
Act No.
5 of 2012
s.53B

(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 sub-section (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 benefits plus a penalty of fifteen percent of that sum per annum.

50. Regulations may make provision for-

Regulations for
benefit
provision

- (a) the administration of all benefits payable under this Act;
- (b) disqualifying a person from the receipt of any benefit if he fails to make a claim within the prescribed time; provided that any such regulations may provide for extending the time within which such claim shall be made where good cause is shown for the delay;

- (c) the prevention of the receipt of more than one benefit and the adjustment of benefits in special circumstances;
- (d) the time and manner of payment of a benefit and the information or document to be furnished by any person applying for payment;
- (e) suspending payment of a benefit to any person during any period when that person-
 - (i) is absent from the country; or
 - (ii) is in prison or is under some other legal custody:

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

- (f) enabling a person to be appointed to exercise on behalf of any other person who being a minor or being otherwise unable for the time being to act, any power or right which that other person may be entitled to exercise under this Act and to authorise the person so appointed to receive and deal with any sum payable by way of benefit to that other person;
- (g) enabling a claim to be made or proceeded in the name of the deceased, for authorising payment to or among persons claiming as personal representatives, legatees, next of kin, creditors or otherwise and for dispensing with strict proof of title of persons so claiming; and
- (h) such other matters as may be necessary for the proper administration of benefits, including the obligations of claimants, beneficiaries and employers.

Repayment
of
benefit
improp-
erly
received

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

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

Benefit
to be
inalien-
able

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

on behalf of creditors.

**PART VI
BOARD OF TRUSTEES OF NATIONAL SOCIAL
SECURITY FUND**

53.-(1) There is established a Board of Trustees of the National Social Security Fund which shall be registered by the Authority.

Establishment of Board of Trustees
G.N. No. 590 of 1998

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

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

Act No. 5 of 2012 s.58

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

(4) The Minister may by Order in the *Gazette*, amend, vary or replace all or any of the provisions of the Second Schedule to this Act.

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

Management objectives of the Fund

- (a) business or financial commitments undertaken shall be consistent with the basic objectives of the scheme and the interest of contributors;
- (b) the concept of the financing of pensions shall be observed together with the need to take account of long-term liabilities, and the linkage between higher benefits and higher contributions;
- (c) adequate arrangements shall be made for preservation of pension rights;
- (d) contribution credits for insured person shall be maintained and be available for inspection by such insured person;
- (e) the Fund shall be administered in such manner as to give greater priority to the improvements of the benefits payable to contributors and control internal administration costs;
- (f) adequate steps shall be taken to avoid non-compliance and evasion of Board's obligations under this Act; and
- (g) all such other aspects of management as are incidental to the foregoing or conducive to the attainment of the objectives of the

Fund shall be performed.

Functions
of the
Board
Act No.
5 of 2012
s.59
Cap. 135

- 55.** The functions of the Board shall be-
- (a) to formulate, implement and review policies relating to the Fund in accordance with this Act and the Social Security (Regulatory Authority) Act.
 - (b) to control and administer the Fund in accordance with this Act;
 - (c) subject to the provisions of this Act to invest monies available in the Fund;
 - (d) to provide technical assistance and advisory service for the purposes of promoting social security programmes;
 - (e) to promote occupational health and safety measures in collaboration with other authorities; and
 - (f) to do all such acts and to enter into all such transactions as, in the opinion of the Board may be necessary for the proper and efficient administration of the Fund.

Duties of
the Board
Act No.
5 of 2012
s.60

- 56.** It shall be the duty of the Board-
- (a) to manage and administer the Fund in accordance with the highest standards which a person holding any fund in a fiduciary capacity on behalf of another may reasonably be expected to conform to;
 - (b) to protect, safeguard and promote the interests of the insured persons under this Act;
 - (c) generally to do all such acts as the Board may reasonably be expected to do, and in particular to-
 - (i) uphold and support the credit of the Board;
 - (ii) obtain and justify the confidence of the people of the United Republic in general and of the insured persons in particular; and
 - (iii) to avert and minimise any loss to the Fund; and
 - (d) to submit accounts of the Fund in respect of each financial year for auditing by the Controller and Auditor-General.

Powers of
the Board

- 57.** In the performance of its functions the Board shall have power to-
- (a) cause to be carried out actuarial valuation of the Fund after every three years;
 - (b) appoint on salaries upon such terms and conditions as it may think fit such person or persons as it may deem necessary for proper and efficient conduct of the business of the Board;
 - (c) appoint and employ upon such terms and conditions as it may think fit such consultants, agents and contractors as the Board may deem necessary;

- (d) appoint auditors for purposes of this Act; and
- (e) do all other such acts as are necessary to give effect to the provisions of this Act.

