

# THE SOCIAL SECURITY LAWS (AMENDMENTS) ACT, 2012

## ARRANGEMENT OF SECTIONS

*Sections*            *Title*

### PART I

#### PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Amendment of Social Security Laws.

### PART II

#### AMENDMENT OF THE LOCAL AUTHORITIES PENSIONS FUND ACT, CAP.407

3. Construction.
- 3A. Amendment of section 2.
4. Amendment of section 3.
5. Amendment of section 4.
6. Amendment of section 7.
7. Amendment of section 8.
8. Amendment of section 11.
9. Repeal of section 15.
- 9A. Amendment of section 16
10. Addition of section 18A.
- 10A. Amendment of section 19.
11. Amendment of section 22.
12. Amendment of section 24.
13. Addition on section 27A.
14. Amendment of section 29.
15. Addition of section 29A.
16. Amendment of section 30.
17. Amendment of section 35.
18. Amendment of section 38.

19. Amendment of section 39.
20. Addition of section 43A.
21. Amendment of section 49.
22. Amendment of section 50.
23. Amendment of section 59.
24. Amendment of section 60.
25. Repeal of section 65.
26. Amendment of section 78.
27. Amendment of section 81.
28. Amendment of the First schedule.

### PART III

#### AMENDMENT OF THE NATIONAL HEALTH INSURANCE FUND ACT, CAP. 395

29. Construction.
30. Amendment of section 3.
31. Amendment of section 4.
32. Amendment of section 6.
33. Amendment of section 10.
34. Addition of section 12A.
35. Amendment of section 16.
36. Addition of section 39A.
37. Amendment of section 33
- 37A. Amendment of section 37
38. Amendment of section 43.
39. Amendment of the Schedule.

### PART IV

#### AMENDMENT OF THE NATIONAL SOCIAL SECURITY FUND ACT, CAP. 50

40. Construction.
41. Amendment of section 2.
42. Amendment of section 4.
43. Amendment of section 6.
44. Repeal of section 8.

45. Amendment of section 9.
46. Amendment of section 12.
47. Addition of section 15A.
48. Amendment of section 18.
49. Amendment of section 20.
50. Addition of section 20A.
51. Amendment of section 21.
52. Amendment of section 24.
53. Amendment of section 27.
- 53A. Repeal of sections 31 and 32.
- 53B. Amendment of section 49.
54. Amendment of section 42.
55. Repeal of section 46.
56. Amendment of section 47.
57. Amendment of section 48.
- 57A. Repealing of section 49.
58. Amendment of section 53.
59. Amendment of section 55.
60. Amendment of section 56.
61. Amendment of section 61.
62. Amendment of section 62.
63. Amendment of section 63.
64. Amendment of section 68.
65. Amendment of section 69.
66. Addition of sections 71A and 71B.
67. Amendment of section 72.
68. Amendment of section 74.
69. Amendment of section 76.
70. Amendment of section 77.
71. Amendment of section 81.
72. Amendment of section 82.
73. Repeal of sections 83, 84, and 85.
74. Amendment of section 89.
75. Amendment of section 91.
76. Amendment of the Second Schedule.
77. Amendment of the Second Schedule.

**PART V**  
**AMENDMENT OF THE PARASTAL ORGANIZATIONS**  
**PENSIONS SCHEME ACT, (CAP. 372)**

78. Construction.
79. Amendment of section 1.
80. Amendment of section 2.
81. Amendment of section 3.
- 81A. Amendment of section 3.
82. Amendment of section 4.
- 82A. Amendment of section 5
83. Amendment of section 6.
84. Amendment of section 7.
85. Addition of section 7A.
86. Amendment of section 8.
87. Amendment of section 10.
88. Amendment of section 11.
89. Amendment of section 12.
90. Amendment of section 13.
91. Addition of section 13A.
92. Amendment of section 14.
93. Amendment of section 16.
94. Amendment of section 17.
95. Amendment of section 18.
96. Amendment of section 20.
97. Amendment of section 22.
98. Amendment of section 24.
99. Amendment of section 25.
100. Amendment of section 27.
101. Amendment of section 28.
102. Repealing of section 30.
103. Amendment of section 31.
104. Amendment of section 33.
105. Amendment of section 34.
- 105A. Amendment of section 39.
106. Repealing of sections 35.
107. Repealing of sections 37 and 44.
108. Amendment of section 38.

109. Amendment of section 40.
110. Repeal of section 45.
111. Amendment of section 46.
112. Amendment of section 47.
113. Amendment of section 50.
114. Amendment of section 51.
115. Amendment of section 55.
116. Repeal of section 56.
117. Amendment of section 57.
118. Amendment of the Schedule.

