

THE NATIONAL PROVIDENT FUND ACT, 1964

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THE UNITED REPUBLIC OF TANGANYIKA AND ZANZIBAR



No. 36 OF 1964

I ASSENT

Julius K. Nyerere

President

30TH JULY 1964

An Act to establish a National Provident Fund, to provide for Contributions to and the Payment of Benefits out of the Fund, and for matters connected therewith and incidental thereto

1ST OCTOBER 1964

G.N 570
of 1964

ENACTED by the Parliament of the United Republic of Tanganyika and Zanzibar.

SHORT TITLE AND INTERPRETATION

1. This Act may be cited as the National Provident Fund Act, 1964, and, save as provided in sections 17 and 22, shall come into operation on such date as the Minister shall, by notice in the *Gazette*, appoint.

Short title

2.-(1) In this Act, unless the context otherwise requires —

Interpreta-
tion

"Advisory Council" means the National Provident Fund Advisory Council established by this Act;

"appointed day" in relation to any member of the Fund or employee or category of members or employees means the day on which Part III of this Act is appointed to come into operation in respect of such member, employee or category;

"benefit" means a benefit payable under this Act;

"child" includes a step-child, an illegitimate child and an adopted child;

"contract of service" has the meaning ascribed to that expression in the Employment Ordinance;

Cap. 366

"contributing employer" means an employer who is declared to be a contributing employer under Part 11 of this Act;

"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; or
- (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) at intervals of a week or less (except for a daily paid employee), the week in which the wages are paid; or
- (d) daily, the day on which the wages are paid.

"crew" in relation to a ship means the master, mates, pilots, engineers, stokers, deck hands and all other Persons engaged in the navigation or service of the ship;

"dependant" means a member of the family of a member of the Fund who was wholly or in part dependent upon his earnings at the time of his death, or would but for the illness of the member Of the Fund have been so dependent, and, where the member of the Fund, being the parent or grandparent of an illegitimate child, leaves such child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child or parent or grandparent respectively:

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

"Director" means the Director of the National Provident Fund;

"East Africa" means the United Republic, Kenya and Uganda;

"employee" means any 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 permanently resident in Tanganyika and is employed under a contract of service or other agreement entered into in East Africa as a member of the crew of any ship, the owners of which have a place of business, or have agents, in East Africa; or
- (c) is permanently resident in Tanganyika and is employed outside Tanganyika under a contract of service with an employer in Tanganyika by whom he is paid-

but does not include any person between the apparent ages of fifteen years or eighteen years receiving full time education or receiving full time training in respect of which he does not receive wages, or any person under the apparent age of fifteen years;

"employee's share" means that portion of a statutory contribution declared by the Third Schedule to this Act to be the employee's share of such contribution;

"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 a contract of service or apprenticeship, and who is responsible for the payment of wages of the employee;

"exempt employee, means an employee who belongs to one of the categories set out in the Second Schedule to this Act

- "Fund" means the National Provident Fund established by this Act;
- "incapable of work" and cognate expressions mean, in relation to any person, incapacity for work by reason of some specific disease or bodily or mental disablement, and include references to any person deemed to be so incapable under this Act;
- "investment Committee" means the National Provident Fund Investment Committee established by this Act;
- "member of the family" means, when used in relation to a person not generally subject to local customary law, the wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, child, grandchild, brother, sister, half-brother or half-sister, and when used in relation to a person generally subject to local customary law means such persons as local customary law recognizes as members of the family;
- "member of the Fund" means a person registered as a member of the Fund;
- "Minister" means the Minister for the time being responsible for labour matters;
- "Paid" means paid in money or money's worth, and where it has reference to a date of payment means the date on which the payment was made in cash, or as the case may be, the bill of exchange or promissory note was met;
- "Reserve Account" means the National Provident Fund Reserve Account under this Act;
- "ship" includes every description of vessel used in navigation, not propelled by oars, and whether navigated on inland waters or on the high seas;
- "special contribution" means the special contribution payable under section 17;
- "statutory contribution" in relation to any employee means the amount declared by the Third Schedule to be the statutory contribution in respect of that employee;
- "survivor" means any person, who, on the death of a member of the Fund, may be entitled to a survivor's benefit under this Act;
- "temporary employee" in relation to any employer means an employee engaged on a daily contract of service who has not been employed by that employer for a continuous period of three months:
- Provided that for the purpose of determining whether an employee has been employed for a continuous period of three months, the continuity of that period shall be deemed not to be broken by reason of the employee's not having been employed on Sundays or public holidays or on not more than fourteen other days during a period of three months;
- "wages" means remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be, and whether agreed to be paid at fixed or determinable intervals of time-
- (a) in respect of normal periods of work to be performed by the employee; or

- (b) where payment is calculated in relation to set tasks or journeys, in respect of the number of tasks or journeys completed by the employee; or
- (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the employee, and includes any allowance paid by the employer to the employee either directly or by implication in respect of the cost of living and any payment of wages in lieu of notice of termination of employment.

(2) 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 otherwise requires, be deemed for the purposes of this Act to be in the employ of the first mentioned person.

(3) The President may, from time to time, by order in the Gazette, add to, delete from or vary the Second Schedule.