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

Remu-
neration,
allowances
and
benefits

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

Power to
delegate

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

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

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

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

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

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

60. The Minister may give the Board directions of general or specific nature as to the performance of the Board of any of its functions in relation to any matter appearing to the Minister to affect the national interest, and the Board shall give effect to every such directions.

Minister
may give
directions
to the
Board

**PART VII
FINANCIAL PROVISIONS**

Fund to vest in Board
Act No. 5 of 2012 s.61

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

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

(3) The Board shall maintain a reserve account into which accumulated revenues not needed to meet the costs of the current financial year shall be deposited.

Cap. 135

(4) The Fund shall vest in the Board which shall hold the Fund as trustees and shall manage, administer and operate the Fund in accordance with this Act and may make such payments thereon as are authorised by this Act.

Cap.135

(5) The Board shall use, disburse, administer and manage funds subject to guidelines issued under the Social Security (Regulatory Authority) Act.

(6) The Minister shall by an Order published in the *Gazette* dissolve the account of the existing Fund.

Investment of moneys in the Fund
Act No. 5 of 2012 s.62

62.-(1) The Board may, invest money of the Fund in any viable economic venture it considers appropriate.

(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 guideline as may be issued under the Social Security (Regulatory Authority) Act.

000.135

(3) Where an investment is made in breach of subsection (1), each member of the Board of Trustee, 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 the 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 procedures;
- (b) discontinue the investment; or
- (c) take any other measure it considers appropriate.

- 63.** The Board may, subject to provisions of sections 62 and 67 utilise moneys in the Fund for the acquisition of land, or acquisition or construction of buildings and acquisition of equipment and other assets required for the administration of the Board and the efficient performance by it of its functions.
- Utilisation of Fund for acquisition of assets Act No. 5 of 2012
s.63
- 64.** To the extent that the Board is, by reason of insufficiency of funds at its disposal, unable to meet its liability to any insured person for any benefit to which such person is entitled under this Act, or for any portion of any such benefit, the entitlement of such insured person to such benefit or such portion of benefit shall constitute a charge on and be paid out of the Consolidated Fund.
- Board's liability to insured persons guaranteed
- 65.** Any moneys paid to the Fund in excess of the amount for which an employer is liable in respect of an employee or in excess of the maximum statutory contribution payable for a contribution period may be refunded to the employer or the employee or both, as the case may be, in such manner as the Board may determine.
- Refund of excess contributions
- 66.** The funds and resources of the Board shall consist of-
- Financial resources
- (a) any income from investments of the Fund approved under this Act;
 - (b) such sums as may be provided for by way of loan or grant for the purposes of the Board;
 - (c) any sums borrowed by the Board in accordance with the provisions of this Act; and
 - (d) any sums which may in any manner become payable to or vested in the Board as a result of the performance by the Board of its functions under this Act or any other written law.
- 67.**-(1) In this Act "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Board.
- Annual and supplementary budget
- (2) Not less than two months before the beginning of any financial year, other than the first financial year after the commencement of this Act, the Board shall, at its meeting especially convened for that purpose, pass a detailed budget (in this Act called the annual budget) of the amounts respectively-
- (a) expected to be received; and
 - (b) expected to be disbursed, by the Board during that financial year.
- (3) If in any financial year the Board requires to make any disbursement not provided for, or of an amount in excess of the amount provided for, in the annual budget for the year the Board shall, at a meeting, pass a

supplementary budget detailing the disbursement.

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

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

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

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

(8) The Board may-

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that the disbursement is not provided for in any budget;
- (b) from the amount of expenditure provided for in any budget in respect of an item, transfer a sum not exceeding fifty *per centum* of the amount so budgeted to any other item contained in the budget; or
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

Power to
borrow
Act No.
5 of 2012
s.64

68. The Board may, subject to the approval by the Minister, Minister responsible for Finance and the Authority, 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.

Accounts
and audit
Act No.
5 of 2012
s.65

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

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

(2) The accounts of the Fund including the balance sheet relating to that financial year shall, not later than six months after the closure of every financial year, be audited by the Controller and Auditor- General and the audited accounts shall be submitted to the Authority and the Bank.

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

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

(5) The Board shall publish annual audited accounts report in such a manner as the Minister may, in consultation with the Authority, prescribe.

(6) The Board shall, subject to the provisions of the Social Security (Regulatory Authority)Act, submit to the Authority and to the Bank a copy of the audited statement of accounts together with a copy of the report of the auditor.

