

**THE PENSIONS LAWS (MISCELLANEOUS AMENDMENTS)
ACT, 1978**

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THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 1978

I ASSENT

Tulius K. Nyerere
President

[20TH MARCH, 1978]

**An Act to provide for a revised age of retirement for public officers,
for the payment of Survivors' benefits to dependants, for minimum
pension and for making miscellaneous amendments to certain
Pensions Laws**

[..... MARCH, 1978]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Pensions Laws (Miscellaneous Amend- short title
ments) Act, 1978.

2. In this Act, unless the context otherwise requires- Interpretation
"the Ordinance" means the Pensions Ordinance. Cap. 371

PART II

AMENDMENT TO THE PENSIONS ORDINANCE

3. This Part shall be read as one with the Pensions Ordinance.

4. Section 2 of the Ordinance is amended in section 2 (1) by inserting Construction
at the appropriate alphabetical order the following definition: - Section 2
"dependant" in relation to a deceased officer, means- amended

- (a) where the deceased officer was a male, his widow or where immedi-
ately preceding his death, he was married to two or more wives,
all his widows;
- (b) where the deceased officer was a female, the husband of such
deceased officer who satisfies the appropriate authority that he
was wholly or substantially dependent upon the deceased officer's
income for his livelihood;

- (c) every child of the deceased officer under the apparent age of eighteen years who was wholly or substantially dependent upon the deceased officer's income for his livelihood but does not include any married daughter living with her husband immediately preceding the death of the deceased officer; and
- (d) the immediate parents of the deceased officer, who satisfy the appropriate authority that they were wholly or substantially dependent upon the deceased officer's income for their livelihood.
- Section 2A amended 5. Section 2A of the Ordinance is amended in paragraph (a) by inserting immediately after the words "for the purposes of" the words "subsection (2)",
- (b) deleting the word "and" which appears after the figure "19" in the third line and adding immediately after the figure and words "20 (other than subsection (3))" the word and figure "and 20A"
- section 8 amended 6. Section 8 of the Ordinance is amended in paragraph (a)-
- (a) by deleting the words "forty-five" where that word occurs in the first line and substituting therefor the word "fifty";
- (b) by deleting the proviso and substituting therefor the following proviso:
"Provided that in respect of-
- (i) officers in the Police Force of the rank of Constable and officers in the Prisons Service of the rank of Prison Officer, Grade III, this paragraph shall have effect as if "forty years" were substituted for "fifty years"; and
- (ii) officers in the Police Force above the rank of Constable and of or below the rank of Sergeant and officers in the Prisons Service above the rank of Prison Officer, Grade III and of or below the rank of Prison Officer, Grade I. this paragraph shall have effect as if "forty-five years" were substituted for "fifty years."
- Section 10 and 10A amended 7. Sections 10 and 10A are repealed and replaced by the following section: —
- "Age of retirement 10. '(1) It shall be lawful for the appropriate authority to require any officer, not being a Judge of the High Court, to retire from the service of the United Republic at any time after he attains the age of fifty years, and for any officer to elect so to retire at any time after he attains such age or, in the case of a female officer, on marriage:
Provided that in respect of-
- (i) officers in the Police Force of the rank of Constable and officers in the Prisons Service of the rank of Prison Officer, Grade III, this subsection shall have effect as if "forty years" were substituted for "fifty years";

(ii) officers in the Police Force above the rank of Constable and of or below the rank of Sergeant, and officers in the Prisons Service above the rank of Prisons Officer, Grade III, and of or below the rank of Prison Officer, Grade 1. this subsection shall have effect as if "forty-five years" were substituted for "fifty years".¹¹

(2) No officer-

(a) to whom paragraph (i) of the proviso to subsection (1) applies may continue to serve after he attains the age of forty-five years;

(b) to whom paragraph (ii) of the proviso to subsection (1) applies may continue to serve after he attains the age of fifty years;

(c) other than an officer to whom paragraph (a) or (b) of this subsection refers or a Judge of the High Court, may continue to serve after he attains the age of fifty-five years, unless.-

(i) the appropriate authority considers it to be in the public interest that such officer should so continue to serve; and

(ii) such officer consents in writing to continue to serve as aforesaid.

(3) Notwithstanding the provisions of sub-sections (1) and (2), no officer shall be permitted to continue in the service on pensionable terms after he attains the age of sixty years.

8. Section 14 (1) of the Ordinance is repealed and replaced by the following new section:-

Section 14
repealed and
replaced

"Transfer to
parastatal
service etc.