## PART VI

### AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, (CAP 371)

119. Construction.
120. Amendment of section 2.
121. Amendment of section 3.
122. Amendment of section 5.
123. Amendment of section 6.
124. Amendment of section 11.
125. Amendment of section 12.
- 125A. Amendment of section 16.
126. Amendment of section 18.
127. Amendment of section 27.
128. Amendment of section 33.
129. Amendment of section 34.
130. Amendment of section 36.
131. Amendment of section 37.
132. Amendment of section 39.
- 132A. Amendment of section 41.
133. Amendment of section 48.
134. Amendment of section 50.
135. Amendment of section 51.
136. Amendment of section 52.
137. Amendment section 53.
138. Amendment of section 71.
139. Amendment of section 71.

PART VII

AMENDMENT OF THE SOCIAL SECURITY  
(REGULATORY AUTHORITY) ACT, (CAP.135)

- 140. Construction.
- 140A. Amendment of section 3.
- 140B. Amendment of section 5.
- 140C. Amendment of section 16.
- 140D. Amendment of section 17.
- 140E. Amendment of section 19.
- 140F. Amendment of section 20.
- 141. Amendment of section 6.
- 142. Amendment of section 7.
- 143. Amendment of section 8.
- 144. Amendment of section 12.
- 145. Amendment of section 28.
- 146. Amendment of section 36.
- 147. Addition of section 38A.
- 148. Amendment of section 49.
- 149. Addition of section 49A.
- 150. Amendment of section 53.

PART VIII

AMENDMENT OF THE INSURANCE ACT, (CAP.394)

- 151. Construction.
- 152. Amendment of section 13.

THE UNITED REPUBLIC OF TANZANIA



NO. 5 OF 2012

I ASSENT,

*Jayabaya Kikwete*  
.....  
President

[15<sup>th</sup> June, 2012.....]

**An Act to amend social security laws with a view to strengthening regulatory functions and supervisory powers of the Social Security Regulatory Authority on the social security schemes.**

**ENACTED** by Parliament of the United Republic of Tanzania.

**PART I**

**PRELIMINARY PROVISIONS**

Short title and commencement

**1.** This Act may be cited as the Social Security Laws (Amendments) Act, 2012.

Amendment of Social Security Laws

**2.** The various social security laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

**PART II**  
**AMENDMENT OF THE LOCAL AUTHORITIES PENSIONS FUND**  
**ACT, (CAP.407)**

Construction  
Cap.407

**3.** This Part shall be read as one with the Local Authorities Pensions Fund Act, hereinafter referred to as the "principal Act."

Amendment of  
section 2

**3A.** The principal Act is amended by repealing section 2 and substituting for it the following new section:

"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,

other than a person who is registered or insured under any other written law."

Amendment of  
section 3  
Cap.197

**4.** The principal Act is amended in section 3, by -

(a) inserting in their appropriate alphabetical order the following new definitions-

"Authority" means the Social Security Regulatory Authority as established under the Social Security Regulatory Authority Act;

"actuarial valuation" means valuation of the 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 actuarial who undertakes actuarial valuation under this Act;

Cap.197

"Bank" means the Bank of Tanzania established by the Bank of Tanzania Act;

"beneficiary" means a person entitled to receive benefits under this Act and it includes a member and survivor;



“bonus” means an additional payment to a member or contributor after attaining the compulsory age of retirement and opts not to retire for some years and continue to contribute for the additional years;

“bonus rate” means additional factors multiplied to a beneficiary’s benefit to determine bonus payment as determined by an actuarial; and

“contributing employer” means an employer who has the statutory obligation to make contributions to the Fund under this Act;

“formal sector” means the sector which includes employers and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of employee;

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

“member” means a person employed in the formal or informal sector within Mainland Tanzania, but does not include a person who has been registered or insured under any other written law;

“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.”

(b) deleting the definition of the terms -

(i) “actuarial” and substituting for it the following:

“actuary” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especial those involving uncertain future events

such human mortality and mobility and is a member of an institute, society or association of actuaries approved by the Authority;

- (ii) “employee” and substituting for it the following:

“employee” means an individual who-

- (a) has entered into a contract of employment; or
- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract 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.

- (iii) “salary” and substituting for it the following:

“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;”

Amendment of  
section 4

5. The principal Act is amended in section 4, by deleting the words “Local Authorities Pensions Fund” appearing in subsection (1) and substituting for them the words “LAPF - Pensions Fund”.

