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THE REPUBLIC OF UGANDA

THE PARLIAMENTARY PENSIONS (AMENDMENT) ACT, 2010



THE REPUBLIC OF UGANDA

I SIGNIFY my assent to the bill.

.....

President

Date of assent: 28/12/2010.

THE PARLIAMENTARY PENSIONS (AMENDMENT) ACT, 2010.

ARRANGEMENT OF SECTIONS.

Section

1. Amendment of Section 2 of the Parliamentary Pensions Act,2007.
2. Amendment of section 4 of the principal Act.
3. Amendment of section 5 of the principal Act.
4. Amendment of section 6 of the principal Act.
5. Amendment of section 7 of the principal Act.
6. Insertion of a new section 7A of the principal Act.
7. Amendment of section 9 of the principal Act.
8. Amendment of section 10 of the principal Act.
9. Insertion of a new section 10A of the principal Act.
10. Amendment of section 11 of the principal Act.
11. Replacement of section 12 of the principal Act.
12. Insertion of new section 12A of the principal Act
13. Replacement of section 13 of the principal Act.
14. Amendment of section 14 of the principal Act.
15. Amendment of section 15 of the principal Act.
16. Insertion of a new section 15A of the principal Act.
17. Replacement of section 16 of the principal Act.
18. Insertion of a new section 16A of the principal Act.
19. Amendment of section 17 of the principal Act.
20. Replacement of section 18 of the principal Act.
21. Insertion of new sections 20A, 20B, 20C, 20D, 20E and 20F
22. Amendment of section 23 of the principal Act.
23. Insertion of a new section 23A of the principal Act.
24. Amendment of section 24 of the principal Act.
25. Amendment of section 25 of the principal Act.
26. Insertion of new schedules 1 and 2 to the principal Act

THE REPUBLIC OF UGANDA

THE PARLIAMENTARY PENSIONS (AMENDMENT) ACT, 2010.

An Act to amend the Parliamentary Pensions Act to make provision for the type of pension scheme; a vesting scale stipulating the proportion of Government contribution that shall vest on the member upon retirement; a disability pension; fair representation of members on the board of trustees; a dispute resolution mechanism; and for other related matters.

DATE OF ASSENT:

Date of Commencement:

BE IT ENACTED by Parliament as follows:

1. Amendment of Section 2 of the Parliamentary Pensions Act, 2007.

Section 2 of the of the Parliamentary Pensions Act, 2007 in this Act referred to as "the principal Act" is amended by—

(a) inserting immediately before the interpretation of the word "Board" the following—

"actuary" means an actuary qualified as such and appointed by the Board;

"AGM" means the Annual General Meeting of the members of the scheme including a former member, receiving a pension under the scheme or, with deferred benefits in the scheme;

"beneficiary or nominee" means a person designated by a member to benefit under the scheme;

(b) inserting immediately after the interpretation of the word "Board" the following—

"custodian" means an institution appointed by the Board for the purposes of holding safe custody of the funds, securities, financial instruments and documents of title of the scheme in accordance with such terms and conditions of service as may be specified in the instrument of appointment;

"dependant" means a son or daughter under the age of 18 years, or a son or daughter above the age of 18 years or any other person who is wholly or substantially dependent on the member;

"defined benefits scheme" means a retirement benefits scheme in which a sponsor undertakes to provide benefits expressed in the form of annuity or lump sum calculation based on work history and guaranteed return on contribution account regardless of the investment performance of the fund associated with the scheme and accordingly constitutes a contingent liability for the sponsor;

"disability" means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation;

"fund manager" means a person appointed by the trustees to advice on the investment of the assets of the scheme in accordance with such terms and conditions of service as may be specified in the instrument of appointment;

"hybrid cash balance scheme" means a defined benefits scheme which includes elements of money purchase pension design scheme."

(c) substituting for the interpretation of the word "member" the following—

"member" means a Member of Parliament and a member of staff of the Parliamentary Commission on permanent and pensionable terms contributing to the Fund;

"money purchase pension design scheme" means a scheme that provides benefits based upon the amount of money that is in a member account when benefits are due to be paid."

(d) inserting immediately after the interpretation of the word "pensionable emolument" the following—

"reserve account" means a reserve account established under section 20B."