14. Where an officer who holds a pensionable office joins the service of a parastatal organization or a specified office or, having served a parastatal organization or a specified office: joins the service of the Government of the United Republic on pensionable terms and his aggregate service would have qualified him, on retirement, for a pension had that service been wholly under Government of the United Republic, he may, on his retirement from the service of the Government of the United Republic, the service of the parastatal organization or of the specified office, as the case may be, in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on a pension, be granted in respect of his service under the Government of the United Republic, a pension which shall be calculated with reference to the provisions of this Ordinance:

Provided that where the officer is not -in the service of the United Republic at the time of such retirement, his pensionable emoluments for the purposes of this paragraph shall be those which are taken for computing his pension in the service in which he was last employed.

(2) Where an officer to whom paragraph (1) above applies retires from the service of the Government of the United Republic, the service of a parastatal organization or of a specified office in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on pension or gratuity but has not completed in the aggregate the minimum period of ten years' service, he may be granted in respect of his services under the Government of the United Republic, a gratuity of an amount not exceeding five times the annual amount of the pension which, if he had completed ten years, might have been granted to him under the provisions of subsection (1).

(3) Any pension or gratuity granted under this section shall be without prejudice to any pension, gratuity or other terminal benefit to which such officer may, be entitled in respect of his parastatal service.

(4) 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 but not including a company to which paragraph (e) applies;
- (c) the Tanganyika African National Union;
- (d) the Chama cha Mapinduzi;
- (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 reference in this paragraph to "parastatal organization" includes references to any such company;

"parastatal service" means service in a parastatal organization or a specified office;

"retirement" includes death, disability or other event in circumstances in which a pension or gratuity is payable under this Ordinance;

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

(5) The provisions of this section shall apply in respect of every retirement to which this section which takes effect on or after the commencement of this Act.

9.- Section 10C of the Ordinance is amended in paragraph (a) of the proviso by deleting the word "forty-five" and substituting therefor the word "Fifty".

Section 10C
amended

10- Section 11 of the Ordinance is amended in subsection (1) by-

Section 11

(a) deleting the full-stop, which appears after the word "Tanganyika" and substituting therefor a semi-colon;

(b) by adding immediately below the subsection the following proviso: -

"Provided that this shall not apply where a Person is receiving a minimum pension as provided in Part III of this Act.-

11.- Section 16 of the Ordinance is hereby repealed.

Section 16
repealed

12. Section 17 of the Ordinance is amended in sub-section (3) by deleting all the words which appear after the word "applied" which appears in the fifth line and substituting therefor the words:

Section 17
amended

"for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of his, in such, proportions and manner as the appropriate authority thinks proper, and such moneys shall be paid or applied accordingly."

13.- Section 19 of the Ordinance is amended in sub-paragraph (ii) of Paragraph (b) by deleting all the words which appear after the word "Ordinance" in the sixth line and substituting therefor the words "and had not elected to receive the unreduced pension."

Section 19
amended

14. The Ordinance is amended by adding immediately below section 20 the following new section-

New section
added

"Survivors'
benefit for,
dependants

20A.-(1) Where an officer who has completed not less than ten years of qualifying service" dies whilst in the public service otherwise than in the circumstances describe in section 20, his dependants may be granted, with effect from the date following that of the death of the officer, a survivors' benefit under this section. The survivors' benefits shall be in addition to the gratuity which may be payable under section 19.

(2) The survivors' benefit under this section shall be of an amount equal to the commuted pension to which the deceased officer would have been entitled had he retired immediately preceding his death in circumstances described in paragraph (e) of section 8.

(3) The distribution of survivors' benefit as between the dependants shall be made in accordance with interests the law of succession governing the community to which the deceased officer belonged.

(4) The payment of survivors' benefit shall cease upon expiry of a period of three years from the date following that of the death of the deceased officer or on the recipient's death, whichever shall be the earlier:

Provided that-

- (a) in the case of any payment of a survivors' benefit or any portion thereof being paid to a widow who remarries within a period of three years aforesaid, the payment shall cease upon such re-marriage;
- (b) in the case of any dependant child, the payment shall cease upon his attaining the age of eighteen years.

(5) The provisions of this section shall apply, *mutatis mutandis* where the officer in receipt of a pension under this Ordinance dies within a period of three years immediately following his retirement on pension provided that the survivors' benefit payable in such a case shall not exceed the amount of pension which was being paid to the deceased officer immediately preceding his death and shall be payable only until the expiry of three years from the date of retirement.