PART I

THE NATIONAL PROVIDENT FUND

National
Provident
Fund
established

3.-(1) There is hereby established a Fund to be called the National Provident Fund into which shall be paid all contributions and other moneys required or permitted by this Act.

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

Director
of the National
Provident
Fund

4. There shall from time to time be appointed a Director of the National Provident Fund, who shall be the administrative head of the Fund; and subject to the direction of the Minister, the Director shall be responsible-

- (a) for the assessment of contributions and payments under this Act and for their collection for, and payment into, the Fund;
- (b) for the payment out of the Fund of the benefits and claims under this Act;
- (c) for the investment, where not inconsistent with this Act or any other Act, of surplus funds from time to time; and
- (d) for accounting for all moneys collected, paid or invested under this Act.

Deputy
Director of
the Fund

5.-(1) There may from time to time be appointed a deputy to the Director.

(2) On the occurrence from any cause of a vacancy in the office of Director (whether by reason of death, resignation or otherwise) and in the case of illness, absence, or temporary incapacity of the Director (from whatever cause arising), and so long as such vacancy, illness, absence or temporary incapacity continues, the deputy shall have and may exercise all the powers, duties and functions of the Director.

(3) The fact that the deputy exercises any power, duty, or function as aforesaid shall be sufficient evidence of his authority to do so, and no person shall be concerned to enquire whether the occasion has arisen requiring or authorizing him so to do.

6.-(1) There may from time to time be appointed inspectors for the purposes of this Act. Inspectors

(2) An inspector under this Act, if he has reasonable cause to believe that there are employees on any premises or place 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 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. In the performance of his duties under this subsection, an inspector may 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.

(3) For the purposes 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 which may be used for the purpose of recording that matter;

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

7.-(1) There shall be for the purposes of this Act an advisory council to be called the National Provident Fund Advisory Council and the provisions of the First Schedule to this Act shall have effect respects the constitution of the Advisory Council and its proceedings.

National
Provident
Fund
Advisory
Council

(2) The Secretary to the Advisory Council shall be a member of the staff of the Fund designated for the purpose by the Minister.

(3) The Advisory Council shall consider all matters from time to time referred to it by the Minister, but the Minister shall not be bound to follow the advice given by the Advisory Council. For the purpose of this subsection, the Minister shall furnish to the Advisory Council such information as in the opinion of the Minister is reasonably necessary from time to time to assist the Advisory Council in its deliberations.

PART II

MEMBERSHIP OF THE FUND AND CONTRIBUTING EMPLOYERS

8.-(1) Subject to the provisions of this Part, the Minister may, by order in the *Gazette*-

Compulsory
membership
of the Fund

- (a) declare any employees or category of employees to be registrable as members of the Fund;
- (b) declare any employer or category of employers to be contributing employers.

(2) Where the Minister-

- (a) makes an order under paragraph (a) of subsection (1), every person who on the commencement of such order is, or who subsequently becomes, an employee to whom such order relates shall be registered under this Act and upon being so registered shall become a member of the Fund;

(b) makes an order under paragraph (b) of subsection (1), every person who on the commencement of such order is, or who subsequently becomes, an employer to whom such order relates shall become a contributing employer and shall register as such.

(3) For the avoidance of doubts it is hereby declared that in addition to any other category or categories which may be declared under subsection (1), the Minister may declare categories of employees or of employers by reference to the number of employees (including exempt employees) in the service of an employer and may exclude from such number any category of employees.

(4) Where an order is made under paragraph (a) of subsection (1), the Minister may by the same or a subsequent order appoint a date upon which Part III of this Act shall come into operation in respect of those members of the Fund who are registered in pursuance of that order.

Voluntary
membership
of the Fund

9.-(1) Where-

- (a) the Minister has made an order under subsection (1) of section 8 declaring categories of employees or of contributing employers by reference to the numbers of employees in the service of an employer; and
- (b) an employer has in his service fewer employees than the minimum number for the time being so prescribed and contributions are not being made in respect of some or all of such employees,

the employer may, with the consent in writing of the majority of his employees, apply to the Director for the registration of the present and any future employees of such employer as members of the Fund and for his own registration as a contributing employer.

(2) If the Director approves an application under subsection (1), he shall-

- (a) declare that, subject to the provisions of this Part, the present and future employees of the applicant shall be registrable as members of the Fund and that the applicant shall be registrable as a contributing employer, and upon such registration such employees shall become members of the Fund and such employer shall become a contributing employer; and
- (b) appoint a date upon which Part III of this Act shall come into operation in respect of members of the Fund registered in pursuance of *such* declaration.

(3) Where the majority of employees of an employer who has become a contributing employer under this section express in writing their desire that such employer shall cease to make contributions in respect of themselves, the employer may apply to the Director for a declaration that he shall cease to be a contributing employer and, if *the* Director is satisfied that such desire was expressed by a majority of the employees and without duress or undue influence, he shall make such a declaration with effect from a date not later than three months after the date on *which* he received the application:

Provided that nothing in this subsection shall apply in relation to an employer who is an employer to whom an order made under paragraph (b) subsection (1) of section 8 relates.

(4) Where the Director makes a declaration under subsection (3), the employer to whom such declaration relates shall, from the effective date of such declaration, cease to, be a contributing employer under this section, and no person who enters his employment thereafter shall be registrable as a member of the Fund under this section.