Cap.135

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

Fund
account

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

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

Accounts
of the
Fund

71A.-(1) The Board shall be responsible for the management and control of the Fund, and preparation of financial reports in accordance with the provisions of this Act and regulations made thereunder and directives and guidelines issued by Authority.

Manage-
ment of
the Fund
Act No.
5 of 2012
s.66

- (2) Financial reports referred to under subsection (1) shall contain-
 - (a) financial position of the Fund at that time;
 - (b) entries made day to day of all sums of money received and expended by the Fund and matters in respect of which receipt and expenditure takes place;
 - (c) the assets and liabilities of the Fund; and
 - (d) such other information as may be required by the Authority.

Actuarial reports to be furnished to the Bank Act No. 5 of 2012 s.66

71B.-(1) The Board shall, for the purpose of supervision, at the interval of three years or at such other interval as may be determined by the Authority cause the assets and liabilities of the Fund to be evaluated by the actuarial and submit a copy of such report to the Authority and the Minister.

(2) The Authority may, upon the receipt of the report under subsection (1) and after scrutinizing that report, direct the Board to rectify any anomalies identified in that report.

PART VIII LEGAL PROCEEDINGS, OFFENCES AND PENALTIES

Criminal proceedings Act No. 5 of 2012 s.67

- 72.-(1) Any person who-
- (a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in material particulars;
 - (b) for the purpose of obtaining any benefit or refund for himself or some other person, knowingly makes any false statement or representation or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular;
 - (c) misrepresents or fails to disclose any material fact;
 - (d) fails to pay to the Board within the prescribed period any contributions which he is liable to pay under this Act;
 - (e) fails to comply with any regulations made under this Act as a result of which there is loss to the Fund or as a result of which the individual insured person records of contribution cannot be maintained;
 - (f) fails without lawful excuse to produce documents required to be produced under this Act;

- (g) obtains the consent of employees required under this Act by duress or undue influence;
- (h) knowingly deducts from an employee's wages any sum in respect of a contribution to the Fund greater than the employees share of the statutory contribution;
- (i) misrepresents or fails to disclose any material fact as a result of which he obtains benefits from the Fund to which he would not have been entitled; or
- (j) assault, intimidate or brawls an inspector in the course of his duties,

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

(2) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy; order the person to pay to the Board the amount of any contributions, together with any interests or penalty thereon, certified to be due from such person to the Fund at the date of conviction, and the amount may be recovered in the same manner as a fine and shall be paid into the Fund for the credit of the concerned insured persons.

(3) Where the Director-General is of the opinion that an offence has been committed or is about to be committed under this Act, he shall commence investigations and institute criminal proceedings upon obtaining the consent of the Director of Public Prosecutions.

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

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

Joinder in cases of non-payment of contributions

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

Recovery of contribution Act No. 5 of 2012 s.68

74.-(1) An action for the recovery of contributions may be instituted before any court by the Director-General, an inspector, or any other officer of the Board appointed by the Board on that behalf.

(2) The Director-General or any other authorised officer of the Fund approved by the Board may institute criminal proceedings in the court in accordance with section 72 provided that the Director-General or such officer is a public prosecutor appointed by the Director of Public Prosecutions.

Priority for payment of contributions

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

- (a) any attachment is issued against the property of an employer in execution of a decree against him and any such property is seized or sold or otherwise realised in pursuance of such execution; or
- (b) on the application of a creditor the property of an employer is sold, the proceeds of the sale or other realisation of such property shall not be distributed to any person entitled thereto until the court ordering the sale or realisation has made provision for the payment, after the payment of costs of sale or realisation, of any amounts due in respect of contributions payable by the employer under this Act before the date of such order.

Protection contribution

76. The sum standing to the credit of an insured person 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 an insured person in the event of bankruptcy, or insolvency or be liable for attachment in satisfaction of debts, unless such sum relates to home mortgage referred to under section 20(4) of this Act in which case the mortgagee shall have right to attach any portion of contribution which is the subject of collateral.

Protection against attachment Act No. 5 of 2012 s.70

77. Notwithstanding anything to the contrary contained in any other written law, where an order has been obtained against a contributory insured person and subject to subsection(4) of section 20 no execution or attachment or process of any nature shall be issued against contributions of the contributing insured person, except in accordance with the terms of the Fund and such contributions shall not form part of the contributory assets of the insured person in the event of bankruptcy.

Liability for acts of association of persons

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

of persons shall be deemed to have committed the offence.

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

Certificates as evidence

**PART IX
DETERMINATION OF CLAIMS TO BENEFIT AND
LIABILITY FOR CONTRIBUTIONS**

80. The Director-General shall be responsible for the determination of claims to benefits and liability for the payment of contributions.