(e) inserting immediately after the interpretation of the word "scheme" the following—

"scheme credit" means the total contributions by and in respect of a member and interest accruing on it."

"spouse" means a husband or wife by a lawful marriage."

2. Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended by substituting for subsection (2) the following—

"(2) The scheme shall be a hybrid cash balance scheme under which members and the Government shall make contributions to the Fund in accordance with section 6."

3. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by substituting for it the following—

"**5. Membership of the scheme.**

(1) Membership of the scheme shall consist of Members of Parliament, whether elected or *ex-officio,* and members of staff, on permanent and pensionable terms, of the Parliamentary Commission except that any member who is also a Vice President or a Prime Minister or becomes Speaker or Deputy Speaker shall not be a member of the scheme.

(2) A member who is subsequently appointed as Vice President or Prime Minister or elected Speaker or Deputy Speaker shall withdraw from the scheme and his or her benefits may be deferred under section 12A.

(3) All Members of the 7th Parliament and staff of the Parliamentary Commission shall, on the date of commencement of this Act, be deemed to have joined the scheme.

(4) For the purposes of this Act, a person who ceases to be a member in consequence of the dissolution of Parliament, or in consequence of a court order relating to any election petition, shall be deemed to continue to be a member until such time as he or she fails to be re-elected to Parliament.

(5) The benefits of the Speaker and Deputy Speaker shall be provided for under Part IVA of this Act."

4. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended by substituting for subsection (5) the following—

"(5) The board shall maintain a member account for each member to which all contributions made by and in respect of each member under this Act shall be credited, and from which there shall be paid individual benefits in respect of each member."

5. Amendment of section 7 of the principal Act.

Section 7 of the principal Act is amended by—

(a) renumbering section 7 as section 7(1); and

(b) inserting immediately after subsection (1) the following—

"(2) Subsection (1) shall not apply to an order of court for the payment of periodical sums of money towards the maintenance of the spouse or former spouse or child, of the member to whom the pension, gratuity or other benefit has been granted."

6. Insertion of a new section 7A of the principal Act.

The principal Act is amended by inserting immediately after section 7 the following—

"**7A. Pension not subject to attachment on bankruptcy.**

Where a person in receipt of a pension under this Act is adjudicated insolvent by a competent court, the person shall continue to receive the pension and the pension shall not be subject to attachment under the insolvency laws."

"7B Restriction on use of scheme funds.

(1) The funds of the scheme shall not—

(a) be used for speculative investment;

(b) be lent to any person, except through securities sold on the open market; or

(c) be invested with a bank, non-banking financial institution, insurance company, building society or other institution with a view to securing loans or mortgages, at a preferential rate of interest or for other consideration to the trustee, custodian, administrator or fund manager of the retirement benefits scheme.

(2) Notwithstanding section 7 and section 7B (1), a prescribed proportion of the benefits accruing to a member under this scheme may be assigned and used by the member to secure a mortgage or a loan for purchasing a residential house from any institution and on such terms as may be prescribed in the regulations made under this Act.

7. Amendment of section 9 of the principal Act.

Section 9 of the principal Act is amended—

(a) in paragraph (a) by inserting immediately after the word "contributions" the words " by and in respect" ;

(b) in paragraph (c) by deleting the word "members" and inserting immediately after the word "contributions" the words "by and in respect of members."

8. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended by inserting immediately after subsection (3) the following—

"(4) The contributions by and in respect of each member under section 6 shall be paid to the Fund before the fifteenth day of the next following calendar month."

9. Insertion of a new section 10A of the principal Act.

The principal Act is amended by inserting immediately after section 10 the following—

"10A. Payments from the Fund.

The following payments shall be made from the Fund—

(a) pension;

(b) refund of contributions; and

(c) expenses incurred in the management and administration of the Scheme."

10. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended in subsection (2) by substituting for the words "Speaker of Parliament" the words "Parliamentary Commission."

11. Amendment of section 12 of the principal Act.

For section 12 of the principal Act there is substituted the following—

"12. Pension for former members.

(1) Pension shall be paid to a member who retires or ceases to be a member on or after attaining forty-five years of age, subject to service as a member for a continuous period of five years or more.

(2) The pension payable to a former member shall be calculated basing on a formula provided in Schedule 1 to this Act.