(6) Where any portion of survivors' benefit payable under this section ceases to be so payable by reason of the death of recipient or remarriage of the widow or any dependant child attaining the age of eighteen years during the aforesaid period of three years following the death of the deceased officer, such portion shall for the remaining period, be divided amongst other recipients in the proportion in which they would have been entitled under the appropriate law of succession and the dependant whose portion has so ceased not been entitled to any survivors' benefit immediately following the death of the deceased officer.

(7) Where an officer dies whilst in the public service otherwise than in circumstances described in section 20-

- (i) after not less than ten years of qualifying service but leaving no dependants surviving him; or
- (ii) after less than ten years of qualifying service irrespective of whether or not he leaves dependants surviving him,

there may be awarded to his estate only the death gratuity under the provisions of section 19. No other survivors' benefit shall be payable in such cases.

(8) The appropriate authority may, by notice in the *Gazette*, exempt any officer or category of officers from all or any of the provisions of this section.

15. The Pensions Regulations, as set out in the Schedule to the Ordinance are amended-

Amendment
of
regulation 23
of the
Pension
Regulations

(1) In Paragraph (1) of regulations 23 by-

(a) deleting the comma which appears after the word "may" in the second line;

(b) deleting the words, "at his option exercisable as in this regulation provided" which appear in the second line, and the words "or any greater fraction" which appear in the fourth line;

(c) deleting the colon after the word "pension" which appears in the sixth line and substituting therefor a comma and adding immediately after that comma, the words:

"unless the said officer exercises an option in writing to be paid in lieu of such gratuity and reduced pension, such pension"

(d) deleting the word "not" which appears in the last sentence in the proviso.

(2) In paragraph (2) of regulation 23, by deleting the proviso to that paragraph.

(3) In paragraph (4) of regulation 23, by deleting that paragraph.

(4) In paragraph (5) of regulation 23, by renumbering that paragraph as (4).

16. The Pensions Regulations, as set out in the Schedule to the Ordinance, are amended in sub-paragraph (b) of Paragraph (1) of regulation 24 by deleting the words "forty-five years" where they occur in the second line and substituting therefor the words "fifty years."

Amendment
of
regulation 24

PART III

MINIMUM PENSION

17. This part shall be read as one with-

1. The Pensions Ordinance, (Cap. 371).

Constitution

2. The Unified Teaching Service (Pension and Gratuities) Regulations, 1965.

G.N. 1965
No. 304

3. The Defence Forces (Service Pensions and Gratuities) Regulations, 1966.

G. N 1966
No. 6
Cap. 66

4. The Pensions (Local Forces) Ordinance.

Interpreta-
tion

18. In this Part-
46 specified amount"-

(a) in relation to the period from the first day of May, 1974,
means four thousand and eighty shillings a year;

(b) in relation to the period from the first day of May, 1975,
means four thousand five hundred and sixty shillings a year;

Cap. 66

"pension" excludes disability pension except that which is granted under the Pensions (Local Forces) Ordinance.

Minimum
Pension

19. No pensioner who is ordinarily resident in the United Republic shall, for so long as he continues to be so resident in the United Republic, be paid a pension of not less than the specified amount:

Provided that-

(a) where an officer is in receipt of two or more pensions, the provisions of this section shall apply so that the aggregate of the pensions so paid shall not be less than the specified amount;

(b) the provisions of this section shall apply only in relation to the reduced pension to which a pensioner is entitled;

(c) the provisions of this Part shall not apply to a pensioner who is not a citizen of the United Republic.

Section 11A
of the
Pensions
Ordinance
and certain
Pensions
Regulations
repealed or
revoked

20,(a) Section I IA of the Pensions Ordinance is repealed;

1975
No. 107

(b) The Unified Teaching Service (Pensions and Gratuities) (Amendment) Regulations, 1975, are revoked.

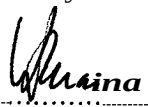
G.N 1975
No 144

(c) The Defence Forms (Pensions and Gratuities) (Amendment) Regulations, 1975, are revoked.

Defence
Forces
Regulations
amended
G. N 1962
No. 60

21. The Defence Forces (Disability and Death Pensions and Gratuities) Regulations are amended in paragraph (2) of regulation 6 by deleting the word "quarterly in advance" and substituting therefor the word "11 monthly in arrear."

Passed in the National Assembly on the twenty-second day of February, 1978.


Clerk of the National Assembly