

THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 1972

I ASSENT,

*Julius K. Nyerere*  
President

8TH FEBRUARY, 1972

**An Act to amend the Pensions Ordinance**

[1ST MARCH, 1972]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Pensions Ordinance (Amendment) Act, 1972, shall be read as one with the Pensions Ordinance, and shall come into operation on the first day of March, 1972. Short title and commencement

2. The Pensions Ordinance is amended in section 2, in subsection (1), in the definition "pensionable office" by deleting paragraph (a) and substituting therefor the following paragraph:— Section 2 of Cap. 371 amended

"(a) in respect of service in Tanganyika, an office in the Government to which any person has been appointed or promoted on pensionable terms and such office shall be deemed to be a pensionable office for so long as the person who is appointed or promoted thereto on pensionable terms continues to hold the office;"

3. Section 2A of the Pensions Ordinance is amended—

- (a) in paragraph (a) by deleting the words "section 13", which occur in the second line and substituting therefor "sections 11, 13,"; Section 2A of Cap. 371 amended
- (b) in paragraph (b) by deleting the words "subsections (1), (6) and of" which occur in the second and third lines.

4. Section 3 of the Pensions Ordinance is repealed. Section 3 of Cap. 371 repealed

5. Section 14 of the Pensions Ordinance is repealed and replaced by the following section:— Section 14 of Cap. 371 repealed and replaced

"Move-  
ment of  
officers  
between  
public service  
and paras-  
tatal  
organiza-  
tions"

14.—(1) Where an officer who holds a pensionable or non-pensionable office—

- (a) resigned therefrom on or after the first day of January, 1954 and before the first day of March, 1972 or resigns therefrom on or after the first day of March, 1972, for the purpose of joining the service of a parastatal

organization or for the purpose of taking up the duties of any specified office, in circumstances in which he was or is not eligible for a pension or gratuity after leaving such pensionable or non-pensionable office and has not received and is not likely to receive any *ex-gratia* payment or award in respect of such pensionable office; and

- (b) joined or joins such service in a parastatal organization or took up or takes up the duties of such specified office before the expiration of one month from the date of the determination of his appointment in the service of Tanganyika,

and whose resignation was or is approved by the appropriate authority as being in the public interest, he shall, subject to the provisions of this section—

- (i) on attaining, while in the service of the parastatal organization or while holding such specified office, the age which is the minimum retiring age for the purposes of this Ordinance; or
- (ii) on retiring from the service of the parastatal organization or from the specified office, in circumstances in which, had the period spent by him in the service of the parastatal organization or in holding such specified office been spent in the service of Tanganyika, he would, at the date of his retirement, have been eligible for a pension or gratuity,

whichever be the earlier, be eligible for a pension or gratuity, as the case may be, based on the period during which he was in the service of Tanganyika and calculated with reference to the pensionable emoluments received during such period.

(2) For the purposes of subsection (1) of this section—

- (a) any officer to whom that subsection applies who, after joining the service of a parastatal organization, in the circumstances mentioned in paragraph (b) thereof, subsequently joined or joins the service of any other parastatal organization without a lapse of a period longer than one month between the date of the termination of his service with one parastatal organization and the date of the commencement of service with the other, shall be deemed, on retirement from the service from such other parastatal organization or on attaining the age which is the minimum retiring age for the purposes of this Ordinance while in the service of such other parastatal organization, to have retired from the service of such first mentioned parastatal organization or, as the case may be, to have attained that age while in the service of such first mentioned parastatal organization;

- (b) any officer to whom that subsection applies who, after taking up the duties of a specified office in the circumstances mentioned in paragraph (b) of subsection (1) subsequently takes up the duties of any other specified office without the lapse of a period longer than one month between the date when he ceased to hold one such office and the date of his taking up the duties of such other office, shall be deemed on retirement from such other office or on attaining the age which is the minimum retiring age for the purposes of this Ordinance while holding such other office, to have retired from such first mentioned office or to have attained such age while holding such first mentioned office, as the case may be;
- (c) any officer to whom that subsection applies who, after joining the service of a parastatal organization in the circumstances mentioned in paragraph (b) of that subsection or in paragraph (a) of this subsection, or after taking up the duties of a specified office in the circumstances mentioned in paragraph (b) of that subsection or paragraph (b) of this subsection, resigns from such parastatal organization or, as the case may be the specified office, and subsequently joins the service of Tanganyika without the lapse of a period longer than one month between the date of the termination of his service in the parastatal organization or, as the case may be, the date when he ceased to hold the specified office, and the date of the commencement of his service in the Government shall, if the appropriate authority is of the opinion that his resignation and subsequent joining the service of Tanganyika were in the public interest, be eligible for a pension or gratuity, as the case may be, in accordance with the provisions of this Ordinance and based on the aggregate of the periods during which he was in the service of Tanganyika and calculated with reference to the pensionable emoluments received during such periods.
- (3) The provisions of subsection (2) shall apply *mutatis mutandis* in any case in which an officer joins the service of a parastatal organization in the circumstances mentioned in paragraph (a) of subsection (1) or paragraph (b) of subsection (2) and subsequently takes up the duties of any specified office or joins the service of any other parastatal organization or rejoins the service of Tanganyika, or having taken up the duties of a specified office in the circumstances mentioned in paragraph (b) of subsection (1) or paragraph (b) of subsection (2) joins the service of any parastatal organization or takes up the duties of any other specified office or rejoins the service of Tanganyika, or having joined the service of Tanganyika in the circumstances mentioned in paragraph (c) of subsection (2) joins any parastatal organization or takes up the duties of any specified office, or subsequent to so joining the