Amendment of  
section 7

6. The principal Act is amended by repealing section 7 and substituting for it the following:

“Management  
of the Fund

7.-(1) The Board shall be responsible for the management and administration of the Fund in accordance with:

- (a) the provisions of this Act and the regulations made thereunder;
- (b) the Social Security Regulatory Authority Act and regulations made thereunder; and
- (c) the guidelines and directives as may be issued by the Authority.

(2) The Board shall submit to the Authority annually, financial and other reports on the activities of the Fund as required by the Social Security Regulatory Authority Act.

(3) Financial reports referred to under subsection (2) 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 took place;

(c) the assets and liabilities of the Fund; and

(d) such other information as may be required by the Authority.”

Amendment of section 8

7. The principal Act is amended in section 8 by -

(a) adding immediately after subsection (2) the following new subsection:

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

(b) renaming subsection (3) as subsection (4).

Amendment of section 11

8. The principal Act is amended in section 11, by adding immediately after paragraph (f), the following new paragraph:

“(g) to do such things as the Authority may direct for efficient management of the Fund.”

Amendment of section 15

9. The principal Act is amended in section 15, by repealing subsections (4), (5) and (6).

Amendment of section 16

9A. The principal Act is amended in section 16 by-

(a) adding immediately after subsection (2) the following new subsection:

“(3) Every employer who employs a non-citizen shall remit contribution on his behalf in accordance with the provision of this Act.” and

(b) renumbering sub sections (2) and (3) as sub sections (3) and (4).

Addition of  
section 18A

**10.** The principal Act is amended by adding immediately after section 18 the following new provision:

“President  
may exempt  
from certain  
conditions

**18A.**-(1) An insured person 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.

(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;
- (c) in relation to a public officer serving in an extra-Ministerial Department or public institutions, the Head of the Department or the Public Institution; and

(d) in relation to a public officer serving in a local government authority, the City Director, the Municipal Director or the 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) President may grant the exemption if he is satisfied that the application of such condition under the Act to an insured person who is a public officer would unfairly disqualify that insured person from grant of benefits.

Amendment  
of section 19

**10A.** The principal Act is amended in section 19, by adding immediately after subsection (3) the following new subsections:

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

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

Amendment of  
section 22

**11.** The principal Act is amended in section 22, by-

(a) deleting paragraph (a) and substituting for it the following new paragraph:

“(a) on attaining the age of fifty five for voluntary retirement or the age of sixty for compulsory retirement;”

(b) deleting paragraphs (c), (d) and (e) and substituting for them the following new paragraphs:

“(c) on termination by employer after attaining the age of fifty five; and

(d) on retirement after attaining the age of fifty five on the directions in writing by the President.”

Amendment of section 24

12. The principal Act is amended by deleting section 24 and substituting for it the following:

“Evaluation of the Fund

24.-(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 actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.

(3) Based on the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed by the report.”

Addition of section 27A

13. The principal Act is amended by adding immediately after section 27 the following new section-

“Payment of bonus

27A. A contributing employee who has attained the age of sixty and continues to contribute to the

Fund, shall be entitled to a bonus for years of added service in accordance with subsisting bonus rates.”

Amendment of section 29

**14.** The principal Act is amended in section 29, by-

- (a) adding the words “or widower” immediately after the word “widow” appearing in paragraphs (a) and (b) of subsection (1);
- (b) deleting a “full stop” appearing at the end of paragraph (b) of subsection (2) and substituting for it a “colon”;
- (c) deleting the phrase “(3) Where an” appearing in subsection (3) and substituting for them the phrase “Provided that, where a notice is not given or an”; and
- (d) renumbering subsections “(4)” and “(5)” as subsections (3) and (4).

Addition of section 29A

**15.** The principal Act is amended by adding immediately after section 29 the following new section:

“Survivors’  
pension

**29A.** The survivors pension payable to a dependant shall be made on the basis of percentage prescribed herein, namely:

- (a) in the case of a widow or widower, forty per cent of the pension, and where there are more than one widow the amount shall be divided equally amongst the widows;



- (b) in the case of a widow or a widower and where there are no dependant children, the widow or widower shall be paid one hundred per cent of the pension;
- (c) in the case of a dependant child receiving full time education, shall be paid sixty per cent of the pension;
- (d) where there is no widow or widower one hundred per cent of the pension; and
- (e) in the case where there are no dependent children or dependant spouse, parents of the deceased shall be paid one hundred per cent of the pension for the remainder of their life.”