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

(2) If the Director approves the application he shall, with effect from such date as he shall appoint, declare this section to apply to such organization and minister and, from the appointed date, this Act shall apply to such organization in relation to such minister as if it were a contributing employer, and such minister shall be registrable as a member of the Fund.

(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
 "religious organization" includes any person or body from whom a minister of religion receives his stipend.

11.-(1) Notwithstanding the foregoing provisions of this Part-

- (a) no person shall be registered as a member of the Fund at any time when he is an exempt employee;
- (b) no person shall be registered as a member of the Fund at any time when he is a temporary employee unless the Minister shall by order under this section and published in the *Gazette* have declared temporary employees generally or temporary employees of a category to which he belongs to be registrable as members of the Fund under this Act.

(2) Where the Minister makes an order under this section declaring temporary employees or any category thereof to be registrable, he may by the same or a subsequent order appoint a date upon which Part iii of this Act shall come into operation in respect of those members of the Fund who are registered in pursuance of that order.

12. A person registered as a member of the Fund shall not cease to be a member by reason of the fact that, since registration-

- (a) he has ceased to be an employee or to be a person to whom the orders made under paragraph (a) of subsection (1) of section 8 or paragraph (b) of subsection (1) of section 11 relate; or
- (b) he has become a temporary or an exempt employee.

13. A person registered as a contributing employer who continuously for a period of not less than two years has ceased to be an employer to whom the orders made under paragraph (b) of subsection (1) of section 8 relate may apply to the Director for the cancellation of his registration and the Director, if satisfied that such person has ceased to be an employer to whom such orders relate, shall cancel his registration within three months of the receipt of the application but, save as aforesaid, a person registered as a contributing employer shall not cease to be a contributing employer by reason of the fact that, since registration, he has ceased to be an employer to whom such orders relate.

Membership
of the
Fund of
ministers of
religion

Certain
employees not
registrable

Membership
of fund to
continue
despite loss
of qualifica-
tion for
registration
Contributing
employers

Accounts of
members

14. The Director shall establish and maintain for each member of the Fund an account to which shall be credited all statutory contributions made to the Fund in respect of such member, all payments made by such member under section 18, and all interest credited under section 36, and to which shall be charged all benefits granted or refunds made in respect of such member.

PART III

CONTRIBUTIONS AND PAYMENTS TO THE FUND

(a) *Statutory contributions by contributing employers*

Statutory
contributions
by contribut-
ing employers

15. (1) Subject to the provisions of this Part, a contributing employer shall, for every contribution period after the appointed day during which he employs a member of the Fund, pay into the Fund the statutory contribution in respect of that member:

Provided that no contribution shall be paid under this section in respect of—

- (a) an exempt employee; or
- (b) a temporary employee unless the Minister has made an order under section 11 declaring temporary employees generally or temporary employees of the relevant category to be registrable as members of the Fund; or
- (c) a member of the Fund who dies during the contribution period unless the employer deducts the employee's share of such contribution from the wages payable in respect of any part of such period to the estate of the deceased member.

(2) Every contribution due under this section shall be paid to the Fund within one month after the end of the month in which the last day of the contribution period to which it relates falls, and shall be credited to the account of the member in respect of whom it is paid.

Deduction of
employee's
share

16.-(1) A contributing employer who is liable to make or has made a statutory contribution in respect of a member of the Fund may deduct the employee's share of such statutory contribution—

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

but not otherwise; and where a deduction is made under paragraph (b) of this subsection, 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 a member of the Fund under this section in advance of the payment of such contribution to the Fund, the employer shall hold such share on trust for the purposes of this Act.

(3) Where the Director is satisfied that an employer has deducted the employee's share of a statutory contribution from the wages of a member of the Fund but has failed to pay the statutory contribution or the employee's share thereof to the Fund, the Director may, whether or not such contribution or share is recovered from the employer, credit the amount of the employee's share to the member's account in the Fund and charge the cost thereof to the general revenue of the Fund.

(b) *Special contributions by contributing employers*

17.-(1) This section shall come into operation on such date as the Minister may, by notice made under this section and published in the *Gazette*, appoint.

(2) Every contributing employer shall, for every contribution period during which he employs a temporary employee or employees (whether or not any such temporary employee is a member of the Fund), pay into the Fund within one month after the end of the contribution period to which it relates a special contribution in respect of that employee or those employees:

Provided that no special contribution shall be paid under this section in respect of a temporary employee who is a member of the Fund and to whom an order made under section 11 relates (whether or not such temporary employee was registered as a member in pursuance of such order) in respect of any contribution period after the day appointed under that section in relation to temporary employees of the relevant category.

(3) Every contribution due under this section shall be paid to, the Reserve Account of the Fund and, notwithstanding that any temporary employee on account of whom it is made is a member of the Fund, no part thereof shall be credited to such member's account in the Fund.

(4) The amount of the special contribution shall be five cents for every full shilling of the total wages paid to all the temporary employees for the relevant contribution period other than those to whom the proviso to subsection (2) refers.

(c) *Payments by members of the Fund*

18.-(1) A member of the Fund other than a member employed by a contributing employer who is liable to make a statutory contribution in respect of such member may apply to the Director for approval to his contributing to the Fund on his own behalf.

