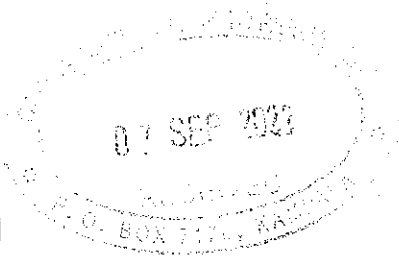




PARLIAMENT OF UGANDA



**REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND
PARLIAMENTARY AFFAIRS ON THE PARLIAMENTARY
PENSIONS (AMENDMENT) BILL, 2022**

**OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDING
KAMPALA-UGANDA**

SEPTEMBER, 2022

1.0. INTRODUCTION

The Parliamentary Pensions (Amendment) Bill, 2022 was read for the first time on 19th July 2022 and pursuant to Rule 129 (1) of the Rules of Procedure of Parliament of Uganda and the same was referred to the Sectoral Committee on Legal and Parliamentary Affairs for scrutiny. In accordance with Rule 129 (2) of the Rules of Procedure of Parliament of Uganda, the Committee has examined the Bill and hereby presents its report with observations and recommendations.

2.0. BACKGROUND

The Parliamentary Pension Scheme (the Scheme) was established through an Act of Parliament in 2007 as a contributory Hybrid Cash Balance retirement benefits plan for Members of Parliament and staff of Parliamentary Commission.

The mandate of the Scheme is to provide pension and other retirement benefits to Members of Parliament and staff of Parliamentary Commission on permanent and pensionable terms and relief of the dependants of the deceased participants.

The Scheme is governed by the Board of Trustees appointed in accordance with Section 18 of the Parliamentary Pensions Act, 2007 and regulated by Uganda Retirement Benefits Regulatory Authority.

Membership of the Scheme consists of Members of Parliament, whether elected or ex-officio and members of staff, on permanent and pensionable terms of the Parliamentary Commission. The scheme however does not extend to the Vice President, Prime Minister, Speaker and Deputy Speaker who are required, upon appointment as Vice President or Prime Minister or elected Speaker or Deputy Speaker to withdraw from the Scheme and his or her benefits may be deferred under Section 12A. The benefits of the Speaker and Deputy Speaker shall be provided for under Part IVA of this Act.

Contributions to the scheme are in form of deduction from each monthly payment of the pensionable emolument made to a member, a sum calculated at the rate of fifteen percent of the pensionable emolument and Government contribution to the Scheme, calculated at the rate of thirty percent of the monthly pensionable emolument paid to each member, or at a rate determined to guarantee the solvency of the Scheme as provided for under Section 31.

Pension is 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 ten years or more. The pension payable to a former member on his or her retirement is such amount as can be purchased by his or her scheme credit at the date of retirement by monthly payments. A member entitled to a pension has the option of receiving a commuted lump sum payment of not more than thirty three and one third percent of his or her scheme credit.

A member who retires or ceases to be a member whose age is less than forty-five years, or who has had less than ten years of pensionable service, is entitled to a refund of his or her scheme credit.

Where a member retires or ceases to be a member by reason of ill health and the board is satisfied on the basis of a report of the Medical Board appointed by the Director General of Medical Services that there is no reasonable possibility of the member becoming fit to be an active member again, the member shall be paid—

- (a) where the member has had ten or more years of pensionable service, under section 12 notwithstanding that he or she has not attained the age of forty-five years; or
- (b) where the member has less than ten years of pensionable service,

a refund of the member's contributions together with the contribution made by the Government on his or her behalf calculated with interest as may be determined by the Board.

Where a member dies while in pensionable service, his or her spouse(s) or dependants, 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.

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

3.0. The Object of The Bill

The object of this Bill is to amend the Parliamentary Pensions Act, 2007 to-

- (a) replace the requirement for a recommendation of the Uganda Medical Board with a recommendation from a medical practitioner approved by the Board, in cases where;
 - (i) a member or pensioner seeks to use a proportion of their benefits for medical treatment, or
 - (ii) a member retires early on medical grounds.
- (b) increase the rate of contribution made by the members from fifteen percent to twenty percent;
- (c) exclude the application of the laws on succession to a member or pensioner's death benefits;
- (d) repeal the application of the vesting scale in regard to the proportion contributed by Government towards a member's benefit upon early retirement by the member;
- (e) make the Clerk to Parliament an ex-officio member of the Board with no right to vote;
- (f) provide for the appointment and functions of the Chief Operations Manager and other staff of the Scheme;
- (g) permit benefits of untraceable members to be deposited on the Reserve Account of the Scheme;
- (h) provide for the option of receiving a pension rather than a lump sum payment in cases where a member who is not eligible for pension elects to do so;
- (i) establish a post-retirement Medical Fund to which contributions are made and from which the costs of medical benefits for members during retirement will be met;
- (j) empower the Board of Trustees to determine and implement the investment policy of the Scheme;
- (k) enable the former Speaker or Deputy Speaker of Parliament who are alive to obtain the benefits provided under Part IVA of the Parliamentary Pensions Act, 2007, Act No. 6 of 2007; and
- (l) provide for dependents of a former Speaker or Deputy Speaker to access the retirement benefits of the former Speaker or Deputy Speaker.

4.0. METHODOLOGY

- a) In the process of analyzing the Bill, the Committee interacted and received memoranda from the following stakeholders-

- i. Hon. Arinaitwe Rwakajara, Workers Representative and Chairperson Parliamentary Pensions Scheme Board of Trustees;
- ii. The Parliamentary Commission;
- iii. The Attorney General of Uganda;
- iv. Mr. Richard Byarugaba, the Managing Director, NSSF;
- v. Uganda Retirement Benefits Regulatory Authority, (URBRA)
- vi. The Capital Markets Authority;
- vii. Hon Francis Epetai, Representative of the former Members of Parliament on the Board of Trustees of the Parliamentary Pensions Scheme;
- viii. Mr. Solomon Kirunda, Staff Representative on the Board of Trustees of the Parliamentary Pensions Scheme;
- ix. Hon. Lucy Akello, District Woman Representative, Amuru District;
- x. Mr. Bernard Nangoli, representative retired Staff on the Board of Trustees of the Parliamentary Pensions Scheme; and
- xi. Hon. Sarah Opendi, District Woman Representative, Tororo District.


b Reviewed the following relevant documents;

- i. the Constitution of the Republic of Uganda, 1995;
- ii. the Parliamentary Pensions Act, 2007;
- iii. the Administration of Parliament Act;
- iv. Parliamentary Service (Staff) Regulations, 2019;
- v. Uganda Retirement Benefits Regulatory Authority Act 2011;
- vi. Administration of Judiciary Act, 2020;
- vii. Succession Act, Cap 162;
- viii. Public Service Standing Orders, 2021;
- ix. Public Service Act, No. 9 of 2008;
- x. Uganda Communication Commissions Act, 2013,
- xi. Bank of Uganda Act, Cap 51,
- xii. Uganda Revenue Authority Act, Cap 196

5.0. ANALYSIS OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2022

This part of the report examines the amendments proposed on various provisions of the Parliamentary Pensions Act, 2007 and further reviews the Bill

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in regard to its legality, effect and effectiveness in relation to other laws and the mischief it intends to cure.