Amendment of  
section 30

**16.** The principal Act is amended in section 30, by-

- (a) deleting a “full stop” appearing at the end of subsection (2) and substituting for it a “colon”; and
- (b) adding a proviso immediately after subsection (2) as follows:

“Provided that, where the insured person has recovered from invalidity the pension shall be

suspended until he attains the age of retirement.”

Amendment of section 35

**17.** The principal Act is amended by repealing section 35 and substituting for it the following:

“Service  
not  
qualifying  
for pension

**35.** Pension or gratuity shall not be awarded under this Act to any insured person in respect of any service while he was absent from duty on leave without salary, unless the employer undertakes to pay into the Fund both the employee’s and the employer’s contributions for the period during which the employee was absent.”

Amendment of section 38

**18.-(1)** The principal Act is amended in section 38, by adding immediately after subsection (2) the following new section:

“(3) Where an insured person was at a certain period overpaid or paid pension or gratuity prematurely, the Fund shall recover the pension or gratuity paid prematurely in accordance with the provision of section 43.”

Amendment of section 39

**19.** The principal Act is amended in section 39, by adding immediately after subsection (4) the following new subsection:

“(5) An insured person referred to under subsection (4) shall be entitled to pension or gratuity, as the case may be, if-

- (a) the insured person has resumed to contribute to the Fund for a period of not less than three years from the date of resumption of contribution to the Fund;

(b) the insured person has paid full cost for back-purchase of the benefits due as may be determined under the Act, and the computation of his pension or gratuity is made by using the highest salary before his account was frozen.”

Addition of section 43A

20. The principal Act is amended by adding immediately after section 43 the following new section:

“Protection of contribution

**43A.** 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 in which case the mortgagee shall have right to attach any portion of contribution which is the subject of collateral.”

Amendment of section 49

21. The principal Act is amended by repealing section 49 and substituting for it the following-

“Investment of the moneys of the Fund

**49.-(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 guidelines as may issued under the Social Security (Regulatory Authority) Act.

(3) Where an investment is made in breach of subsections (1) and (2), each member of the Board of Trustees, director, manager or any officer of the Fund who took part in that decision shall be personally liable to a penalty of fine as prescribed under the Social Security Regulatory Authority Act.

Cap.135

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

- (c) regulate the Fund to comply with the investment procedures;
- (d) discontinue the investment; or
- (e) take any other measure it considers appropriate.”

Amendment of section 50

**22.** The principal Act is amended in section 50, by deleting the opening phrase and substituting for it the following:

“The Board may, subject to sections 49 and 58 utilize moneys in the Fund for-”.

Amendment of section 59

**23.** The principal Act is amended in section 59, by inserting immediately after the designation “Minister” appearing in the where it appears for the second time in that section the following phrase “, the Minister responsible for finance and the Authority”.

Amendment of section 60

**24.** The principal Act is amended in section 60 by inserting the words “and the Authority” between the word “Minister” and “a copy” appearing in subsection (3).

Repeal of section 65

**25.** The principal Act is amended by repealing section 65 and substituting for it the following:

“Criminal  
proceedings

65.-(1) The Director General, Inspector or any other Officers of the Fund approved by the Board may institute criminal proceedings in the court in accordance with section 71 provided that the Director General, the Inspector or such officer is a public prosecutor appointed by the Director of Public Prosecutions.

(2) Where a case is instituted before the court in relation to recovery of contributions, any person authorized under this section may appear and conduct the case.”

Amendment of  
section 78

26. The principal Act is amended in section 78, by deleting the words “uninsured” appearing in the third line of that section and substituting for it the word “insured”.

Amendment of  
section 81

27. The principal Act is amended in section 81 by-

(a) deleting the opening phrase and substituting for it the following:

“The Minister may, on the recommendation of the Board and in consultation with the Authority, make regulations providing for-”

(b) deleting paragraphs (b), (f) and the word “and” appearing at the end of paragraph “(f)”;

(c) renaming paragraph (c), (d), (e) and (g) as paragraphs (b), (c), (d) and (e); and

(d) adding immediately after the renamed paragraph (e) the following new paragraphs:

“(f) duration under which benefits shall be paid to a widow or widower; and

(g) payment of maternity and funeral grants.”

Amendment of  
First Schedule

by-

**28.** The principal Act is amended in the First Schedule

(a) deleting paragraph 1 and substituting for it the following new sub items:

“Composition  
of the Board

**I-(1)** The Board shall be composed of-

- (a) a Chairman who shall be appointed by the President;
- (b) a member representing the Ministry responsible for local government authorities;
- (c) a member representing the Attorney General;
- (d) two members representing the most representative employers Association;
- (e) a member representing employers' association; and
- (f) a member representing the private sector

appointed from amongst persons with knowledge and experience on matters relating to social security.

