

**THE EMPLOYEES' TERMINAL BENEFITS SCHEMES
(REGISTRATION AND REGULATION) ACT, 1973**

ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>
1.	Short title and commencement.
2.	Interpretation.
3.	Registrar.
4.	Registration of schemes.
5.	Investment of funds.
6.	Regulations.
7.	Minister may regulate management of a terminal benefits scheme.
8.	Offences.
9.	Act not to apply to certain schemes.
10.	National Provident Fund Act amended.
11.	Employment Ordinance amended.
12.	Savings.

THE UNITED REPUBLIC OF TANZANIA



No. 17 OF 1973

ASSENT,

Julius K. Nyerere
President

23RD JULY, 1974

An Act to provide for the Registration and Regulation of Terminal Benefits Schemes operated by employers for the benefit of their employees

.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Employees' Terminal Benefits Schemes (Registration and Regulation) Act, 1973 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title and commerce Interpretation

2.-(1) In this Act, unless the context otherwise requires — "employee" means a person who—

- (a) is employed in Tanganyika under any contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise, and howsoever paid, such contract not being one of employment as a member of the crew of any ship; or
- (b) is ordinarily resident in Tanganyika and is employed under a contract of service or other agreement entered into in Tanganyika as a member of the crew of any ship, the owners of which have a place of business, or have agents, in Tanganyika; or
- (c) is ordinarily resident in Tanganyika and is employed outside Tanganyika under a contract of service with an employer in Tanganyika by whom he is paid;

"employees' terminal benefit scheme" means any pension, provident fund, gratuity, saving, or insurance scheme, arrangement or undertaking established, set-up, settled, operated or undertaken by or on behalf of an employer for the benefit of employees in the employment of the employer whereunder any employee shall or

may, upon the determination of his employment or upon the expiry of any specified period of employment, become entitled to receive a pension, a sum of money or other valuable benefit, whether or not such employee is required to make any contribution towards any fund established pursuant to the scheme;

"employer" in respect of any employee employed or engaged as a member of the crew of any ship means the owner or owners of the ship, or the agents in Tanganyika of the ship, as the case may be, and in any other case, and subject to subsection (2) of this section, means the person with whom the employee entered into contract of service or apprenticeship and who is responsible for the payment of wages of the employee;

"Minister" means the Minister for the time being responsible for finance;

"Registrar" means the Registrar of Employees' Terminal Benefits Schemes.

(2) Where a contract of employment provides for services to be rendered to one person and the wages to be paid by another person and it is not clear from the contract which of the two persons is the employer, the employee shall, unless the Registrar otherwise determines, be deemed for the purposes of this Act to be in the employment of the person paying the wages.

(3) References in this Act to an employer in relation to any terminal benefits scheme for his employees include, where such scheme, or any fund established pursuant to the scheme, is administered by a trustee or a person other than the employer, references to such trustee or such other person administering the scheme or, as the case may be, the fund.

Registrar **3.** The Minister shall appoint a public officer to be the Registrar of Employees' Terminal Benefits Schemes.

Registration of schemes **4.** (1) Every employer who operates or has established a terminal benefits scheme or on whose behalf any such scheme is being operated or has been established shall, within—

(a) sixty days from the date on which this Act comes into operation;
or

(b) sixty days from the date on which such scheme begins to operate,
whichever date last occurs, submit to the Registrar such particulars relating to the scheme as may be prescribed and upon receipt of such particulars the Registrar shall register the scheme and issue the employer with a certificate of registration in the prescribed form.

(2) Any employer who without lawful excuse fails to comply with the provisions of this section shall be guilty of an offence.

5.-(1) The Ministry may, from time to time, by order, direct that the fund of any employees' terminal benefit scheme or such portion of such fund as may be specified in the order, be invested in such investment or investments as the Minister may consider desirable having regard to the interests of the employers and the employees as well as the national economy.