Responsibility of Director-General

81.-(1) All claims to benefit shall be determined in the first instance by the Director-General.

Determination of claims to benefit Act No. 5 of 2012 s.71

(2) Where entitlement is dependent on a medical question reference shall be made to a medical board, for determination.

(3) Where the Director-General or any other person is dissatisfied with the decision made by the Medical Board, he may refer the decision to the Authority.

(4) All decisions on claims to benefit shall be notified to the claimant in writing.

82.-(1) The Director-General shall be responsible for determining-

Determination of questions as to liability for contributions Act No. 5 of 2012 s.72

- (a) whether an establishment and each one of its employees is or was insurable under this Act and is or was liable for payment of contributions;
- (b) an individual person is insurable and liable for contributions under this Act;
- (c) the amount of earnings shall be taken into account to determine liability; or
- (d) which person or organisation is or was liable for the payment of contributions in the first instance;

(2) The Director-General may on request notify such determination in writing.

(3) Where a person is dissatisfied with the decision on a claim to benefits or a question as to liability, he may apply to the Authority for review.

(4) In any review where new facts are revealed or it is concluded that the initial decision was in error, the aggrieved person shall be paid the arrears of the benefit or the contribution liability adjusted.

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

(6) All applications for review under this Act shall be made in writing within thirty days from the date of the decision complained about.

[Repealed
Act No.
5 of 2012
s.73]

83. [Repealed]

[Repealed
Act No.
5 of 2012
s.73]

84. [Repealed]

[Repealed
Act No.
5 of 2012
s.73]

85. [Repealed]

PART X GENERAL PROVISIONS

Deemed
to be in
the
employ-
ment of
the first
mentioned
person

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

Inspectors

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

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

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

(4) For the purpose of this section-

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

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

88. Without prejudice to the provisions of section 284A of the Penal Code or of the Specified Officers (Recovery of Debts) Act, no act done or omitted to be done, by any trustee or by any officer, employee or agent of the Board shall, when done or omitted *bona fide* in execution or purported execution of his duties as such trustee, officer, employee or agent, subject any such person to any action, liability or demand.

Liability
of
members
Cap. 16
Cap. 76

89.-(1) The Minister may, in consultation with the Authority, make regulations necessary or desirable to give effect to the provisions of this Act, and without limiting the general power it is hereby declared that regulations may be made for all or any of the following purposes-

Regulations
Act No.
5 of 2012
s.74

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

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

90.-(1) Notwithstanding any other enactment-

- (a) no stamp duty shall be payable on any receipt, contract, instrument or other document given or executed by the Board on behalf of the Fund or by any person in respect of Benefits or refund of

Tax
exemption
Act Nos.
8 of 1998
s. 46
Cap. 332

contribution under this Act; and

- (b) notwithstanding the provisions of paragraph (a), the exemption granted under this subsection shall only apply on money received by way of contributions from members of the Fund, but any other earnings, gains, or profit accruing to the Fund from other transactions shall be subject to stamp duty.

(2) No income tax shall be charged on the members contributions to the Fund, but any other earnings, gains or profit accruing to the Fund shall be subject to the income tax.

Establishment of supplementary schemes
Cap.135
Act No. 5 of 2012
s.75

91.-(1) 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 insured person under separate account.

Reciprocal agreements

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

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

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

Repeal of Cap. 564 and Act No. 2 of 1975

93. [Repeals the National Provident Fund Act.]

Savings

94. Notwithstanding the repeals made under section 93-

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

- (b) anything done or any action taken under the repealed Acts shall in so far as it is not inconsistent with the provisions of this Act, be deemed to be done or taken under the corresponding provisions of this Act;
- (c) all subsidiary legislation made under the repealed Acts which are in force on the commencement of this Act shall be deemed to have been made under this Act and shall remain in force until revoked or rescinded by subsidiary legislation made under this Act; and
- (d) where immediately before the commencement of this Act-
 - (i) any person is liable to pay any sum of money to the National Provident Fund or to the Director-General or to the Board in relation to any liability arising from the repealed Acts that person shall make such payment to the Fund, Board or the Director-General as if the liability to make such payment had arisen under this Act; and
 - (ii) any legal proceedings for any offence under the National Provident Fund Act or for the recovery of any sum of money due under the repealed Acts is pending before any court, those proceedings may be continued and conducted.

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0.77

95. [Transitional and consequential provisions.]