(3) The board may by Statutory Instrument in consultation with the Parliamentary commission amend the schedule after an actuarial review

(4) The pension payable to a former member on his or her retirement shall be of such amount as can be purchased by his or her scheme credit at the date of retirement by monthly payments.

(5) Notwithstanding subsection (4), a member entitled to a pension shall have an option of receiving a commuted lump sum payment of not more than twenty five percent of his or her Scheme credit."

12. Insertion of new section 12A of the principal Act.

The principal Act is amended by inserting immediately after section 12 the following—

"12A. Retirement as a consequence of another Government appointment.

The benefits of a member, who retires or ceases to be a member as a consequence of another Government appointment with a retirement scheme, shall be deferred until the member retires or ceases to hold the new appointment.

13. Replacement of section 13 of the principal Act.

For section 13 of the principal Act, there is substituted the following—

"13. Refund of contributions.

(1) Subject to section 12A, a member who retires or ceases to be a member whose age is less than forty-five years, or who has had less than five years of pensionable service, shall be entitled to a refund of his or her scheme credit.

(2) For the purposes of subsection(1), the proportion of Government contribution that vests in the member shall be calculated as follows—

(a) ten percent of contribution shall vest after service of less than or equal to one year;

(b) twenty percent of contribution shall vest after service of one year but less than two years;

(c) forty percent of contribution shall vest after service of at least two years but less than three years;

(d) sixty percent of contribution shall vest after service of at least three years but less than four years;

(e) eighty percent of contribution shall vest after service of at least four years but less than five years;

(f) one hundred percent of contribution shall vest after service of at least five years.

(3) This section shall not apply to a person who was a member before 2010."

14. Amendment of section 14 of the principal Act.

Section 14 of the principal Act is amended by substituting for subsection (2) the following—

"(2) Subject to section 12(5), a member whose payment is deferred under subsection (1) shall, on attaining the age of forty-five years or more, be paid his or her scheme credit as a pension."

15. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended by inserting at the end of the section the words, "as may be determined by the Board."

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16. Insertion of a new section 15A of the principal Act.

The principal Act is amended by inserting immediately after section 15 the following—

"15A Disability pension

(1) The board may, in addition to payments made under this Act, grant a disability pension where a member is required to retire as a result of—

(a) sustaining an injury in the course and arising out of performing his or her official duties or due to a travel accident; or

(b) contracting a disease to which he or she is exposed by the nature of his or her duties.

(2) For the purpose of subsection (1), injury or disease means injury or disease which is not due to, aggravated or contributed by negligence or misconduct on the part of the member."

17. Replacement of section 16 of the principal Act.

The principal Act is amended by substituting for section 16 the following—

"16. Death of a member.

Where a member dies while in pensionable service, his or her spouse or dependant, and where applicable a person nominated by the member before the member's death shall be paid a refund of his or her scheme credit."

18. Insertion of a new section 16A of the principal Act.

The principal Act is amended by inserting immediately after section 16 the following new section—

"16A. Death of a person receiving pension.

Where a person dies when he or she is receiving a pension under this Act, his or her spouse, dependant or where applicable a person nominated by the member before the member's death shall be entitled to receive the deceased member's pension."

19. Amendment of section 17 of the principal Act.

Section 17 of the principal Act is amended by substituting for subsection (1) the following—

"(1) Where a person receiving a pension under this Act is elected as a member of Parliament or appointed as a member of staff of the Parliamentary Commission on permanent and pensionable terms contributing to the Fund, the payment of the pension or any part of it shall be supended during the period he or she is a serving member."

20. Replacement of section 18 of the principal Act.

The principal Act is amended by substituting for section 18 the following—

"18. Establishment of board of trustees.

(1) There is established a Parliamentary Pension Scheme Board of Trustees consisting of—

(a) the Minister responsible for finance or his or her representative;

(b) two back bench Members of Parliament elected from different political parties or organisations one of whom shall be a woman;

(c) one elected backbench commissioner;

(d) one member of staff elected by the members of staff of the Parliamentary Commission; and

(e) two pensioners elected by the pensioners, one of whom is a former staff of the Parliamentary Commission and the other a former Member of Parliament.

(2) The chairperson of the board shall be elected by the board of trustees from the two back bench Members of Parliament from different political parties or organisations and pensioners.