5.1. Removal of the recommendation of Uganda Medical Board on retirement of a member on Health Grounds and on utilization of a member, or pensioner's pension or scheme credits for medical treatment

The Bill proposes in clauses 4 and 7 to amend Sections 7B and 15 of the Parliamentary Pensions Act to remove the requirement for a recommendation of Uganda Medical Board on retirement of a member on Health Grounds and on utilization of a member, or pensioner's pension or scheme credits for medical treatment.

Section 7B imposes various restrictions on the utilization of funds of the scheme. Notwithstanding the restrictions, section 7B (2) (a) and (b) allows a member to utilize a portion of the benefits accruing to that member to secure a mortgage or a loan from any institution on such terms as may be determined by the Board or to pay for medical treatment in respect of a member, or pensioner on recommendation of the Uganda Medical Board.

Clause 4 now seeks to amend Section 7B (2) (b) by removing the recommendation of the Uganda Medical Board and replacing it with a recommendation of a medical practitioner approved by the Board.

On the other hand, clause 7 proposes to amend section 15 of the Parliamentary Pensions Act to remove the requirement for a recommendation of Uganda Medical Board on retirement of a member on Health Grounds and replace that recommendation with a recommendation of a medical practitioner approved by the Board.

Currently section 15 of the Parliamentary Pensions Act requires a member who retires or ceases to be a member by reason of ill health to obtain a report of the Medical Board appointed by the Director General of Medical Services, that there is no reasonable possibility of the member becoming fit to be an active member again.

The effect of the above amendments proposed in clauses 4 and 7 is to remove the recommendation of the Medical Board and replace it with a recommendation of a medical practitioner approved by the Parliamentary Pension Scheme Board of Trustees in matters relating to retirement on medical

grounds as well as the utilization of scheme credits to seek for medical treatment.


During the Bill's scrutiny, the Committee received varying observations and recommendations on this matter. For instance, whereas the Mover of the Bill, the representative of staff on the Board of the Scheme and URBRA all supported the provision, the other stakeholders rejected the proposed amendment.

In this regard, the Attorney General recommended for the rejection of the amendments in clause 4 and 7 of the Bill, reasoning that the proposal to substitute the Medical Board with a medical practitioner will be abused by members who wish to access their scheme credits by compromising the private practitioner appointed by the Board, resulting in uncontrolled withdrawals from the scheme, thereby affecting the liquidity ratios of the scheme. He advised that if there are administrative challenges with Uganda Medical Board which is currently entrusted with clearing government employees and Members of Parliament for treatment, these can be remedied by engaging the Ministry of Health.

The Capital Markets Authority also recommended for the rejection of the proposals in clauses 4 and 7, reasoning that the amendments will create disharmony in the national practice as far as utilization of pensions for medical reasons is concerned. Capital Markets Authority also noted that similar requirements have been stipulated in the Uganda Retirement Benefits Regulatory Authority Act wherein, section 68 (2) (b) provide for similar recommendations of the Medical Board. The Capital Markets Authority also noted that the amendments will remove the checks and balances imposed before utilizing pension to seek medical treatment. They were also concerned that the proposals in the Bill will be abused, resulting in fake referrals.

On the other hand, whereas the Parliamentary Commission and NSSF agreed with the principal proposed in clauses 4 and 7 of the Bill, the Commission proposed that the recommendation of the Medical practitioner in clause 4 should be restricted to pensioners only since members are provided with medical care while NSSF recommended that instead of a medical practitioner making the recommendation in clause 4, the recommendation should be done by a hospital approved by the Board.

The Committee has examined the above views and recommendations and recommends that clauses 4 and 7 be adopted.



The Committee notes that there currently exists a Medical Board within the Ministry of Health established under section M-C of the Public Service Standing Orders, 2021. Under paragraph (2) of the section M-C of the Public Service Standing Orders, 2021, a medical Board is constituted where-

- (a) a question arises whether a public officer is for medical reasons, no longer capable of rendering further efficient public service and should retire from or vacate his or her office on medical grounds;**
- (b) a public officer is permanently disabled in the actual discharge of his or her duties by injury specifically attributable to the nature of his or her duty;
- (c) a public officer contracts a disease to which he or she is specifically exposed by the nature of his or her duty;
- (d) no suitable treatment is available in Uganda for the officer and the only alternative is to refer him or her overseas for treatment; or**
- (e) a public officer recruited outside Uganda, is no longer medically fit to serve in the Public Service of Uganda and has to be repatriated to his or her country of origin.

The Committee further notes that in recognition of the role of the Medical Board, sections 7B (3) (b) and 15 of the Parliamentary Pensions Act had required the obtaining of a recommendation of Uganda Medical Board on retirement of a member on Health Grounds and on utilization of a member, or pensioner's pension or scheme credits for medical treatment.

The Committee is however concerned that sections 7B (3) (b) and 15 of the Parliamentary Pensions Act are not in harmony with the provisions of the Constitution, the Administration of Parliament Act and Parliamentary Staff Regulations in so far as the operation of the Medical Boards is concerned.

The Committee observes that the requirement for a recommendation of the Medical Board irregularly extends the application of the Public Service Standing Orders to persons who are not in public service contrary to article 257 (2) (b) and the Parliamentary Service (Staff) Regulations, 2019 issued under the Administration of Parliament Act.

The Committee notes that the Public Service Standing Orders do not apply to Members of Parliament and staff of the Parliamentary Commission, except where, in the case of the staff of the Parliamentary Commission, the applicable


regulations are silent on a matter prescribed under the Public service Standing Orders.

On whether the Public service Standing Orders apply to Members of Parliament, Article 257 (2) (b) specifically requires that a reference to an office in the public service does not include a reference to the office of the President, the Vice President, the Speaker or Deputy Speaker, a Minister, the Attorney General, a member of Parliament or a member of any commission, authority, council or committee established by this Constitution. This means that whereas Members of Parliament occupy public offices, those offices are not in public service and by inference therefore, the Public service Standing Orders do not apply to Members of Parliament. This makes the requirement to obtain a recommendation from the Medical Board as required in section 7B (2) (b) and 15 irregular since the Medical Board is constituted under a law that does not apply to Members of Parliament.


On the application of the Public Service Standing orders on staff of the Commission, regard is had to the Constitution and the Parliamentary Service (Staff) Regulations, 2019.

It is important to note that the Constitution provides two types of public services, the public service created under part X of the Constitution and the other public services created under other provisions of the Constitution and enactments of Parliament.

Indeed, this is observed in the definition of the of the word "Public Service" as contained in Chapter X and the definition for the same word as contained in Article 275(1) (z). For instance, Article 175 (part x) defines the word public service to mean-




"Public service" means service in any civil capacity of the Government the emoluments for which are payable directly from the Consolidated Fund or directly out of monies provided by Parliament.



On the other hand, Article 275 (1) (z) defines a public service to mean-

Public service" means service in any civil capacity of the Government or of a local government.



Chapter X of the Constitution of the Republic of Uganda, 1995 deals majorly with the traditional Public Service with public service and creates the public

service of Uganda comprising of three major components namely, the General public service, the Education Service and the health service. The Chapter creates a number of commissions including the Public Service Commission in Article 165, the Education Service Commission in Article 167 and the Health Service Commission in Article 169.