(2) If the Director approves the application, the member may make consecutive monthly payments to the Fund of an amount not greater than the statutory contribution, or less than the employee's share of such contribution, last paid in respect of such member by a contributing employer, or if the contribution period for such statutory contribution was other than a month, the corresponding monthly statutory contribution or employee's share thereof.

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

Contributions in respect of temporary employees

Payments by members

(d) *Miscellaneous*

Recovery of contributions from employers-, and penalty

19.-(1) Every statutory contribution and special contribution due, to the Fund under the foregoing provisions of this Part shall be a debt due to the Government and may be recovered as such by suit at any time within six years after the date on which it was due.

(2) If any statutory contribution or special contribution for which a contributing employer is liable is not paid within the time prescribed by the foregoing provisions of this Part, a sum equal to five per centum of the amount unpaid shall be added to the contribution for each month or part of a month after the date by which payment was due and any such additional amount shall be recoverable as a debt due to the Government as if it were a statutory contribution or special contribution, as the case may be -

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

Contributions when benefit drawn or during bankruptcy of employee

20. Nothing in this Act shall be construed as relieving a contributing employer from liability to make statutory contributions or special contributions to the Fund in respect of-

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

Contributions, etc., inalienable

21.-(1) Subject to the provisions of this section, statutory contributions, payments made by a member to the Fund, and interest credited to a member's account 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 a member of the Fund or be liable to attachment for a member's debts; 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 interest shall to that extent be void.

(2) Contributions made to the Fund in respect of a member who is bankrupt or insolvent or interest credited to his account shall, whilst 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 a member of the Fund is convicted of an offence involving dishonesty and the court by which he is convicted is satisfied that his employer has suffered financial loss as a result of the 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 member less the employee's shares thereof, plus the interest credited in respect of such contributions less such shares; and the amount so paid to the employer shall be deducted from the employee's account in the Fund.

PART IV

BENEFITS

Classes of benefits

22.-(1) Subject to the provisions, of this Part, the following classes of benefits shall be payable-

- (a) main benefits in respect of age, survivorship and invalidity;
- (b) subsidiary benefits in respect of sickness:

Provided that no benefits in respect of sickness shall be payable in respect of any time or period before the date on which the Minister, by order made under this section and published in the *Gazette*, declares to be the date on which this paragraph shall come into operation;

- (c) withdrawal benefits in respect of the marriage or maternity of a female member of the Fund or in respect of emigration or withdrawal of any member of the Fund.

(2) Any main benefit under this Act may be paid in one amount or, with the approval of the Director, may be converted into, and paid as an annuity.

23. An age benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to any person who being a member of the Fund attains the age of fifty-five years and satisfies the Director that he has retired from regular employment.

Age benefit

24.-(1) Subject to the provisions of this section, a survivors benefit in favour of dependants shall, on the death of a member of the Fund be payable to the extent prescribed in the Fourth Schedule to this Act.

Survivors benefit

(2) Where a survivors benefit is payable, and no notice such as is prescribed by subsection (3) of this section has been received by the Director, he may, on such evidence as he may require--

- (a) pay the moneys direct to the widow for the maintenance of herself and the deceased's children who are minors or disabled; or
- (b) if there is no widow, pay the moneys, in such proportions as he may think fit, direct to a guardian of the deceased's infant children to be applied to their maintenance; or to any child of the deceased who is of full age but who is incapable of work by reason of some specific disease or bodily or mental disablement; or to any other dependant; or
- (c) if there are more claimants than one as widow or dependant, or any of them, pay the moneys to the executor or administrator of the deceased's estate; or
- (d) in any other case, pay the moneys to the Administrator-General who shall hold them on trust for the persons found to be entitled under this section.

(3) The provisions of subsection (2) of this section shall not apply to any case in which an interested party has given notice to the Director before he has made payment of benefit that application has been or is being made to the court for the estate of the deceased member to be dealt with in accordance with the law of inheritance and where such an application is not made within one month of the date of death of the deceased member, the Director may proceed to deal with the benefit under the provisions of subsection (2) of this section.

(4) For the purposes of this section "maintenance" shall be deemed to include in the case of a child education suited to the child's station.

(5) Where moneys are paid to the Administrator-General under the authority of this section, the Administrator-General shall give public notice of the payment by such means as he may think fit, having regard to the amount of payment; and claims made after the time limited by the notice may be ignored under the authority of this subsection, and the amount may be paid accordingly to the persons entitled who have given notice of their claims to the Administrator-General within the time limited.

(6) Moneys paid under the authority of this section to the Administrator-General shall, if unclaimed for the period of five years from the date of payment, be Paid into the Reserve Account of the Fund.

(7) Where survivors benefit is payable by reason of the death of a member of the Fund in circumstances giving rise to a claim under the Workmen's Compensation Ordinance or where any survivors entitled to benefit are under the age of eighteen years, the Director or such other person as may pay the benefit shall have power to pay it by instalments.

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Invalidity
benefit

25.-(1) An invalidity benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to any person who is a member of the Fund and is subject to such physical or mental disability as to be unemployable save in work sanctioned by the Minister.

(2) Where invalidity benefit is payable on account of invalidity giving rise to a claim under the Workmen's Compensation Ordinance, the Director may pay the benefit by instalments.

