THE ZANZIBAR SOCIAL SECURITY FUND (AMENDMENT) ACT OF 2016

ARRANGEMENT OF SECTIONS

SECTIONS **TITLE**

PART I
PRELIMINARYPROVISIONS

1. Short title and commencement.

2. Construction.

PART II
AMENDMENT PROVISIONS

3. Amendment of section 2.

4. Amendment of section 12.

5. Amendment of section 17.

6. Amendment of section 23.

7. Amendment of section 26.

8. Amendment of section 29.

9. Amendment of section 31.

10. Amendment of section 32.

11. Amendment of section 41.

12. Amendment of section 42.

13. Amendment of section 44.

14. Amendment of the First Schedule.

ACT NO. 10 OF 2016

I ASSENT

{ DR. ALI MOHAMED SHEIN }
PRESIDENT OF ZANZIBAR AND CHAIRMAN OF
THE REVOLUTIONARY COUNCIL

3rd January, 2017

AN ACT TO AMEND THE ZANZIBAR SOCIAL SECURITY FUND ACT, NO. 2 OF 2005, TO PROVIDE FOR BETTER PROVISIONS FOR EFFICIENCY AND EFFECTIVE MANAGEMENT OF THE FUND AND OTHER MATTER CONNECTED THERETO

ENACTED by the House of Representatives of Zanzibar.

PART I
PRELIMINARY PROVISIONS

Short title and Commencement.

1. This Act may be cited as the Zanzibar Social Security Fund (Amendment) Act of 2016 and shall come into operation after being assented to by the President.

Construction.

2. This Act shall be read together with the Zanzibar Social Security Fund Act, No. 2 of 2005 in this Act referred to as "the Principal Act".

PART II
AMENDMENT PROVISIONS

Amendment of Section 2.

3. Section 2 of the Principal Act is hereby amended by-

(a) deleting the definition of the word "salary" and substituting it by the following-

"salary" means remuneration in money paid to an employee under a contract of service;

(b) inserting new definition of the words as follows in alphabetical order-

"partial old age benefit" means monthly pension and gratuity payable to a member who attains retirement age and whose period of contributions to the Fund is from sixty months and above but less than one hundred and fifty six months;

"final average earning" means member's average salary for a period of the best sixty months earnings out of last one hundred and fifty six period of contributions;

"period of contributions" means period during which contributions are paid to the Fund;

"reserve ratio" means the ratio of total accumulated funds at the end of the year to total outgo during that particular year;

"earning ceiling" means the maximum amount of salary that can be used in computation of monthly pension determined by considering statutory minimum wage multiply by twenty five.

Amendment of Section 12.

4. Section 12 of the Principal Act is hereby amended by-

(a) re-numbering the paragraph (f) to be (g) accordingly;

(b) inserting new paragraph (f) as follows-

(f) "borrow moneys for the purposes of financing projects by way of loan, overdraft or any other means and upon the security and the terms relating to repayment of the principal and the payment of the interest as the Board may deem fit".

Amendment of Section 17.

5. Section 17 (3) of the Principal Act is hereby amended by-

(a) deleting subsection (3) and substituting it by new subsection (3) as follows-

"(3) Both member's and the employer's contributions under this section, shall be paid in a prescribed manner to the Fund by the employer within fifteen days after the end of the particular month."

(b) inserting new subsection (4) (a) and (b) as follows-

(4) (a) "A person who contravenes the provisions under subsection (3) of this section, commits an offence and upon conviction shall be liable to a fine of not less than Five Million Tanzania Shillings or imprisonment for a term of not less than one year or both such fine and imprisonment".

(b) "In addition to the penalty provided for under paragraph (a) of subsection (4) of this section, the court upon which that person is convicted shall order the convicted person to pay to the Fund the amount of contributions with an interest or penalty certified to be due from that person to the Fund.

Amendment of Section 23.

6. Section 23(2) of the Principal Act is hereby amended by-

adding the clause "make a closure of the business for a reasonable period" between the words "attach" and "or sale".

Amendment of Section 26.

7. Section 26 of the Principal Act is hereby amended by-

(a) in subsection (1) as follows-

(i) deleting the clause "comprising of pension and gratuity" appears after the word "old age benefit" in paragraph (a) of subsection (1) of this section.

(ii) deleting the clause "for dependants" appears after the word survivors' benefit in paragraph (b) of subsection (1) of this section.

(iii) deleting the word "care" which appears between the word "medical" and "benefit" under paragraph (e) of subsection (1) of this section.

(b) deleting subsection (3) of section 26 and replacing it by new subsection (3) as follows-

(3) "The Minister in consultation with the Board, has the power to defer any type of benefit for the reason satisfied himself that the Fund is unable to pay such benefit which required to be paid under the provisions of this Act".

Amendment of Section 29.

8. Section 29 of the Principal Act is hereby amended by-

(a) deleting paragraph (a) under subsection (1) and replacing it by new paragraph (a) (i) and (a) (ii) as follows-

(a)(i) immediately on retiring after attaining pensionable age;

(ii) notwithstanding the provisions of paragraph (a)(i) of subsection (1) of this section, a member under extended service shall be entilled to receive pension and Fund Gratuity upon the expiry of such extended service;

(b) deleting subsection (7) and replacing it by new subsection (7) as follows-

(7) "The manner and rates of all benefits prescribed under this Act and any matter related thereto shall be determined by Regulations made by the Minister in consultation with the Board."

(c)(i) deleting the number "60" which appears between the word "at least" and "months" in subsection (8) and substituting it by the word "one hundred and fifty six".

(ii) deleting the word "pension" which appears at the end of subsection (8) and substituting it by the word "benefit".

Amendment of Section 31.