service of a parastatal organization or taking up the duties of a specified office, rejoins the service of Tanganyika, and the provisions of subsection (1) and subsection (2) shall apply, subject to the conditions specified therein, regardless of the number of parastatal organizations the service of which an officer joins or the number of the specified offices the duties of which he takes up, or the number of times he is re-appointed in the service of Tanganyika after the termination of his service in any parastatal organization or after ceasing to hold a specified office.

(4) Where any person who holds a pensionable office in any parastatal organization and resigns therefrom and is, within a period of one month from the date when he ceases to hold such office in such parastatal organization, appointed to a pensionable or a non-pensionable office in the service of the Government of the United Republic, the appropriate authority, if he is satisfied that such officer resigned from the service of such parastatal organization in circumstances in which he is not eligible for a pension or gratuity after leaving such pensionable service and has not received any *ex-gratia* payment or award in respect of such office in such parastatal organization and further that his resignation from the service of the parastatal organization and his joining the service of Tanganyika are in the public interest, may, if he considers it reasonable so to do, direct that subject to such conditions, limitations and restrictions as he may specify, the period of service of such officer in such parastatal organization on pensionable terms shall be deemed to be a period of service in the service of Tanganyika for the purposes of this Ordinance.

(5) Where a direction under subsection (4) is given—

- (a) it shall be lawful for the Minister to require the parastatal organization to pay into the Consolidated Fund in such manner and by such instalments as the Minister may direct, such amount as in the opinion of the Minister, will meet the liability of the Government in respect of any pension, gratuity or other payment which may be payable to the officer under this Ordinance for the period referable to his service in the parastatal organization, and the parastatal organization shall comply with every such requirement;
- (b) subject to the conditions, limitations and restrictions specified in such directions and to the provisions of this Ordinance, the officer shall be entitled to a pension, gratuity or award under this Ordinance, as if his period of service in the pensionable office in the parastatal organization was a period of service in a pensionable office under this Ordinance.

(6) In this section—

“parastatal organization” means—

- (a) a Local Authority;

- (b) any body corporate established by or under any written law other than—
- (i) the Community;
  - (ii) any corporation within the Community;
  - (iii) any company registered under the Companies Ordinance other than a company to which paragraph (e) applies; Cap. 212
- (c) the Tanganyika African National Union, any organ of the Tanganyika African National Union and every body of persons, whether corporate or unincorporate, which is affiliated to the Tanganyika African National Union;
- (d) a Trade Union registered under the Trades Union Ordinance; Cap. 381
- (e) any company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organization or, where the company is limited by guarantee, a company in respect of which the amount that the Government or a parastatal organization which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contribute; and references in this paragraph to "parastatal organization" include references to any such company;
- (f) any body of persons, whether corporate or unincorporate, which the Minister may, by notice in the *Gazette*, declare to be a parastatal organization for the purposes of this section;

"specified office" means any office which the Minister may, by order published in the *Gazette*, specify for the purposes of this section."

6. Section 22 of the Pensions Ordinance is amended in subsection (1) by deleting paragraph (c). Section 22  
of Cap. 371  
amended

7. The Regulations set out in the Schedule to the Pensions Ordinance are amended— Amendment  
of Schedule  
to Cap. 371

- (a) by deleting reference to the "East Africa High Commission" wheresoever it occurs and substituting therefor in each case reference to "the Community";
- (b) by deleting reference to the "East African Railways and Harbours Corporation" wheresoever it occurs and substituting therefor in each case "a Corporation within the Community other than East African Airways Corporation."

Transitional  
and conse-  
quential  
provisions


**8.—(1) All orders made under section 3 of the Pensions Ordinance prior to the commencement of this Act, are hereby revoked.**

(2) Every office specified for the purposes of section 14 of the Ordinance as in force immediately before the commencement of this Act shall be deemed to be a specified office for the purposes of the new section 14.

(3) For the avoidance of doubts, it is hereby declared that the provisions of section 10 of the Interpretation and General Clauses Ordinance shall apply to the repeal and replacement of section 14 of the Pensions Ordinance by this Act.

Cap. 1

Passed in the National Assembly on the twenty-fifth day of January, 1972.

  
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Clerk of the National Assembly