Sickness
benefit

26.-(1) Subject to this part of this Act, where any person has been a member of the Fund for not less than one year, he shall, if the period of his incapacity for work is more than three months, be entitled in respect of his incapacity thereafter to a sickness benefit at the rate prescribed in the Fourth Schedule to this Act.

(2) Nothing in this section shall authorize payment of any sickness benefit which together with other payments of sickness, benefit is in excess of the amount represented by the employee's shares of the contributions and his payments to the Fund.

Limitation
of sickness
benefit

27.-(1) No sickness benefit under this Act shall be payable--

- (a) in the case of a female member of the Fund where the employer pays for maternity leave an amount not less than the sickness benefit; or
- (b) to any member of the Fund where the employer pays for sick leave an amount not less than the sickness benefit; or
- (c) to any member of the Fund who receives or is entitled to a lump sum payment or periodical payments under the Workmen's Compensation Ordinance in respect of the same contingency or injury, until after the expiry of the number of months for which earnings are reckoned in calculating the lump sum payable, or during the periods of incapacity for work in respect of which such payments are made, as the case may be.

(2) Where a person in receipt of sickness benefit appears to be entitled to a payment under the Workmen's Compensation Ordinance, the Director shall give notice of the fact to the employer and the employer shall, before making payment of compensation, deduct therefrom the amount of sickness benefit paid to that person in excess of the amount of the benefit that would have been paid if he had received compensation from the date from which he was entitled; and the employer shall, subject to the directions (if any) of the court, pay the sum so deducted to the Director for the credit of that person's account in the Fund.

(3) If an employer continues to pay wages to an employee in respect of any day for which the worker is entitled to sickness benefit, the sum paid shall be deducted from the sickness benefit to the extent that with the sickness benefit it exceeds the daily wages of the worker.

28.-(1) A withdrawal benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to a female member of the Fund who proves to the satisfaction of the Director that in consequence of her marriage she has permanently given up gainful employment and does not intend to seek further gainful employment.

Withdrawal
(marriage and
material)
benefit

(2) A withdrawal benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to a female member of the Fund who proves to the satisfaction of the Director that in consequence of her giving birth to a child she has permanently given up gainful employment and does not intend to seek further gainful employment.

29.-(1) A withdrawal benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to a member of the Fund who proves to the satisfaction of the Director that either-

Withdrawal
benefit

- (a) he is emigrating or has emigrated from, and has no present intention of returning to, Tanganyika except where the country to which he is emigrating is one with which a reciprocal agreement has been entered into pursuant to section 50 of this Act; or
- (b) he has not been employed by an employer liable to make a statutory contribution in respect of himself for at least two years immediately preceding the application and has reached the age of fifty-five years.

(2) Where a member of the Fund such as is mentioned in subsection (1) (b) of this section has fulfilled the first condition but the Director is not satisfied that the member has reached the age of fifty-five years, he may pay to the member by instalments or otherwise from the Fund such sum as with the cumulative total of subsidiary and withdrawal benefits does not exceed the aggregate of the employee's shares of statutory contributions and his payments to the Fund plus interest thereon:

Provided that in the case of a member under the age of fifty-five years but otherwise qualifying under subsection (1) (b) of this section, the Director may deal with the member as if he had reached the age of fifty-five years, if the Director is satisfied that liability for statutory contributions in respect of that member is unlikely to occur in the future.

Restriction
on double
benefit

30. No member of the Fund shall be entitled at any one time to more than one benefit; and if he qualifies for more benefits than one at the same time he shall be paid such one of them as the Director may in his discretion approve, the benefit being limited to an amount not exceeding that standing to his credit in the Fund.

PART V

FINANCE AND LEGAL

National
Provident
Fund
Investment
committee

31.-(1) There shall be for the purposes of this Act an investment committee to be known as the National provident Fund Investment Committee which shall consist of three members appointed by the Minister.

(2) The membership of the Investment Committee shall consist of-

(a) two members appointed by the Minister with the concurrence of the Minister for Finance; and

(b) the Director.

(3) Subject to the provisions Of this Act, the Investment Committed may appoint its own Chairman and regulate the procedure at its meetings.

(4) The Investment Committee shall meet at such time or times as the Chairman or the Minister, in the absence of the Chairman, may appoint.

(5) In the unavoidable absence of the Director or any appointee, a substitute, nominated by the member of the Committee concerned. May attend any one meeting and for the purpose of that meeting shall be deemed to, be a member of the Investment Committee.

(6) The Investment Committee shall have power, subject to the trust laws applicable in Tanganyika, to give general or special directions from time to time on the investment of moneys in the Fund which are surplus to current needs; and the Director shall give the Investment Committee any information required for the proper discharge of its functions.

Application
of Exchequer
and audit
Ordinance
Ords. 1961
No. 21

32. The moneys in the Fund including the Reserve Account established by section 35 shall be deemed to constitute a fund established in accordance with the provisions of section 17 of the Exchequer and Audit ordinance, 1961 and as such a fund shall be subject to the provisions of Part ii of the Exchequer and Audit Ordinance, 1961.

Acquisition
of assets
by Fund

33. it shall be lawful for moneys in the Fund to be expended in the purchase of land and for the purchase or erection of buildings and other assets required for the administration of this Act.