(3) In the absence of the chairperson, the members present shall elect from amongst themselves, a chairperson for the purposes of the sitting.

(4) The Clerk to Parliament shall be the secretary to the board and chief executive of the fund.

(5) The board shall be responsible for the management and control of the scheme.

(6) The board shall appoint an actuary, custodian, fund manager, auditor and any other proffessional of the Scheme as the board may deem necessary for the proper administration of the Fund.

(7) A member of the board of trustees shall serve for a period of five years but may be eligible to serve one other term.

(8) A person shall cease to be a trustee if he or she—

(a) is sentenced to imprisonment by a court of competent jurisdiction for a period of six months or more;

(b) becomes insolvent or makes an arrangement or composition with his or her creditors generally;

(c) becomes a person of unsound mind;

(d) fails without reasonable cause and without the consent of the other trustees to attend four consecutive meetings of the board and the board resolves in a meeting that by reason of such failure he or she shall cease to be a trustee;

(e) removed by a resolution of members in an AGM;

(f) in the case of a trustee appointed by virtue of the office he or she holds, on ceasing to hold that office;

(g) resigns;

(h) is forbidden to act as trustee under any written law; or

(i) dies.

21. Insertion of new sections 20A, 20B, 20C, 20D, 20E and 20F.

The principal Act is amended by inserting immediately after section 20 the following new sections—

"20A. Interest on member accounts.

(1) Interest on the scheme credit of each member shall be calculated at the rate specified in Schedule 2.

(2) Subject to section 24, the board may, in consultation with the Parliamentary Commission and after actuarial recommendation, by statutory instrument, amend Schedule 2.

20B. Reserve Account.

There shall be established a reserve account of the fund to which shall be deposited any—

(a) penalties required by this Act to be paid into the fund;

(b) special contribution and any contribution which cannot be allocated to the account of any member of the fund;

(c) one elected backbench commissioner;

(d) one member of staff elected by the members of staff of the Parliamentary Commission; and

(e) two pensioners elected by the pensioners, one of whom is a former staff of the Parliamentary Commission and the other a former Member of Parliament.

(2) The chairperson of the board shall be elected by the board of trustees from the two back bench Members of Parliament from different political parties or organisations and pensioners.

(3) In the absence of the chairperson, the members present shall elect from amongst themselves, a chairperson for the purposes of the sitting.

(4) The Clerk to Parliament shall be the secretary to the board and chief executive of the fund.

(5) The board shall be responsible for the management and control of the scheme.

(6) The board shall appoint an actuary, custodian, fund manager, auditor and any other proffessional of the Scheme as the board may deem necessary for the proper administration of the Fund.

(7) A member of the board of trustees shall serve for a period of five years but may be eligible to serve one other term.

(8) A person shall cease to be a trustee if he or she—

(a) is sentenced to imprisonment by a court of competent jurisdiction for a period of six months or more;

(b) becomes insolvent or makes an arrangement or composition with his or her creditors generally;

(c) becomes a person of unsound mind;

(d) fails without reasonable cause and without the consent of the other trustees to attend four consecutive meetings of the board and the board resolves in a meeting that by reason of such failure he or she shall cease to be a trustee;

(e) removed by a resolution of members in an AGM;

(f) in the case of a trustee appointed by virtue of the office he or she holds, on ceasing to hold that office;

(g) resigns;

(h) is forbidden to act as trustee under any written law; or

(i) dies.

21. Insertion of new sections 20A, 20B, 20C, 20D, 20E and 20F.

The principal Act is amended by inserting immediately after section 20 the following new sections—

"20A. Interest on member accounts.

(1) Interest on the scheme credit of each member shall be calculated at the rate specified in Schedule 2.

(2) Subject to section 24, the board may, in consultation with the Parliamentary Commission and after actuarial recommendation, by statutory instrument, amend Schedule 2.

20B. Reserve Account.

There shall be established a reserve account of the fund to which shall be deposited any—

(a) penalties required by this Act to be paid into the fund;

(b) special contribution and any contribution which cannot be allocated to the account of any member of the fund;

(c) income from investments such as the board may determine; and

(d) any other income authorised by this Act.

20C. Accounts and audit.