Transitional
and
consequen-
cial
provisions

G.N. No.
286 of 2000

FIRST SCHEDULE

CONTRIBUTIONS FOR EMPLOYEES

(Sections 5A(c) and 12(1))

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

Act Nos
5 of 2012
s.77
13 of 2009
s.15

SECONDSCHEDULE

COMPOSITION AND PROCEEDINGS OF THE BOARD

(Section 53(3) and (4))

- Constru-
ctin-** 1. In this schedule unless the context requires otherwise “member” means a member of the Board and includes the Chairman.
- Composi-
tion** 2.-(1) The members of the Board shall be -
- (a) a Chairman who shall be appointed by the President;
 - (b) two members representing the most representative employers organization;
 - (c) two members representing organizations of employees the majority of whom are members to the Fund;
 - (d) a representative of the Ministry responsible for labour;
 - (e) a member representing the Ministry responsible for finance;
 - (f) one member representing the private sector appointed from amongst person with knowledge and experience on social security matters; and
 - (g) one representative from the Attorney General’s Office.
- Cap.135 (2) The representatives referred to in item (b), (c), and (d) of subsection (1) shall be appointed by the Minister.
- (3) The nominations and appointments to be made under subsection (2) shall be made from amongst persons with experience in social security, financial matters or administration.
- (4) Notwithstanding subparagraphs (2) and (3), the Chairman and the Members of the Board shall not be persons holding any political post, or being Chief Executives of the Government.
- (5) The Minister shall, in appointing members, ensure that all members are proper and fit persons for performing advisory functions of the Board under the provisions of this Act and regulations made thereunder and the Social Security (Regulatory Authority) Act.
- (6) The office of a member of the Board shall become vacant-
- (a) if the member ceases to belong to the nominating organisation or ministry;
 - (b) if the member is withdrawn by the nominating organisation or ministry; or
 - (c) at the expiration of a period of three years from the date of appointment:
- Provided that a member whose term of office has come to an end by effluxion of time may be re-appointed to the office.
- (7) All the members of the Board shall serve on a part-time basis and shall be entitled to receive such remuneration and allowances as the Minister may determine.
- Tenure of
appoint-
ment** 3. Every member of the Board shall continue to hold office until his appointment is revoked or his office becomes vacant for reasons specified in subparagraph (4) of paragraph 2.
- Vice-
Chairman** 4. The Board shall elect one of its members to be the Vice-Chairman for a term of one year from the date of his election and the person so elected shall be eligible for re-election upon the expiry of his term of office as Vice-Chairman.

<p>5. The Director-General shall be the Secretary of the Board.</p>	<p>Secretary</p>
<p>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.</p> <p>(2) In case the Chairman is unable to act by reason of illness, absence from mainland Tanzania, or other sufficient cause, the Vice-Chairman may convene such meeting.</p> <p>(3) The Chairman, or in his absence, the Vice-Chairman, shall be bound to convene a special meeting of the Board upon receipt of request in writing in that behalf signed by not less than five members of the Board, and not less than fourteen days' notice of such meeting shall be given to all members of the Board in the manner prescribed in subparagraph (2).</p> <p>(4) The Chairman, the Vice-Chairman, or the temporary Chairman elected in accordance with the provisions of paragraph 7(2)(c) presiding at any meeting of the Board may invite any person who is not a member to participate in the deliberations of the Board, but any such person shall not be entitled to vote.</p>	<p>Meetings of the Board</p>
<p>7.-(1) One half of the total number of the members in office shall form a quorum for a meeting of the Board.</p> <p>(2) There shall preside at any meeting of the Board-</p> <p>(a) the Chairman;</p> <p>(b) in the absence of the Chairman, the Vice-Chairman; or</p> <p>(c) in the absence of both the Chairman and the Vice-Chairman, such member as the members present may elect from amongst themselves for the purpose of that meeting.</p> <p>(3) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board, and in the event of an equality of votes the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.</p>	<p>Procedure and quorum</p>
<p>8. Where any member absents himself from three consecutive meetings of the Board without reasonable excuse the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.</p>	<p>Absence from three consecutive meetings</p>
<p>9. Where any member is by reason of illness, infirmity or absence from the United Republic, member unable to attend any meeting of the Board, the appointing authority may appoint a temporary member in his place and the temporary member shall cease to hold office on the resumption of office of the substantive member.</p>	<p>Decision by circulation of papers</p>
<p>10. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.</p>	<p>Minutes of meetings</p>
<p>11. The Seal of the Board shall not be affixed to any instrument except in the presence of the Director-General or such other officer of the Board as the Board may appoint in that behalf.</p>	<p>Seal</p>
<p>12. Subject to the provisions of this Schedule the Board shall have power to regulate its own proceedings</p>	<p>Board may regulate its own proceedings</p>