On the other hand, the other service as envisaged in article 257 (1) (z) applies to officers appointed by Bodies and Commissions established under the Constitution and other statutory bodies. Indeed, the Constitution empowers certain bodies to a number of appoint staff, who form part of the public service of Uganda. These include-

- (1) The Human Rights Commission who appoint their staff in accordance with Article 57 of the Constitution;
- (2) The Electoral Commission who appoint its staff as empowered in Article 65 of the Constitution;
- (3) The staff of the Parliamentary Service who are appointed by the Parliamentary Commission as empowered in Article 87 of the Constitution;
- (4) Staff of the Judiciary who are appointed in Article 148 and 148A by the Judicial Service Commission created in Article 146;
- (5) the staff of local governments who are appointed by the various district service commissions as prescribed in Article 200;

There are other staff of statutory bodies who are not appointed under the Constitution but constitute part of the public service of Uganda. There are normally appointed under the constituting legislation such as the staff of the Uganda Communication Commission appointed by the Board in accordance with section 19 of the Uganda Communication Commissions Act, 2013, the staff of Bank of Uganda who are appointed by the Board of Bank of Uganda under section 28 of the Bank of Uganda Act, Cap 51, the staff of Uganda Revenue Authority who are appointed by the Board of Uganda Revenue Authority under section 11 of the Uganda Revenue Authority Act, Cap 196 and staff of statutory bodies who are appointed under Acts of Parliament.

By inference therefore, since Public service Standing Orders are made in exercise of the powers conferred upon the Minister responsible for Public Service by the Public Service Act, No. 9 of 2008, these only apply to persons appointed under Chapter X of the Constitution.

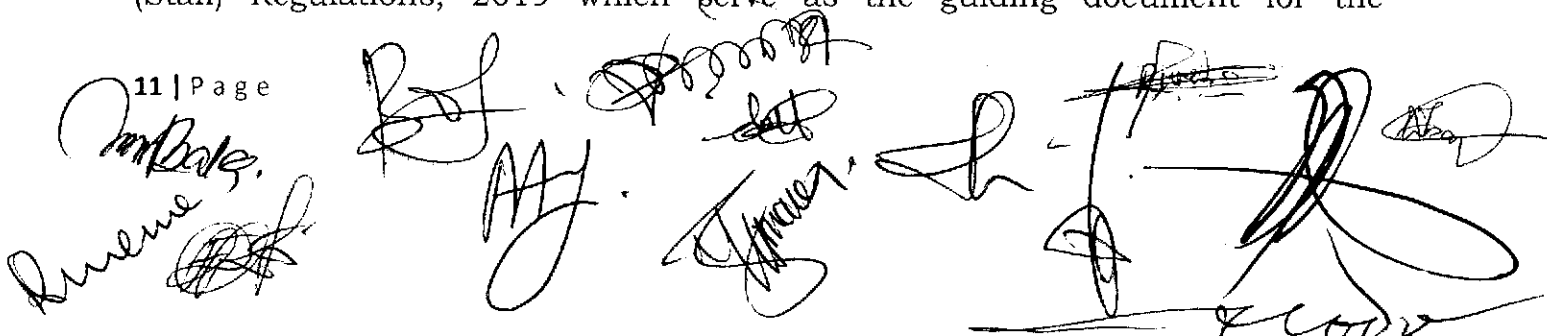
Indeed, this has been litigated upon by court in a number of cases such as **Ssebabi Deo and 128 others Vs Uganda Revenue Authority HCCS No 62/2006**. In that case, the petitioner and 128 others were employees of URA. URA terminated their service. Being dissatisfied by the terminal benefits received, they sued URA for recovery of the benefits they were entitled to. One of the issues for determination was whether the petitioners were entitled to pension as prescribed under Article 254 of the Constitution. It is important to note that the terms of service of the employees didn't entitle them to a pension. Court held that-

"the issue was raised and resolved in the case of William Mukasa Vs Uganda Revenue Authority where Lady Justice Arach Amoko cited with approval the case of URA Vs Boniface Quinto Ojok, Civil Appeal No. 33 of 95 where the Supreme Court of Uganda after citing of Article 175 of the Constitution held that employees of URA are not Public Officers for purposes of pension under Article 254(1) of the Constitution. She stated thus:-

In the case of URA Vs BONIFACE OJOK, Civil Appeal No. 33 of 95, the Supreme Court settled this issue. This is what Order JSC (RIP) observed and held in his judgment at page 281 after citing Article 175:

In my view this is a contextual definition of public officer. The definition applies to chapter ten of the Constitution and it appears to be limited to provisions of that chapter only. Chapter ten establishes and concerns the Public Service Commission, the Education Service Commission and the Health Service Commission. In the circumstances, i am unable to agree that the employees of URA are public officer under chapter ten of the Constitution, and therefore URA is a government undertaking for purposes of exemption under Section 5(3) of the Decree 75. In the circumstances I do not think that definition of 'Public Officer' applies to public bodies or corporations such as the URA."

As far as staff in Parliament is concerned, since the Public Service Standing Orders do not apply, the Parliamentary Commission, exercising the powers under Administration of Parliament Act enacted the Parliamentary Service (Staff) Regulations, 2019 which serve as the guiding document for the



regulation of the staff appointed in the Parliamentary Service. Regulation 75 of the Parliamentary Service (Staff) Regulations, 2019 requires that Public Service Standing Orders staff and officers of the Parliamentary Commission only in respect of any matter which the Parliamentary Staff Regulations are silent about.

The Parliamentary Service (Staff) Regulations, 2019 indeed dispensed with the jurisdiction of Uganda Medical Board in matters involving the medical issues of staff of Parliament by replacing it with a Parliamentary Commission Medical Board under Regulation 62 which is responsible for e responsible for—

- (a) reviewing referrals seeking treatment abroad at the expense of the Parliamentary Commission;
- (b) considering proposals for retirement on medical grounds;
- (c) reviewing workman's compensation claims;
- (d) considering and approving medical claims not covered by or that exceed the limit set by medical insurance; and
- (e) any other function that may be assigned from time to time.

In that regard therefore, the Parliamentary Commission Medical Board is the only competent body that is mandated by law to review referrals seeking treatment abroad at the expense of the Commission as well as considering proposals for retirement on medical grounds. In this regard therefore the retirement of a Member of the Scheme on medical grounds must be supported by a recommendation from Parliamentary Commission Medical Board.

Closely related to the above, the Committee notes that the requirement to obtain the recommendation of the Medical Board before utilizing the scheme credits or pension to seek medical treatment under section 7B (2) (b) of the Act was based on mistaken but reasonable assumption that the funds contained in the Scheme belong to the State and therefore its utilization for medical treatment must be sanctioned by the State. The Committee is of the opinion that whereas Government contributes to pension, the title in the pension belongs to the pensioner, who may utilize the same as he or she wishes. The Committee is aware that the Medical Board only has jurisdiction where funds to be used to seek medical treatment are to be provided by the State and not from private source. Similarly, the jurisdiction of the Parliamentary Commission Medical Board does not extend to utilization of private monies for seeking medical assistance since regulation 62 of the Parliamentary Service (Staff) Regulations restricts it to reviewing referrals seeking treatment abroad at the expense of the Parliamentary Commission.

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Therefore extending the jurisdiction of the Medical Board or the Parliamentary Commission Medical Board to the utilization of scheme credits contained in the Parliamentary Pensions Scheme is an anomaly that must be remedied since it unfairly restricts the utilization of private property, thereby affecting the guarantees on ownership of property under the Constitution.