(2) The members referred to under paragraph (b) to (f) shall be appointed by the Minister upon recommendation by the respective institutions.

(3) The Minister shall, in appointing members under this paragraph 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.”

(b) renumbering paragraph 2 as paragraph 4.

## PART III

AMENDMENT OF THE NATIONAL HEALTH  
INSURANCE FUND ACT, (CAP.395)Construction  
Cap. 408

**29.** This Part shall be read as one with the National Health Insurance Fund Act, referred to as the “principal Act”.

Amendment  
of section 3

**30.** The principal Act is amended in section 3, by inserting in their respective alphabetical order the following new definitions-

“actuarial” means a person trained to understand risks and probabilities and to apply such skills to the financial problem especial those involving uncertain future events such human mortality and mobility and is a member of an institute, society or association of actuaries approved by the Authority;

“actuarial valuation” has the meaning ascribed to it under the Social Security (Regulatory Authority) Act;

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

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 by the Bank of Tanzania Act;

“employee” means an individual who-

- (a) has entered into a contract of employment; or
- (b) has entered into any other contract in which the individual undertakes to work personally for the other party to the contract 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



- “formal sector” means the sector which includes employers and employees who have entered into a contract of employment apprenticeship or any other contract contemplated in the definition of the term “employee”;
- “member” means any person or employee employed in the formal or informal sector or self employed within Tanzania mainland, registered or insured under this Act;
- “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;”
- “voluntary contribution” means any other form of contribution apart from statutory contributions of any person wishing to access supplementary services.”

Amendment  
of section 4

**31.** The principal Act is amended in section 4, by adding immediately after subsection (3) the following new subsection:

“Operations of  
fund  
Cap.135

(4) Operations of the Fund established under this section shall be subject to the provisions of the Social Security (Regulatory Authority) Act.”

Amendment  
of section 6

**32.** The principal Act is amended in section 6 by repealing subsection (5) and substituting for it the following new provision:

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

Amendment  
of section 10

**33.** The principal Act is amended by repealing section 10 and substituting for it by the following:

“Review of  
contributions  
rates

**10.** The Board may review the rates of contributions to the Fund subject to regulations, guidelines or directives issued by the Authority.”

Addition of  
section 12A

**34.** The principal Act is amended by adding immediately after section 12 the following new provision:

“Authority  
may exempt  
certain  
conditions

**12A.-(1)** A member may, by application to the Authority, 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.

(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;
- (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
- (d) in relation to a public officer serving in the local government authority, the City, Municipal 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 in terms of section 38A of the Social Security (Regulatory Authority) Act.

(4) Authority may grant the exemption if it is satisfied that the application of such condition under the Act to a member would unfairly disqualify that member from benefit package”.

Amendment  
of section 16

**35.** The principal Act is amended in section 16 by adding immediately after subsection (3), the following new subsection:

“(4) Notwithstanding the subsections (1) and (2), the benefit package may be reviewed by the scheme subject to regulations guidelines or directives issued by the Authority.

Addition of  
section 39A

**36.** The principal Act is amended by adding immediately after section 39 the following new section:

“Actuarial  
report

**39A.**-(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 actuarial.

(2) A report of the evaluation carried out in accordance with subsection (1), shall be submitted to the Authority and the Minister.

(3) Based on the report, the Authority may direct the Fund to take measures as may be necessary to rectify an anomaly revealed by the report.”

Amendment  
of section 33

- 37.** The principal Act is amended in section 33 by -
- (a) re-designating section 33 as section 33(1); and
  - (b) adding immediately after the re-designated subsection (1) the following new subsection:

Cap. 135

(2) Where an investment is made in breach of subsections (1) and (2), the Member of Board, Director, manager or any officer of the Fund who took part in the decision to invest shall be personally liable to a penalty or fine of as prescribed under the Social Security (Regulatory Authority Act).

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

- (a) require the Fund to comply with the procedures for investment;
- (b) discontinue the investment; or
- (c) take other measures as may be appropriate.”

Amendment  
of section 37

**37A.** The principal Act is amended in section 37, by adding immediately after subsection (3) the following new subsections:

“(4) The Board shall submit annually to the Authority financial report and other reports on the activities of the Fund as required by the Social Security (Regulatory Authority) Act.

(5) The financial reports referred to under subsection (4) shall contain-

- (a) financial position of the Fund at that time;
- (b) day to day entries of all sums of money received and expended by the Fund and matters in respect of which receipt and expenditure took place;