9. Section 31 of the Principal Act is hereby amended by-

(a) deleting subsections (2) and replacing it by the new subsection (2) as follows-

(2) "A member, who attains pensionable age, becomes invalid or dies before completion of sixty months of contributions to the Fund is entitled to the refund equals to average contributions of the best twenty four months accounted for long term benefits multiplied by the number of months contributed by the member to the Fund".

(b) deleting subsection (3) and replacing it by the new subsection (3) as follows-

(3) "A member, who attains pensionable age, becomes invalid or dies having contributed for less than twenty four months is entitled to the refund equal to accumulated contribution accounted for long term benefits".

(c) deleting subsection (4) and replacing it by the new subsection (4) as follows-

(4) "A member, who attains pensionable age before completion of one hundred and fifty six months and having contributed for sixty months or more to the Fund is entitled to partial old age benefit as provided in the first schedule of this Act".

(d) adding new subsection (5) as follows-

(5) "Survivors benefit or refund is paid to beneficiaries or legal personal representative in accordance with paragraph 7 of the Third Schedule under this Act".

(e) adding new subsection (6) as follows-

(6) "Where a member works for certain duration and for any reason being terminated from the service, that person's contributions shall not be refunded but retained by the Fund, pending calculation of benefit entitlement at pensionable age, become invalid, or dies".

(f) adding new subsection (7) as follows-

(7) "The Minister may, in consultation with the Board, make Regulations that will allow members who have terminated or being terminated from the contract of service to get special benefit without affecting sustainability of the Fund.

Amendment of Section 32.

10. Section 32 of the Principal Act is hereby amended by deleting subsection (2) and replacing it by a new subsection (2) as follows-

(2) "Upon application for the Fund benefits under section 29 of this Act, the Managing Director after being satisfied with the evidence, shall authorize the payment to the applicant of such a sum as the member is entitled to".

Amendment of Section 41.

11. Section 41 of the Principal Act is hereby amended by-

(a) renumbering section 41 to be a new number 41(1)-

(b) adding subsection (2) as follows-

(2) "The Minister may, in consultation with the Board, make Regulations that will allow members to use their gratuity entitlement for mortgage."

(c) adding subsection (3) as follows-

(3) "The mortgage provided under subsection (2) of this section, shall not exceed fifty percent of the total gratuity entitlement at the time of application".

Amendment of Section 42.

12. Section 42 of the Principal Act is hereby amended by-

(a) adding subsection (3) as follows-

(3) "A person who fails to comply with any provisions of this Act, commits an offence and upon conviction shall be liable to a fine of five million Tanzania shillings or imprisonment for a term of one year or both".

(b) adding subsection (4) as follows-

(4) "The court before which a person is convicted of an offence under this Act shall, without prejudice to any civil remedy, order that convicted 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 the amount may be recovered in the same manner as a fine and shall be paid into the Fund for the credit of the concerned insured persons".

Amendment of Section 44.

13. Section 44 of the Principal Act is hereby amended as follows-

(a) By deleting sub-section (2) and substituting it by new subsection (2) as follows:

44.(2) "The Minister may, in consultation with the Board, make Regulations to establish a scheme including supplementary voluntary scheme and other scheme as deem necessary to accommodate informal sector workers, self employed, formal sector workers, and elderly employees re-employed after the pensionable age and Zanzibaris living outside Tanzania".

(b) Subsection (3) is hereby ammended as follows:

(3) The Minister in consultation with the Board may amend, vary or alter the provisions of the schedules of this Act.

FIRST SCHEDULE
(Section 17(2))
Computation of Benefits

Amendment of First Schedule.

14. The First Schedule is hereby repealed and replaced by the new First Schedule as follows-

Computation of pension and gratuity.

1.(1) Pension and gratuity shall be calculated as follows:

(a) for member entitled to old age benefits:

(i) Monthly Pension shall be thirty six percent of final average earnings supplemented by 2% of final average earnings for every twelve months additional to the 156 months of the contrubution.

(ii) Gratuity shall be sixty multiplied by monthly pension calculated in sub-paragraph (i) under this paragraph.

(iii) Minimum pension is 30% of statutory minimum wage.

(iv) Earning ceiling shall be used in computation of monthly pension where applicable.

(b) for member entitled to Partial old age benefit:

(i) Monthly Pension shall be two and half percent of final average earnings for every twelve months completed.

(ii) Gratuity shall be eighty multiplied by monthly pension calculated in sub-paragraph (i) under this paragraph.

(iii) Earning ceiling shall be used in computation of monthly pension where applicable.

(c) for member entitled to invalidity benefit:

(i) Monthly Pension shall be two and half percent of final average earnings for every twelve months completed.

(ii) Gratuity shall be eighty multiplied by monthly pension calculated in sub-paragraph (i) under this paragraph.

(iii) Minimum pension is 30% of statutory minimum wage.

(iv) Earning ceiling (EC) shall be used in computation of monthly pension where applicable.

(d) For members entitled to survivor benefit.

Gratuity shall be twenty percent of final average earnings multiplied by period of contribution.

Distribution of benefits.

2. The monies contributed by members and employers shall be for:

(a) retirement, survivor's and invalidity benefits 17.0%.

(b) maternity benefit 1.0%.

(c) medical benefit 2.0%.

TOTAL 20.0%.

Rate of contributions.

3. The rate of contribution shall be:

(a) Every member shall pay to the Fund seven percent of his or her monthly salary and the employer of such employee shall deduct such contributions from employee's monthly salary;

(b) Every employer shall pay to the Fund thirteen percent calculated on the total salary paid during that month to the employee.

Passed by the House of Representatives of Zanzibar on 28th November, 2016.

{ RAYA ISSA MSELLEM }
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR