

PENSIONS ACT, 1990
ARRANGMENT OF SECTIONS

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ACT NO. 2 OF 1990

I ASSENT

Idris Abdul Wakil

IDRIS ABDUL WAKIL,
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL.

29th January 1990

AN ACT TO REPEAL AND REPLACE PENSION DECREE AND TO
PROVIDE FOR THE GRANT AND REGULATION OF PENSIONS,
GRATUITIES AND ALLOWANCES PAYABLE TO OFFICERS IN THE
SERVICE OF THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR.

ENACTED by the House of the Representatives
of Zanzibar.

Short title
and
commencement.

1. This Act may be cited as Pensions Act, 1990
and shall be deemed to have come into effect on the
1st day of July, 1990.

Interpretation.

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

"Contributory scheme" means any scheme
established by the Government or Public
Enterprise for certain category of
officers;

"Civil service" means public service under the
Revolutionary Government of Zanzibar.

"Foreigner" means any national other than a
Tanzanian;

"Minister" means minister for the time being
responsible for civil service;

"Other public service" means public service not under the Government of Zanzibar;

"Pensionable emoluments" include salary and any other allowances which the Minister responsible for Civil Service shall make regulations under this Act;

"Principal Secretary" means Principal Secretary for the time being designated as Head of Civil Service;

"pensionable office" means all offices in the service of Revolutionary Government of Zanzibar which have not been declared non pensionable;

"salary" means the salary attached to a pensionable office.

(2) For the avoidance of doubts it is hereby declared that where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office then, unless the terms of such appointment otherwise require, such last mentioned office is for the purpose of this Act, an office in which he has been confirmed.

(3) Where it appears to the Principal Secretary that there is no satisfactory proof of the correct age of an officer or of any child, then the Principal Secretary may, upon such evidence, as he may think fit, presume the age of the officer or of such child, and such presumed age shall be taken to be the correct age of the officer or of such child for the purposes of this Act.

Pensions
regulations.

3.(1) Pensions, gratuities and other allowances may be granted by the Minister, in accordance with the Regulations contained in the First Schedule of Pensions Decree, Cap. 45, to officers who have been in the service of the Government.

(2) The Regulations contained in the First Schedule may from time to time be amended, added to or revoked, by the Regulations made by the Minister with the sanction of the Revolutionary Council and all Regulations so made shall be published in the Gazette.

(3) Whenever the Minister is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person that regulation may be given retrospective effect for that purpose.

(4) All Regulations made under this section shall have the same force and effect as if they were contained in the First Schedule.

Pensions etc.
to be computed
under law in
force.

4.(1) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of an officer's retirement.

(2) There shall be charged on and paid out of the general revenue of the Revolutionary Government of Zanzibar all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance, in pursuance of this Act.

Pension etc.
not of right.

5.(1) No officer shall have absolute right to compensation for past services or to pension, gratuity or other allowances; nor shall anything in this Act effect the right of the Government to dismiss any officer at any time and without compensation.

(2) Where it is established to satisfaction of the Principal Secretary that an officer has been guilty of negligence, irregularity, or misconduct, the pension, gratuity or other allowance, may be reduced or altogether withheld.

Circumstances
in which
pension may
be granted.

6. No pension, gratuity or other allowance shall be granted under this Act to any officer except on his retirement from the public service in one of the following cases -

- (a) on or after attaining the age of fifty-five for a male officer and the age of fifty for a female officer.
- (b) in the case of transfer to other public service, 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;
- (c) on the abolition of his office;
- (d) on compulsory retirement for the purpose of facilitating improvement in organisation of the department to which he belongs, by which greater efficiency or economy may be affected;

- (e) on medical evidence, to the satisfaction of the Minister, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (f) in the case of termination of employment in the public interest as provided in this Act;
- (g) on retirement in circumstances not mentioned in the preceding paragraphs of this section, rendering him eligible for a pension under any law of the time being in force.

Termination of employment in the public interest.

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, such termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Act, the Principal Secretary may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (c) of section 6.

Compulsory retirement.

8.(1) It shall be lawful for the Principal Secretary to require an officer to retire from the service of the Government -

- (a) at any time after a male officer attains the age of sixty years and female officer attains the age of fifty five years.

(b) in the case of a female officer on account of her marriage to a foreigner.

(2) The provision of subsection (1)(a) of this section shall not apply to Judges of the High Court.

Maximum pension.

9. The maximum pensionable emoluments drawn by an officer shall not exceed the last salary drawn by him during his service with the Government.

Pension not to be suspended.

10. Where an officer to whom a pension has been granted under this Act is appointed to another office in the public service the payment of his pension shall not be withheld, and he shall be entitled to his pension and salary of the office.

Pensions etc. not to be assignable.