Investment
of funds

(2) An order under subsection (1) may be made either generally in relation to all employees' terminal benefits schemes or in relation to any one or more scheme or schemes specified in the order.

(3) Where the whole or any portion of any fund has, pursuant to an order made under subsection (1), been invested in any investment such investment shall, for the purposes of the Trustees Investments Act, 1967, be deemed to be an authorized investment:

Acts, 1967
No. 33

Provided that this subsection shall not apply to any such investment made after such order is revoked or ceases to continue in force.

(4) Where by reason of any investment made prior to an order under subsection (1) the employer is unable to comply with the requirements of the order, he may apply to the Minister for directions and the Minister shall give such directions in the matter as he may deem appropriate.

(5) Any employer who without lawful excuse fails to comply with any order made under subsection (1) within the time specified in the order or, where no such time has been so specified, within three months of the date of the order, shall, unless he satisfies the court that he has applied for the directions under subsection (4) within the period aforesaid and that-

(a) such directions have not yet been given; or

(b) such directions have been given and have been or are being complied with,
be guilty of an offence,

(6) Any employer to whom directions under subsection (4) have been given and who without lawful excuse fails to comply with such directions within the time specified in the directions or, where no such time has been so specified, within three months of the date of the directions, shall be guilty of an offence.

6. The Minister may make regulations for the better carrying out of the purposes of this Act, and without prejudice to the generality of the foregoing, may make regulations-

Regulations

(a) regulating administration of employees, terminal benefits schemes and prescribing the conditions to be complied with by the persons responsible for their administration, and prescribing qualifications of such persons;

(b) regulating the administration, accounts and auditing of the funds established pursuant to employees, terminal benefits schemes;

(c) requiring periodic returns relating to employees' terminal benefits schemes to be submitted to the Registrar;

- (d) prescribing anything which under the provisions of this Act may be prescribed;
- (e) prescribing forms in which particulars and returns shall be submitted.

Minister may regulate management of a terminal benefits scheme

7. (1) The Minister may, by order, require any employees' terminal benefits scheme specified in such order to be re-organized as to its management or otherwise in such manner as may be specified in the order.

(2) Where an order under subsection (1) is made and the employer without lawful excuse contravenes any of the provisions of the order he shall be guilty of an offence.

(3) In the event of a contravention without lawful excuse by an employer of an order made under subsection (1) the Minister may, without prejudice to the provisions of section 8, transfer the management of the scheme to such person or persons as he may specify.

(4) Where the management of an employees' benefits scheme is transferred by an order under subsection (3) the employer and every person who was, immediately before such order, responsible for the management of the scheme, shall do or cause to be done all such acts and things as may be necessary to effect such transfer and failure by the employer or any such person to comply with the provisions of this subsection shall be an offence.

Offences

8. Any employer who is convicted of any offence under this Act or under any regulations made under section 6 shall be liable to a fine not exceeding fifty thousand shillings.

Act not to apply to certain schemes

9. (1) The provisions of this Act shall not apply to any employees' terminal benefits scheme established by any written law.

(2) The Minister may, subject to such terms and conditions as he may determine, by order in the *Gazette*, exempt any employees' terminal benefits scheme from the provision-, of this Act.

National Provident Fund Act amended Cap. 564

10. The National Provident Fund Act, 1964 is amended in section 47 by deleting subsections (5) and (6).

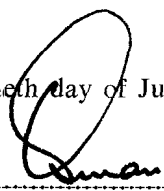
Employment Ordinance amended Cap. 366

11. The Employment Ordinance is amended in subsection (1) of section 158 by deleting paragraph (xvi).

saving Cap. 366 Supp 57 P. 36

12. Notwithstanding the amendment to the Employment Ordinance by section 11 the Employment (Provident Fund) Regulations, 1957 made under section 158 of that Ordinance shall remain in force and continue to apply as regulations made under section 5 of this act and may be amended, revoked or replaced accordingly

Passed in the National Assembly on the nineteenth day of July, 1973.


Clerk of the National Assembly