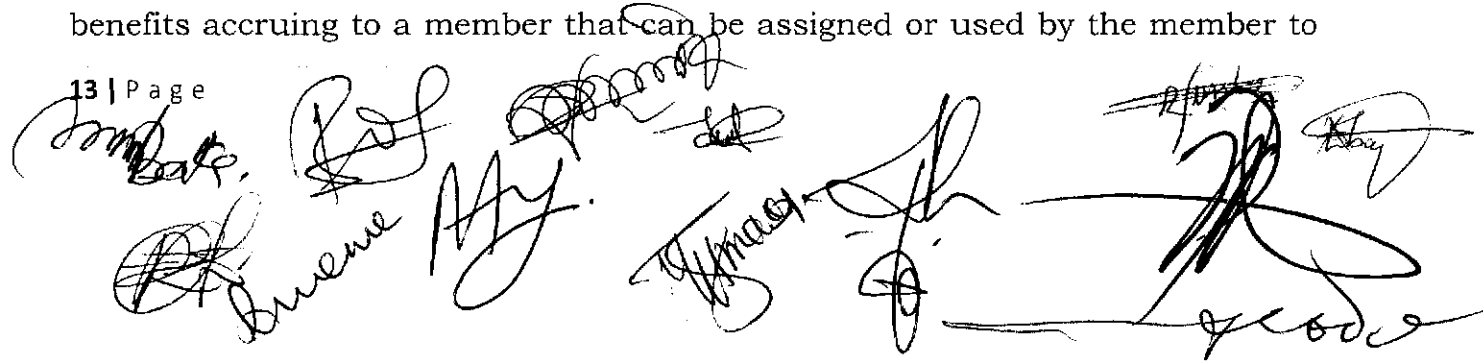
Based on the above, the Committee is of the considered opinion that clauses 4 and 7 should be amended to make the processes in section 7B (2) and 15 simple and less time consuming compared to the current processes which are lengthy, cumbersome and bureaucratic and affect members access to funds for medical treatment or retirement on medical grounds.

Closely related to the above, the Parliamentary Pensions Act is too restrictive on accessing member's scheme credits. The Act, in section 7B (2) only allows the utilization of a member's credit to secure a mortgage or a loan from any institution on such terms as may be determined by the Board pay for medical treatment in respect of a member, or pensioner on recommendation of the Uganda Medical Board and does not allow access to such funds until upon retirement.

Even then, section 7B (2) (a) of the Act, which allows the utilizing the scheme credits to secure a mortgage or a loan from any institution has not operationalized since the Board has not prescribed the portion of the benefits accruing to a member that can be assigned or used by the member to secure a mortgage or loan from any institution as well as the terms that will guide the full utilization of section 7B (2a). These restrictions are devastating to members of scheme who might want to access some of their scheme credits to deal with financial matters that might arise in their daily lives.

In order to allow access to scheme credits of members of the scheme, there is need to incorporate midterm access provisions in the Act. Midterm access allows a member access a portion of his or her scheme credits and to utilize the same before he or she retires. The principle of midterm access is necessary to cater for unexpected challenges in the life of a member who may need to utilize some of his or her savings as bail out of the challenge such include costs involved in election, unemployment, illness or general investment.

There is also a trend where Members who have lost their seats in general elections have approached the scheme requesting early access to their funds in order to settle their outstanding debts to money lenders. Such members cannot be assisted currently since the Board has not prescribed the portion of the benefits accruing to a member that can be assigned or used by the member to

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secure a mortgage or loan from any institution as well as the terms that will guide the full utilization of section 7B (2a). This exposes such members to untold suffering and is usually forced to get money from money lenders and other financial institutions at very high interest rate yet these members have funds idly sitting in the scheme.

The Committee notes that the CEO NSSF recommended for the inclusion in the Parliamentary Pensions Act, a provision that allows members to access their pension in emergency situations.

There is therefore need for the Act to contain provisions on midterm access in order to allow members access a portion of their scheme credits before retirement. Midterm access provisions have become important and have been used as a tool to mitigate the effects of the Covid-19 pandemic by granting savers access to their funds. In Uganda, this was adopted under the National Social Security Fund Act and it has become a best practice in helping savers recover from the exigencies created by the Covid-19 pandemic.

Recommendation

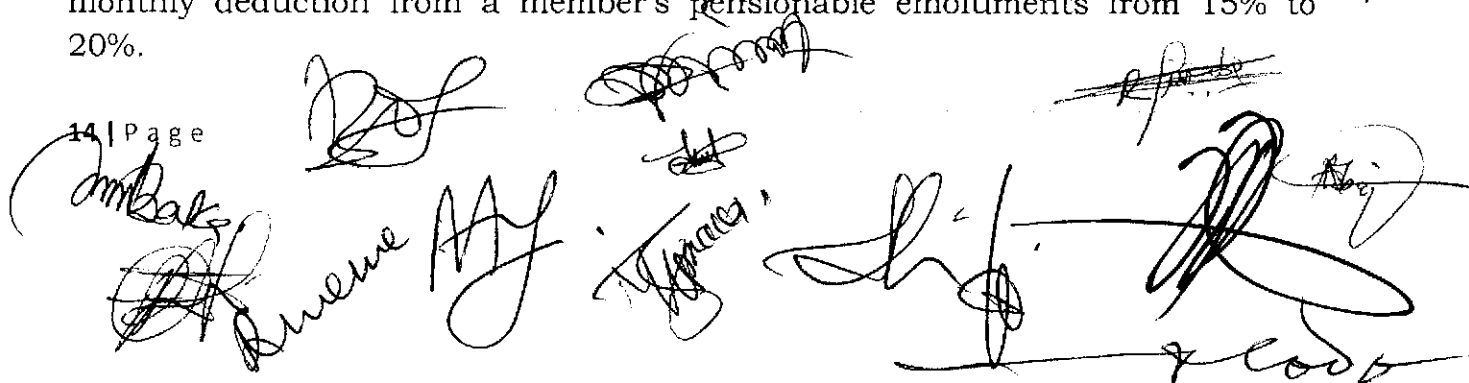
Based on the above, the Committee recommends that clauses 4 and 7 be adopted albeit with to-

- (a) clause 4 to restrict the provision to only pensioners since the Parliamentary Commission caters for the medical needs of Members of the scheme who are members of Parliament and Staff of the Parliamentary Commission;*
- (b) in clause 7, to harmonize the provision with the provisions of the Parliamentary Service (Staff) Regulations, 2019 which obligates, in Regulation 62 (5) (ii), the Parliamentary Commission Medical Board to consider proposals of staff of the Parliamentary Commission for retirement on medical grounds.*

The Committee further recommends for the incorporation of best practices contained in the National Social Security Act in accessing member's scheme credits midterm, before he or she becomes eligible for retirement.

5.2. Increase in member's contribution

Clause 2 of the Bill proposes to amend section 6 (1) of the Act to increase the monthly deduction from a member's pensionable emoluments from 15% to 20%.

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Section 6 (1) of the Act requires that there shall be a deduction from each monthly payment of the pensionable emolument made to a member, a sum calculated at the rate of fifteen percent of the pensionable emolument.

The Committee received views from various stakeholders who also supported the amendment. For instance, the Attorney General, Capital Markets Authority, URBRA and staff Representative on the Board all recommended for the adoption of the proposal since it will increase the scheme credits of members and guarantees better benefits at retirement.