34. Investment of moneys in the Fund shall be in accordance with the directions of the Investment Committee and investment's of the Fund shall be vested in and held by the Treasury Registrar subject to the provisions of this Act.

Reserve
account

35.-(1) There shall be a reserve amount of the National Provident Fund into which shall be paid-

(a) all fines and penalties under this Act; and

(b) any other moneys authorized to be so paid under this Act.

(2) Income from the investment of moneys in the Reserve Account shall be dealt with as general income of the Fund.

(3) If the net rate of interest added to the accounts of members of the Fund in respect of a financial year is not less than two and a half per centum, there may be paid to the Reserve Account on the written consent of the Minister for Finance any part of the general income of the Fund for that year not allocated to individual accounts.

(4) Moneys in the Reserve Account shall not be appropriated without the authority of Parliament.

36.(1) Subject to the provisions of this section, the Minister may, with the concurrence of the Minister for Finance and after consultation if he thinks fit with the Advisory Council, from time to time fix the rate of interest to be allowed on accounts of members of the Fund after the end of each financial year on the balances standing to the credit of those members at the beginning of that year.

Interest on
accounts

(2) In determining the rate of interest, the Minister shall have regard to the net income of the Fund for the said financial year and the rate shall be fixed so that the amount of interest allocated (except for the first three financial years) shall not exceed the net income of the Fund for the financial year.

37. 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 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 Director may approve.

Refund of
excess
contribution

38.-(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 a material particular; or
- (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; or
- (c) misrepresents or fails to disclose any material fact; or
- (d) fails to pay to the Fund within such period as may be prescribed any contribution which he is liable to pay under this Act; or
- (e) obstructs or assaults any inspector, officer or servant of the Fund in the discharge of his duties as such; or
- (f) fails to comply with any regulations made under this Act as a result of which there is a loss to the Fund or as a result of which the accounts of individual members cannot be credited with their contributions; or
- (g) fails without lawful excuse to produce documents required to be produced under this Act by him; or
- (h) obtains the consent of employees required under this Act by duress or undue influence; or

Criminal
proceedings
etc

(i) -knowingly deducts from an employee's wages any sum in respect of a contribution to the Fund greater than the employee's share of the statutory contribution,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months 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 such person to pay to the Fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from such person to the Fund at the date of conviction; and such amount may be recovered in the same manner as a fine and shall be, paid into the Fund for the credit, where applicable, of the accounts of the members of the Fund concerned.

(3) Proceedings in respect of any offence under this Act may be commenced at any time within the period of three months from the date on which evidence in the opinion of the Director to justify a prosecution for the offence comes to his knowledge, or within a period of twelve months after the commission of the offence, whichever is the later.

(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.

Joinder in cases of non-payment of contributions

39. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force in Tanganyika, 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 by an inspector or by any other person authorized to lay a charge in respect of all contributions claimed to be due:

Provided that the plaint or charge sheet shall have annexed thereto a schedule setting forth the names of such employees, their addresses and descriptions and the details of the contributions due for each such employee.

(2) All claims shall rank equally between themselves, and shall be credited in full to the members' accounts, 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 such claims shall, subject to marginal adjustments, abate in equal proportions among themselves and be credited to the members' accounts accordingly.

Legal proceedings

40. Any action for the recovery of contributions and all criminal proceedings under section 38 may be instituted by any inspector or officer of the Fund on behalf of the Director or by any other person approved by the Minister, and where action is instituted in a magistrate's court, any person authorized by this section may appear and conduct the case.

Suits and other proceedings
Cap. 5

41. Notwithstanding the provisions of section 2 of the Government Suits Ordinance, suits and other proceedings by or against the Government occasioned by this Act may be instituted by or against the Director.

42.-(1) Where the Director has given the court written notice of a claim under this Act and-

of Protection of contributions in certain cases

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

(2) For the purposes of this section, "employer" includes any company in liquidation under the Companies Ordinance.

Cap 212

43. 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.

Liability for acts of association of persons

44. 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 as evidence or, as the case may be, by the deputy to the Director, 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 VI

MISCELLANEOUS

45. No stamp duty shall be payable on any receipt, contract, instrument or other document given or executed by the Director on behalf of from the Fund or by any person in respect of benefits or refund of contributions under this Act; but nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or on any document otherwise liable under the Stamps Ordinance.

Exemption from stamp duty

Cap. 189

46.-(1) A decision by the Director concerning any question of fact arising to be determined by him under this Act shall be final.

Power for Director to determine questions

(2) Where the right of a person to a benefit is in dispute or doubt or any question arises as to the total amount of the benefit payable and the amount involved does not exceed four hundred shillings, the matter shall be determined by the Director whose decision thereon shall be final:

Provided that this subsection shall not apply to survivors benefit dealt with in accordance with the law of inheritance pursuant to the provisions of subsection (3) of section 24 of this Act.

Existing schemes

47.-(1) The employer of any employee, who is a member of, or is entitled to participate in an existing Pension scheme or provident fund of his employer providing benefits for old age, shall not thereby be exempt from contributing to the Fund.