(1) The board shall cause to be provided and kept proper books of account and records with respect to—

(a) the receipt and expenditure of monies by, and other financial transactions of the fund;

(b) the assets and liabilities of the fund, and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the fund and all its assets and liabilities.

(2) Not later than three months after the close of every financial year the accounts, including the balance sheet of the fund relating to that financial year, shall be audited by the Auditor General or an auditor appointed by him or her.

(3) As soon as the accounts of the fund have been audited, and in any case not later than six months after the audit, the board shall submit to the AGM a copy of the audited statement of accounts together with a copy of the audited report on the statement of accounts made by the auditors.

20D. Investment.

(1) The Scheme shall have an investment policy approved by the board.

(2) All monies in the fund, including the reserve account, which are not for the time being required to be applied for the purpose of the fund, shall be invested in such assets as may be determined by the Board.

20E. Exemption from stamp duty.

No stamp duty shall be chargeable under the Stamps Act in respect of any instrument executed by any person on behalf of or in favour of the fund or in respect of the payment of any benefit or the refunding of any contribution under this Act in any case where, but for this exemption, the fund or any person acting on behalf of the fund would be liable to that duty.

20F. Exemption from income tax.

A pension, benefit or refund paid under this Act shall be exempt from income tax."

22. Amendment of section 23 of the principal Act.

Section 23 of the principal Act is amended—

(a) in subsection (1), by substituting for the word "parliamentary commission", the word "board";

(b) in subsection (2), by—

(i) substituting for the word "parliament" the word "AGM"; and

(ii) substituting for the words appearing after the word "months" the words "from the date of submission to the board."

23. Insertion of a new section 23A of the principal Act.

The principal Act is amended by inserting immediately after section 23 the following—

"23A. Dispute resolution.

(1) Where the board decides in respect of any member—

(a) that a pension or other benefit may not be granted under this Act; or

(b) that a pension or other benefit which may be or has been granted under this Act shall be withheld, reduced in amount or suspended,

the member or, if he or she is dead, his or her spouse, dependant, beneficiary or nominee may, within ninety days of being informed of the decision, apply in writing to the board for the case to be referred to an arbitrator in accordance the Arbitration and Conciliation Act".

24. Amendment of section 24 of the principal Act.

The principal Act is amended by substituting for section 24 the following—

"24. Regulations.

(1) The board in consultation with the Parliamentary Commission may, by statutory instrument, make regulations for the effective implementation of this Act.

(2) The board in consultation with the Parliamentary Commission may, by statutory instrument amend schedules 1 and 2 to this Act.

(3) A statutory instrument made under this section shall be laid before Parliament and Parliament shall pronounce itself on the statutory instrument by way of a Resolution within twenty one days from the date on which it is so laid."

25. Amendment of section 25 of the principal Act.

Section 25 of the principal Act is amended by substituting for the word "Parliament" wherever it appears, the word "AGM".

26. Insertion of new schedules 1 and 2 to the principal Act.

The principal Act is amended at the end by inserting the following new schedules—

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"Schedule 1.

s.12.

A hybrid cash balance benefit formula;

(a) Pension = $\frac{AF}{CAF} \times Fr$

(b) A cash lump sum =AF x (1-Fr)

Where AF = Accumulated Fund in member's account at time of retirement

CAF = Expected present value of a conversion life annuity of 1per annum-increasing at 4% per annum with a guaranteed payment period of 15 years, payable monthly, at a time of retirement of a member, based on appropriate terms of interest and expense factors.

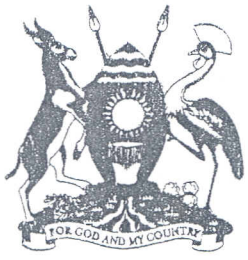
Fr = 75%

s.20A.

Interest shall be calculated at a rate of at least 8%"

Cross Reference

Administration of Parliament Act, Cap.257.
Arbitration and Conciliation Act, Cap.4.
Income Tax Act, Cap. 340
Parliament (Remuneration of Members)Act Cap. 259
Pensions Act, Cap 289
Stamps Act, Cap.342



THE REPUBLIC OF UGANDA

This printed impression has been carefully compared by me with the bill which was passed by Parliament and found by me to be a true copy of the bill.

.....

Clerk to Parliament

Date of authentication: 16-12-2010