The Committee has examined the amendment and in light of the view obtained from stakeholders, it supports the amendment proposed in clause 2.

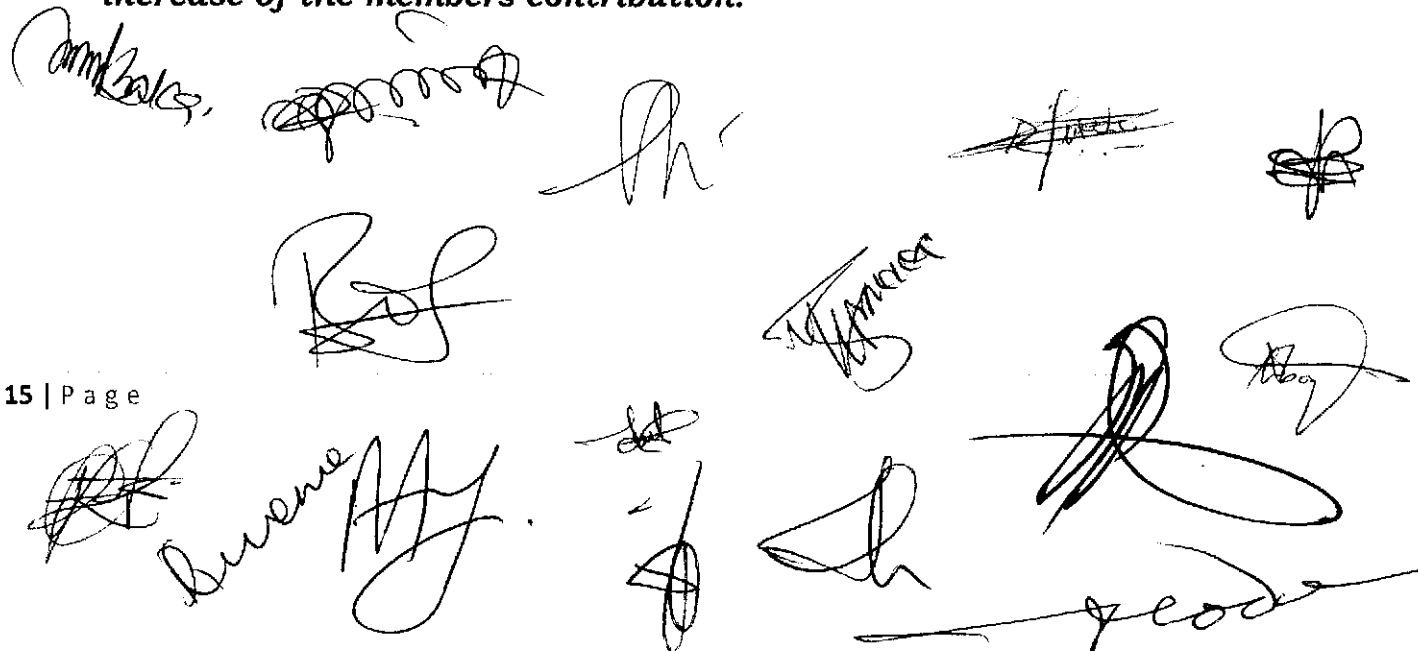
The Committee observes that increasing the amount a member saves with the Scheme will not only benefit the member by increasing the funds available at retirement, it will also grow the Scheme as well as the member's beneficial value in the scheme since it will make available to the Scheme, more funds for investment.

However, whereas this proposal should be supported, there is need to mitigate the loss of available income equivalent to 5% of the emoluments of the member. This loss of income needs to be mitigated by the Commission increasing the members' pay by an equivalent value so that the amendment does not pose a financial risk to the members in the short run.

Recommendation

Clause 2 should adopted as part of the Bill with the following recommendations-

- (a) the Parliamentary Commission should undertake to mitigate the loss of income that will be suffered by members arising from the increase in the member's contribution.***
- (b) Government contribution should be increased in light of the increase of the members contribution.***



5.3. Voluntary Contributions and Establishment of Parliamentary Post-Retirement Medical Fund

Clauses 3 and 9 of the Bill propose to insert new provisions in the Bill empowering the making of voluntary contributions as well as creating a post-retirement medical fund.

Clause 3 of the Bill proposes to insert section 6A in the principal Act dealing with voluntary contributions. The Bill proposes to allow a member to, in addition to the contribution made under the Act, make voluntary contributions to the Parliamentary Post-Retirement Medical Fund established under sections 17A of the Act.

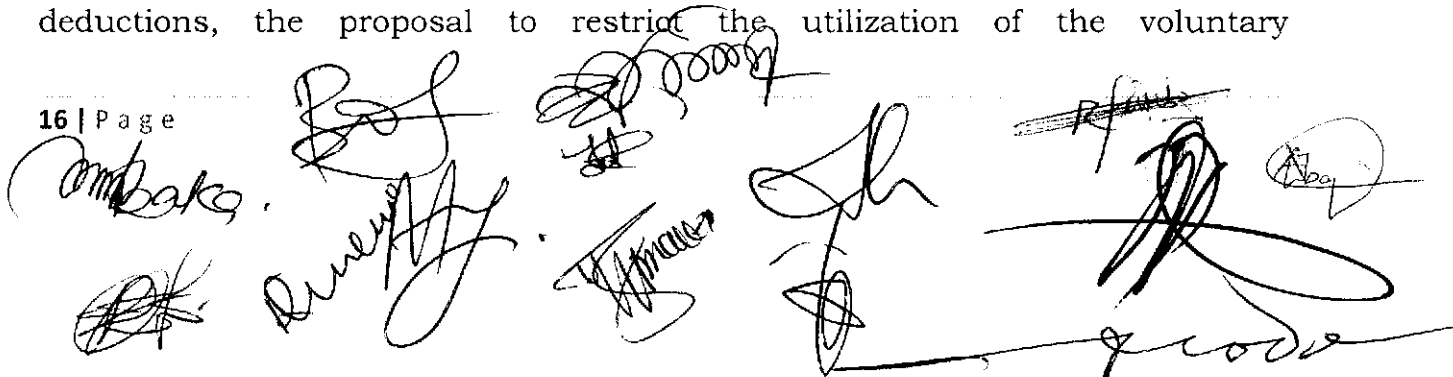
The Bill proposes that a member who wishes to make a voluntary contribution may authorise the Parliamentary Commission in writing to deduct an agreed rate from the member's wage payment and remit the voluntary contribution to the Parliamentary Post-Retirement Medical Fund.

Clause 9 on the other hand proposes to insert a new section creating a "Parliamentary Post-Retirement Medical Fund". The object of the Parliamentary Post-Retirement Medical Fund is to provide contributing members access to medical care upon retirement. The administration and management of the Parliamentary Post-Retirement Medical Fund is to be prescribed by regulations.

The Committee received varying opinions in regard to the proposals contained in clauses 3 and 9. For instance, whereas various stakeholders supported the principle for making voluntary contributions as well as establishing a Parliamentary Post-Retirement Medical Fund, the AG observed that the making of voluntary contributions to the scheme has not been standardised to ensure sustainability in the operation of the Parliamentary Post-Retirement Medical Fund. On the other hand, the Capital Markets Authority observed that a medical fund is not the most efficient way of providing a medical benefit to exiting members.