(2) Where an employer-

- (a) is liable to make statutory contributions in respect of a member or members of the Fund; and
- (b) is by himself or in association with others operating a scheme to provide any benefits of the same class as those payable under this Act for such member or members of the Fund,

he may, by virtue of this subsection and whether or not the rules of the scheme allow, amend the scheme to take into account contributions made to the Fund and provide for a reduction of the contributions made to the scheme.

(3) Nothing in subsections (1) and (2) of this section shall be construed so as-

- (a) to authorize the amendment of a scheme whereby the benefits excluding annual interest to an employee under that scheme and this Act are reduced below those to which he would have been entitled if this Act had not been passed;
 - (b) to require an employer to contribute to both the scheme and the Fund an amount in excess of that paid by the employer to the scheme for any comparable period before the appointed day.
- (4) Where the persons responsible for any pension scheme or provident fund in existence after the first day of June, 1964 decide to wind up the said scheme or fund either altogether or in relation to that part which concerns employees in Tanganyika, the assets and liabilities of the said scheme or fund shall be transferred to and become assets and liabilities of the Fund and the Minister may make an order accordingly; and such order may contain such incidental and consequential provisions as may be necessary to give effect to this provision having regard to the accrued rights of the members of such scheme or fund.

(5) As from the day on which the Act applies to any employer with a pension scheme or provident fund, the payments made thereafter to such scheme or fund in respect of employees shall not be invested out of Tanganyika.

(6) Where the Minister is satisfied that payments are being invested contrary to the provisions of the preceding subsection, he may by order require the employer or the person administering such scheme or fund to invest within Tanganyika such proportion of the assets of the scheme or fund as may appear to him to be fair and reasonable having regard to the amount of the payments and their relation to the value of the assets of the scheme or fund and failure to comply with the terms of such an order without lawful excuse shall constitute an offence against this Act.

Regulations

48. The Minister may from time to time make all 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:-

- (a) prescribing conditions for registration and exemption under this Act;

- (b) 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;
- (c) prescribing the mode of collecting contributions, the payment of claims and the computation of annuities;
- (d) prescribing any forms for the purposes of this Act;
- (e) prescribing the type of any medical examination for the purposes of this Act;
- (f) prescribing the procedure for dealing with unclaimed moneys in the Fund; and
- (g) prescribing the duties of employers respecting registration of employees.

49.-(1) Where regulations are to be made under this Act, the Minister may, if he thinks fit, prepare and submit a draft of the regulations for consideration by the Advisory Council.

Advisory council to consider certain regulations

(2) If a draft is so submitted, the Advisory Council shall publish, in such manner as it thinks best adapted for notifying the persons affected, notice of the fact and of the place where copies of the draft may be obtained and of the time, not less than fourteen nor more than twenty-eight days, within which objection may be lodged with the Advisory Council.

(3) Objections shall be in writing and shall state the portions of the draft which are objectionable together with the grounds of objection and any amendment proposed by the objector.

(4) Objections received within the prescribed time shall be considered by the Advisory Council at its next meeting and after hearing, if it thinks fit, any objector, the Advisory Council shall report its findings in writing to the Minister.

(5) Regulations when made shall be laid before the National Assembly as soon as may be after they are made together with the report (if any) made by the Advisory Council on the draft and a statement showing amendments made since the report of the Advisory Council and the effect given to any recommendation of the Advisory Council, or the reasons for not adopting any recommendation of the Advisory Council.

(6) If the National Assembly passes a resolution within seven sitting days after the laying, disallowing the regulations, the regulations shall be void but without prejudice to the validity of anything previously done thereunder.

50.-(1) The President may enter into a reciprocal agreement with the Government of any other territory in which a fund or scheme similar to the Fund has been established and there may be included in the agreement provision-

Reciprocal agreements

- (a) that any period of membership of such a fund or scheme in the territory of that Government may be treated as a period of membership, of the Fund and vice versa; and

(b) that subject to such conditions as may be agreed, any amount standing to the credit of a member of the Fund who works for any employer in the territory of that Government may be transferred to his credit in such fund or scheme, and any amount standing to the credit in such fund or scheme of any person who becomes a member of the Fund may be transferred to his credit in the Fund.

(2) Any reciprocal agreement made under this section may modify, adapt or amend the provisions of this Act to give effect to the agreement and when made shall be laid before the National Assembly within three sitting days after the commencement of the next ensuing meeting. If the National Assembly passes a resolution within seven sitting days after the laying, disallowing the agreement, the agreement shall be void, but without prejudice to the validity of anything previously done thereunder.

(3) If a reciprocal agreement made under this section, is not disallowed, it shall be published in the *Gazette* and come into operation on the date of such publication or on such later date as may be provided in the agreement.

51. The Severance Allowance Act, 1962 is hereby amended in the manner specified in the Fifth Schedule to this Act.

52. The Employment (Provident Fund) Regulations, 1957 shall not apply to the Fund.

THE FIRST SCHEDULE

(Section 7)

CONSTITUTION, ETC., OF THE NATIONAL PROVIDENT FUND ADVISORY COUNCIL

1. The National Provident Fund Advisory Council shall consist of nine members appointed by the Minister of whom-

- (a) three shall represent the Government;
- (b) three shall represent employers in Tanganyika; and
- (c) three shall represent employees in Tanganyika.