11.(1) A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying -

(a) a debt due to the Government; or

(b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the officer to whom the pension, gratuity or other allowances has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government.

(2) A pension, gratuity or other allowance granted under this Act shall not be taxed.

Pension may be withhold.

12. Where any person to whom a pension or other allowance has been granted under this Act is sentenced to a term of imprisonment by any

competent court for sedition, such pension or allowance shall, by direction of the Principal Secretary cease as from such date as he determines.

Pensions to dependants of officers dying in office.

13.(1) Where an officer dies as a result of injuries received -

- (a) in the actual discharge of his duty; or
- (b) on account of circumstances specifically attributable to the nature of his duty, it shall be lawful for the Principal Secretary to grant -

- i) if the deceased officer leaves a widow, an annual pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieth of his annual pensionable emoluments at the date of the injury or one thousand shillings a month, whichever is greater;
- ii) if the deceased officer leaves a widow to whom a pension is granted under paragraph (i) and a child or children, a pension in respect of each child attains the age of twenty one years, of an amount not exceeding one-eighth of the pension specified in such paragraph;
- iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of twenty one years, of double the amount specified in paragraph (ii);

- (iv) if the deceased officer leaves a child or children, and a widow to whom a pension is granted under paragraph (i) and the widow subsequently dies, a pension in respect of each child, as from the date of the death of the widow and until such child attains the age of twenty-one years, of double the amount specified in paragraph (ii);

- (v) if the deceased officer does not leave a widow, or if no pension is granted to the widow, and if his mother was wholly or mainly dependant on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow -

Provided that:

- (A) in the case of a pension granted under paragraph (iv), if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of remarriage;

- (B) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of twenty-one years;

- (C) where a deceased officer leaves more than one widow, or children born of more than one marriage, or any persons wholly or in part dependant upon him for their support or it is for any other reason impracticable to grant a pension or pensions in the manner prescribed in any of the preceding provisions of this subsection, the Principal Secretary may grant a pension or pensions not exceeding in the aggregate the total value of the pensions

which might be granted at any one time under the said provisions, to such widows, children or dependants: provided that the amount of any one pension shall not exceed in the case of one or more adult persons or in the case of a child, the pension which might have been granted to a widow or a child respectively under the said provisions.

(2) For the purposes of this section -

(a) an officer who dies as a result of injuries received while traveling by air or by sea, or by road in pursuance of official instructions shall be deemed to have died as the result of injuries received -

(i) in the actual discharge of his duty; and

(ii) on account of circumstances specifically attributable to the nature of his duty.

(b) an officer proceeding by a route approved by the Principal Secretary to or from Zanzibar at the commencement or termination of his service therein, or of a period of secondment, duty or leave therefrom, who dies as a result of damage to the vessel, aircraft or vehicle in which he is travelling or of any act of violence directed against such vessel, aircraft or vehicle, shall be deemed to have died as a result of injuries received -

(i) in the actual discharge of his duty; and

(ii) on account of circumstance specifically attributable to the nature of his duty.

Provided that where in respect of the same accident compensation is also payable to the dependants under the Workmens Compensation Act, No. 15 of 1986, the dependants may opt to have pension under this Act or compensation under Workmen's Compensation Act whichever they think more beneficial.

(3) For the purpose of this section the expression "child" includes -

- (a) a posthumous child;
- (b) a step child or any child born before the date of injury and wholly or mainly dependant upon the deceased officer for support;
- (c) an adopted child.

Ex-gratia
payment.

14. Where a male officer dies in service his widow shall be entitled, notwithstanding any provisions in this Act or any other law for the time being in force, to a four months salary of the deceased officer. Where a male officer does not leave a widow, payment shall be made to his dependants. Where a female officer dies in service her dependants shall be entitled to a four months salary of the deceased.

For avoidance of doubt, such payment shall be made ex-gratia.

Pensions may be
paid in lumpsum.

15. It shall be lawful for a pensioner to require that his pension be paid in lumpsum every year in arrears. The final decision to pay such lumpsum shall lie with the Minister of Finance.

Questions under
Act to be deter-
mined by the
Principal
Secretary.

16. Without prejudice to the provisions of section 15 of this Act, where any question exists in relation to any matter arising under this Act such question may be determined by Principal Secretary

Rules and
Regulations.

17. It shall be lawful for the Minister from time to time, to make Rules and Regulations, not inconsistent with this Act, for the proper carrying out of the provisions of this Act and may from time to time revoke, or vary the same.

Repeal and
savings.

18. Pensions Decree Cap. 45 of the Laws of Zanzibar is hereby repealed.

Provided that Pensions Regulations shall, in so far as they are not inconsistent with this Act, be applied until all or any part of the said Regulations is by notice in the Gazette revoked or varied.

Passed in the House of Representatives
on the 21st day of December, 1989.

K Chamde

KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.