The Committee has examined the Bill and whereas it supports the amendment, it is of the considered opinion that the amendments do not go far enough to make the Parliamentary Post-Retirement Medical Fund sustainable and applicable to members of the scheme.

The Committee notes that whereas voluntary contributions are a best practice and will allow members to contribute to the scheme beyond the standard deductions, the proposal to restrict the utilization of the voluntary

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contributions should be rethought. The Committee is of the considered opinion that members should be allowed to make voluntary contributions beyond their standard contributions if one desires so without restricting them on the utilization of the funds arising from the voluntary contribution. The Committee notes that under the National Social Security Act, members are allowed to make voluntary contributions to NSSF beyond their standard contributions and members are not restricted on accessing or utilizing such voluntary contributions.

The Committee further notes that whereas the proposal to establish a Parliamentary Post-Retirement Medical Fund is supported since it addresses one of the hardest challenges faced by retirees, the proposal to limit the funding of the Parliamentary Post-Retirement Medical Fund from voluntary contributions may limit the available to the Fund, thereby making it unsustainable. The Committee notes that the unsustainability of the Parliamentary Post-Retirement Medical Fund was also pointed out by the Ag, Capital Markets Authority and NSSF who, in the case of the AG and URBRA, sought to have a standard rate deducted from each member's contribution to be used for Parliamentary Post-Retirement Medical Fund, while NSSF cautioned that the Fund should be run separately from the scheme to reduce the risk on the Scheme.

The Committee is of the considered opinion that post-retirement medical cover is one of the most critical requirement of a retiree since after retirement, the medical cover granted by the Commission terminates, leaving retirees destitute and unable to obtain medical treatment due to a reduction in income.

Therefore, the Committee is of the considered opinion that there is need to ensure that retirees can continue obtaining medical treatment by making provision of the deduction of a certain percentage of the members' monthly contributions to be ring fenced to the Parliamentary Post-Retirement Medical Fund.

Recommendation

The Committee recommends that clauses 3 and 9 be adopted as part of the Bill, albeit with the following amendments-

- (a) Members of the Scheme should be allowed to make voluntary contributions to the scheme beyond their standard contributions;*
- (b) In order to ensure sustainability of the Parliamentary Post-Retirement Medical Fund and to address the critical needs of retirees, a percentage of*

a member's monthly contributions, not exceeding 2% of the total contribution to the Scheme should be ring fenced for Parliamentary Post-Retirement Medical Fund;

(c) All members of the scheme to make contributions to the Parliamentary Post-Retirement Medical Fund rather than it being voluntary.

5.4. Pension to a former member and Refund of Contributions

Clauses 5 and 6 of the Bill make provision for amendment of section 12 and 13 of the Principal Act.

Clause 5 proposes to amend section 12 by allowing pension to be paid to a member who 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, where the member elects to receive a pension rather than a refund.

Section 12 currently allows pension to 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 ten years or more. The amendment proposes to allow a member who has only served five years and has attained the age of forty five to be paid a pension if the member elects to be paid a pension instead of a refund of their scheme credits under section 13.

It should be noted that a member who retires before serving ten years or attaining 45 years of age is only entitled to a refund of their scheme credits as provided in section 13 (1) of the Act. The Bill now grants a member who does not qualify for pension due to length of service to elect to receive a pension instead of scheme credits under section 13.

On the other hand, clause 6 proposes to amend section 13 of the Act to delete sub sections (2) and (3) of that section. Sub sections (2) and (3) of section 13 had created a vesting scale in regard to contributions a member who retires early would be entitled to the contributions made by Government towards a member's benefit. The deletion of the subsections (2) and (3) now entitles a member who retires before serving ten years or attaining the age of 45 to receive all his or her scheme credits without reduction.

The Committee received varying observations and recommendations from the stakeholders it interacted with all of whom supported the amendment, except the Attorney General and the Capital Markets Authority, who had an objection to the proposed repeal of section 13 (2) and (3) in clause 6 of the Bill. The

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Attorney General and Capital Markets Authority objected to the amendment proposed to section 13 under clause 6 on grounds that deleting the vesting scale in section 13 will encourage members, especially staff of the Parliamentary Commission to take early retirement, which will erode the liquidity of the scheme.

The Committee has examined the amendments proposed to sections 12 and 13 under clauses 5 and 6 and it is of the considered opinion that these should be supported since they are intended to create fairness and equity in accessing pension and scheme credits.

The Committee notes that section 12 is restrictive since it only entitles a member pension when he or she has served a period of ten years and has attained the age of 45. This provision is not aligned to the term of Parliament which is five years as prescribed in article 77 of the Constitution.

Furthermore, the provision is unfair to members of Parliament, especially those who lose their seats after serving one term and those representing the youth (who normally serve one term due to age restrictions), since these members are only entitled to a refund of their scheme credits instead of receiving a pension. The refund of scheme credits prevents a member from getting his or her total credits in the scheme since those scheme credits are reduced by the vesting scale prescribed in section 13.

This means that the member is only entitled to 100% of his or her contribution and a percentage of his or her share of the Government contribution depending on the duration of his or her service. The amendment to section 5 will therefore create equity by ensuring that a member who does not serve for ten years or attain 45 years before retiring can take all his or her scheme credits without reduction and earn a pension if he or she wishes so.

The Committee also observes that the proposal to grant an option to members who serve five years and are 45 years of age to earn a pension instead of scheme credits is also welcome since it allows a member to be pensioner and in the event that that member rejoins Parliament, the scheme can continue his or her membership with the scheme without hindrance.

As regards the amendment to section 13, the Committee is of the considered opinion that the proposal to delete the vesting scale should be supported since it removes an unfair provision from the law book. The vesting scales in section 13 (2) are unfair since they reduce the member's entitlement without justification. The Committee notes that the vesting scale also does not take into

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The Committee finds the vesting scale in section 13 (2) to be punitive in nature since it punishes a member for retiring before attaining the age of 45 years or serving for ten years yet the circumstances for the member's retirement might be beyond the control of a member. Therefore, the vesting scales should be deleted as proposed in the Bill since unfairly reduce a member's entitlement in the scheme.

The Committee recommends that clauses 5 and 6 be adopted .

Section 16 of the Act requires that 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. Section 16A on the other hand requires that 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.

The Committee notes that the Bill proposes to change the above and direct a member's or pensioner's death benefits to be distributed by the Board in accordance with the nomination made by the member. The provision further

requires that where the member or pensioner does not nominate any beneficiary, the Board may in exceptional circumstances determine the distribution of the benefits of a deceased member or pensioner. The exceptional circumstances are to be prescribed by regulations.