2. The three members representing employers shall be appointed after consultation with associations of employers or persons or bodies likely to produce representation for employers generally throughout Tanganyika.

3. The three members representing employees shall be appointed after consultation with the National Union of Tanganyika Workers.

4. The Minister shall appoint the Chairman and Vice-Chairman of the Advisory Council from amongst the members and shall convene the first meeting of the Advisory Council.

5. The Chairman and other members shall hold office for a period which, in the case of each of the members first appointed and any member appointed to fill a casual vacancy, shall be of such duration not exceeding three years as may be determined by the Minister, and in other cases members shall be appointed for a term of three years. member of the Advisory Council shall be eligible for re-appointment.

6. The members of the Advisory Council shall be paid out of the moneys of the Fund such expenses as the Minister, with the consent of the Minister for Finance, may approve.

7. A member of the Advisory Council may at any time by notice in writing addressed to, the Minister resign his office; and if a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister shall, in such manner as he thinks fit, declare the office of the member to be vacant.

8. The quorum for any meeting of the Advisory Council shall be five of whom not less than one from each group of representatives shall be present; but the Advisory Council may act notwithstanding any vacancy in the membership of the Advisory Council.

Amendments
to Severance
Allowance
Act 1962,
No. 57

Regulations
under
Employment
Ordinance
cap.366
not to
apply

9. The Advisory Council may, with the approval of the Minister, make standing orders for the purpose of regulating the procedure at its meetings.

10. A substitute member may be appointed in like manner for any one meeting a member is unable to attend.

THE SECOND SCHEDULE

(Section 2)

EXEMPT PERSONS

1. Employees in any public department, authority or corporation who are entitled to the benefit of any statutory scheme of pensions, gratuities or provident fund; or of any non-statutory scheme of pensions on terms substantially similar to those prescribed, by the Pensions Ordinance.

2. Employees in any University or College who are subject to the Superannuation Schemes for Universities.

3. Members of the Unified Teaching Service.

4. Members other than civilian employees of-

(a) the naval, military and air services;

(b) the Police Force;

(c) the Prison Service;

(d) the National Service.

5. Persons who under International Conventions are exempt from social security schemes.

6. Subject to paragraph 8, employees, whether citizens of the United Republic or not, whose written terms of service or engagement wherever executed provide that they are subject to service for any period of not less than one year outside East Africa.

7. Subject to paragraph 8 an employee not being a citizen of the United Republic, who is to be employed in Tanganyika

8. In any case to which the provisions of paragraph 6 or 7 of this Schedule apply, the employer shall satisfy the Director that the employee is liable to contribute to, or is prospectively entitled to benefit from the social security scheme of any country other than the United Republic or any benefit scheme of his employer or under his employment, on terms that would provide the employee with benefits substantially not less favourable than the like benefits to which he would have been entitled under this Act.

Cap. 371

THE THIRD SCHEDULE

(Sections 2 and 15)

CONTRIBUTIONS

<i>Contribution period</i>	<i>Employee's share deductible from wage by employer</i>	<i>Statutory contribution for each employee</i>
<i>For employees other than temporary employees.</i>		
One month	Five cents for every complete shilling of wages with maximum of thirty-five shillings.	Ten cents for every complete shilling of wages with maximum contribution of seventy shillings.
One fortnight	Five cents for every complete shilling of wages with maximum of seventeen shillings and fifty cents.	Ten cents for every complete shilling of wages with maximum contribution of thirty-five shillings.
One week	Five cents for every complete shilling of wages with maximum of eight shillings and seventy-five cents.	Ten cents for every complete shilling of wages with maximum contribution of seventeen shillings and fifty cents.
One day	Twenty-five cents.	Fifty cents.

 THE FOURTH SCHEDULE

(Sections 23, 24, 25, 26, 28 and 29)

BENEFITS

- (a) *Main benefits.* (Sections 23, 24 and 25).
(being age, survivors and invalidity benefits)
The amount of the benefit payable shall be the balance of the member's account in the Fund at the date of payment with accrued interest after taking into account any subsidiary benefit drawn; and in the case of survivors benefit estate duty (if any) may be deducted before payment.
- (b) *Subsidiary benefits.* (Section 26).
The amount payable to a member of the Fund for the period of his sickness (Sundays excepted shall not exceed the rate of Shs. 3/50 a day.
- (c) *Withdrawal benefits to a female member;* (Section 28)
and withdrawal benefits for any member (Section 29).
The amount of the benefit shall be the, balance of the member's account in the Fund at the date of payment with accrued interest after taking into account any subsidiary benefit drawn.

 THE FIFTH SCHEDULE

(Section 51)

AMENDMENTS TO THE SEVERANCE ALLOWANCE ACT, 1962

Section 6 is hereby amended by adding immediately below subsection (2) the following view subsection:-

"(2A) Where an employer has made in respect of any employee a statutory contribution to the National Provident Fund established by the National Provident-Fund Act, 1964, for any period which is taken into account in calculating, in accordance with this Act, the severance allowance payable by the employer, the amount of the severance allowance for that period may be reduced by the sum of the statutory contributions made during that period in respect that employee, less the sum which such employer deducted as the employee's share.

 Passed. in the National Assembly on the first day of July, 1964.


Clerk of the National Assembly