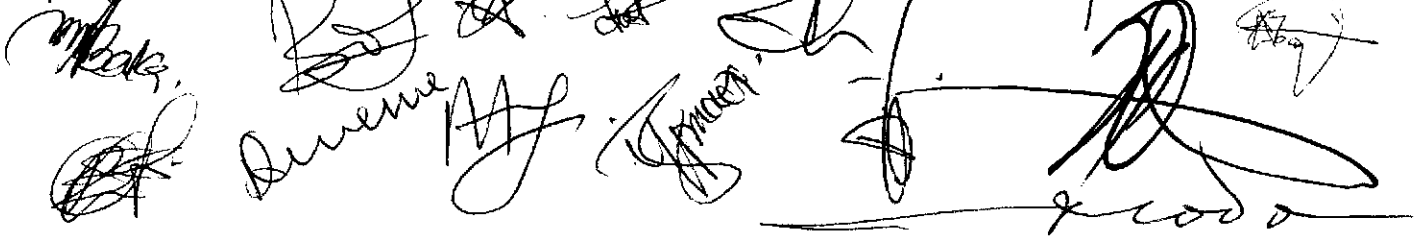
The Committee notes that all the stakeholders who interacted with it and presented memoranda, save for the Capital Markets Authority, agreed with the principle that section 16 and 16A are in need of amendment to give effect and full force to the nomination made by a member as to the sharing of his or her death benefits. The Committee also notes that all the stakeholders objected to the proposal to have the Board of the Trustees of the Scheme to distribute the death benefits of a member where the member does not nominate any beneficiaries. The NSSF also proposed that provision should be made on the payment of death benefits to the beneficiaries by ensuring that the beneficiaries are given the option of receiving a certain percentage of the benefits as a lump sum and the reminder as an annuity in order to ensure that the beneficiaries do not waste the benefits granted to them. The Capital Markets Authority objected to amendments proposed on clause 16 and 16A, reasoning that the proposal will curtail the discretion of the trustees to distribute the death benefits and that a member's nomination is to guide the Board, which Board can vary the distribution as it determines necessary.

The Committee has examined the provisions contained in clause 8 and it is of the considered opinion that the principles in the amendments should be supported since they protect a member's proprietary interests as guaranteed in article 26 of the Constitution as well as protecting a member's wishes.

The Committee observes that once a person becomes a member of the Scheme, he or she is required to nominate the persons he or she wishes to share in his or her pension or scheme credits and the quantum of each nominee's share.

The Committee notes that upon the death of the pensioner or member, section 16 and 16A requires that the member or pensioner's spouse or dependant, and where applicable, a person nominated by the member before the member's death is entitled to be paid a refund of the deceased member or pensioner's scheme credits.

The Committee notes that whereas section 16 and 16A grants three categories of people to benefit upon the death of a member or pensioner, being, the spouse, dependant and persons nominated by the a member's or pensioner, the administrators of the estates of the deceased members have consistently

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ignored the member's nomination scheme and have instead distributed the death benefits to all the beneficiaries in accordance with the Succession Act.

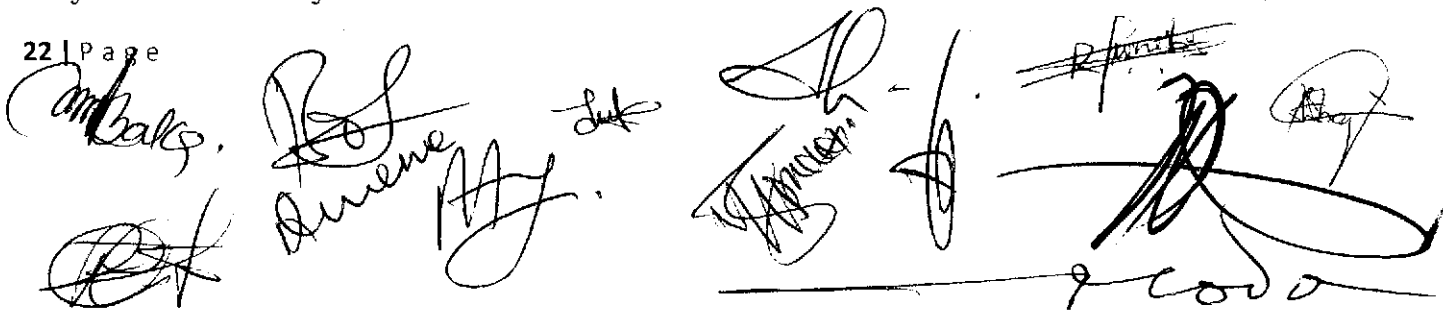
The Committee notes that this practice has made the provisions of section 16 and 16A redundant, thereby eroding the member's wishes as indicated in the nomination scheme made by the Member. The Committee finds that in most cases, conflicts arise between the persons who were nominated by the pensioner or member and those who are administering or executing the estate of the pensioner or member upon his or her death who, in the case of nominees, wish to maintain the member or pensioner's nomination while on the other hand, the administrators or executors wish to distribute the estate, disregarding the member's or pensioner's nomination.

The Committee finds the amendments proposed in clause 8 relevant, since they will protect the wishes of the member or pensioner by ensuring that the nomination list is followed in distributing his or her pension or scheme credits and not the laws of succession which tend to disregard the member's nomination.

The Committee observes that there are good reasons for disregarding the laws of succession in favour of the member's or pensioner's nomination. For instance whereas a member is free to nominate any person to receive his or her pension or share in his or her scheme credits, the laws of succession reserve that right to only persons related to the deceased by blood or marriage. This means that the nomination scheme made by a pensioner or member is usually disregarded and the distribution done under the laws of succession which only recognizes blood or affinity relationships. The Bill therefore recognizes these challenges and directs the distribution of scheme credits or pension to be done by the Board, following the member's or pensioner's nomination. This will therefore disapply the laws of succession and preserve the member or pensioner's wishes.

However, whereas the principles of the proposed amendment are agreeable, the Committee is concerned, as were the stakeholders, of the proposal to grant the Board discretion to distribute the death benefits of a member or pensioner where such member or pensioner does not nominate any person. The Committee is of the considered opinion that this discretion should be removed in favor of applying the laws of Succession in situations where the member or pensioner does not nominate a person to take his or her death benefits.

The Committee's concern is borne out of a fear that this unlimited discretion may be abused by the Board since the Board cannot assume to know the



member's or pensioner's interests and the person the member or pensioner wanted to distribute his or her death benefits to. Furthermore, the discretion is too broad to be executed by the Board since the Board is not guided on the persons who are entitled to benefit from the estate of the deceased pensioner or member or the quantum of each beneficiaries share in the death benefits.

The Committee agrees with the guidance provided by the AG that in cases where a member or pensioner has not nominated a beneficiary, the member or pensioner's death benefits should be distributed as required by the laws of succession. The Committee observes that the laws of succession have an elaborate scheme of persons who are entitled to benefit from the estate of the deceased person, which scheme is not available to the Board.

In this regard, where a member or pensioner dies without nominating a person to receive the death benefits, the member's benefits should be deemed to constitute part of his or her estate and therefore, be distributed in accordance with the laws of Succession.

Recommendation


The Committee recommends that Clause 8 be adopted as part of the Bill save that where a member or pensioner does not nominate any person to receive the death benefits, the same should form part of the estate of the deceased pensioner or member and should be distributed in accordance with the laws of succession by refunding the member's scheme credits or pension to a person who has obtained letters of administration or probate over the estate of the deceased member or pensioner for benefit of the member's or pensioner's beneficiaries under the estate.

5.6. Administration of the Scheme

Clauses 10, 11, 12, 14 and 15 of the Bill propose to amend provisions relating to the administration of the Board.

CLAUSE 10 seeks to amend section 18 of the Principal Act to make the Clerk to Parliament an ex-officio member of the Board, provide for a requirement for representation of women on the Board and also provide for the Board to carry out its functions notwithstanding any vacancy in its membership.

CLAUSE 11 seeks to substitute section 18A of the principal Act by removing ambiguity in the powers of the Board.

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CLAUSE 12 seeks to amend section 18 by providing for the appointment and the functions of the Chief Operations Manager of the Scheme and other staff of the Scheme.

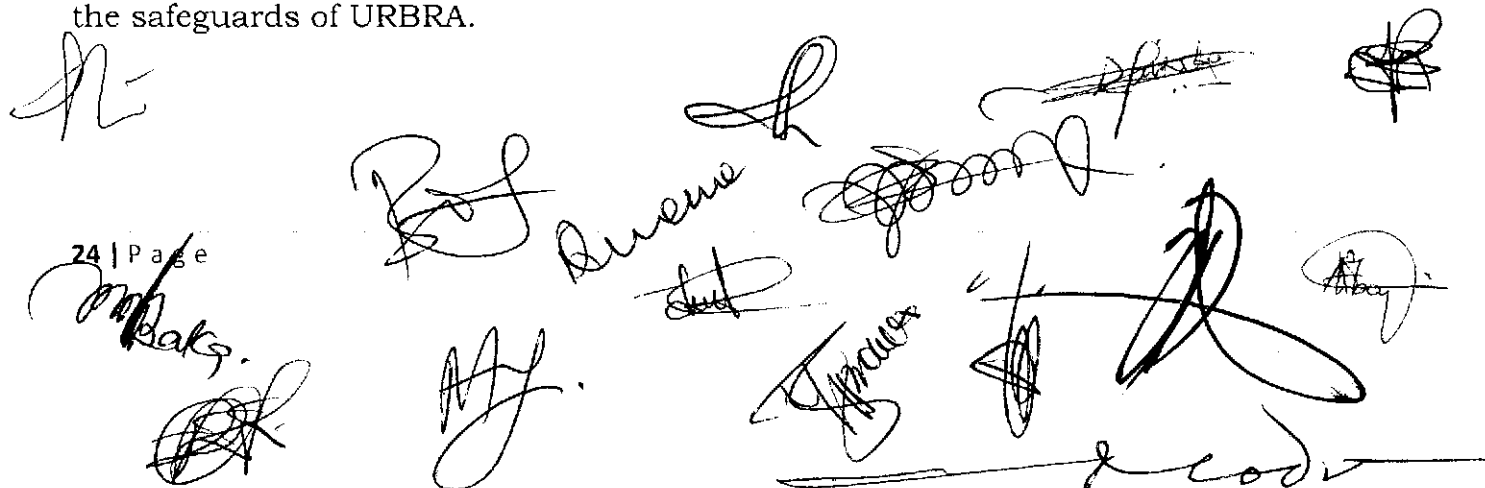
CLAUSE 14 requires the board within two months after receipt of the audited statement of accounts of the Scheme to submit to the Annual General Meeting a copy of the audited statement of accounts together with a copy of the audited report on the statements of accounts made by the auditor.

CLAUSE 15 proposes to give the Board power to determine the investment asset classes of the Funds of the Scheme.

The Committee observes that all the stakeholders that interacted with it agreed with the proposals contained in clauses 11, 12 and 14 of the Bill. The Committee however received objections from URBRA on clause 15 wherein it objected to clause 15, which proposes to grant the Board powers to determine the investment policy of the Scheme, reasoning that the amendment eliminates the applicability of the prescribed asset classes under the URBRA (Investment of scheme Funds) Regulations.

The Committee has examined the proposals contained in the Bill and is of the considered opinion that the above provisions of the Bill be supported since they are intended to introduce best corporate governance practices in the management of the scheme, clarify the appointment of key staff of the Scheme, to protect the proceedings of the Board from challenge due to any vacancy in its membership and to comply with the provisions of Uganda Retirement Benefits Regulatory Authority Act 2011, specifically section 33 which require every retirement benefits scheme to have a custodian, trustee, administrator and fund manager.

The Committee has also examined the objections by URBRA and finds merit in the objections. The Committee notes that since the Board is required to invest in assets as prescribed in the URBRA (Investment of scheme Funds) Regulations and follow an investment policy approved by URBRA, the proposal to have the Board implement the investment policy without regarding other laws cannot be allowed to stand, is risky and may occasion loss to the members arising from investment decisions that are taken without following the safeguards of URBRA.

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Recommendation

The Committee recommends that clauses 10, 11, 12 and 14 of the Bill be adopted.

The Committee recommends that clause 15 is amended to allow the Board to determine its loan policy to the members of the Scheme.

5.7. Benefits of former Speaker And Deputy Speaker

The Bill proposes in clauses 16, 17 and 18 to amend the Parliamentary Pensions Act to provide for benefits of former Speakers and Deputy Speakers.

The Bill proposes in clause 16 to define the terms used to describe the persons who are entitled to the benefits of a deceased speaker.

Clause 17 extends the application of the Act to a person who ceases to hold the office of Speaker or Deputy Speaker after the commencement of the Bill and to a person who is a former Speaker or Deputy Speaker of Parliament, who ceased to hold the office of Speaker or Deputy Speaker prior to the commencement of this Act and is alive.

Clause 18 proposes to amend section 20J of the Parliamentary Pensions Act to require the benefits of a person who dies while holding the office of Speaker to be granted to a dependent, where such a person does not have a spouse.

The Bill further proposes that where a person who dies while holding the office of Deputy Speaker does not have a spouse, a dependent shall be granted the benefits. The Bill also clarifies that the benefits of a dependent of a person who dies while holding the office of Speaker or Deputy Speaker shall be granted to the dependent for a period of fifteen years.

The Committee observes that all the stakeholders who interacted with the Committee agreed to the principle of the amendments contained in clauses 16 and 18 of the Bill.

The Committee has examined the Bill and is of the considered opinion that the principal Act is in need of amendment as proposed in clauses 16, 17 and 18 of the Bill since the amendments are intended to cure the mischief as to the benefits of the dependents of a Speaker and Deputy Speaker who dies while in office.

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The Committee observes that section 5 of the Parliamentary Pensions Act limits the membership of the Scheme to Members of Parliament, whether elected or *ex-officio*, and members of staff, on permanent and pensionable terms, of the Parliamentary Commission. Section 5 further bars a Vice President or a Prime Minister or Speaker or Deputy Speaker from being a member of the scheme. Such a member is required to withdraw from the Scheme and his or her benefits may be deferred upon becoming Vice President, Prime Minister, Speaker or Deputy Speaker.

The Committee further notes that while the benefits of the President, Vice President and Prime Minister are provided under the Emoluments and Benefits of the President, Vice President and Prime Minister Act, 2010, the benefits of the Speaker and Deputy Speaker are provided under PART IVA of the Parliamentary Pensions Act.

The Committee notes that under that Part, section 20H provides for the Benefits for a Speaker or Deputy Speaker Ceasing to Hold Office and requires that a person who ceases to hold the office of Speaker or Deputy Speaker is entitled to the benefits specified in Schedule 4 and 5 respectively.

It is important to note that under the above mentioned schedules, the Speaker and Deputy Speaker are not entitled to pension, but are granted retirement benefits based on whether the Speaker or deputy Speaker retired from Office, resigned or died in office.

For instance, where the Speaker or Deputy Speaker **ceases to hold office by retirement, the Speaker or Deputy Speaker are entitled to a** monthly allowance equivalent to sixty percent of the monthly salary of the sitting Speaker or Deputy of Parliament, respectively, One four-wheel chauffer driven car with a cubic capacity of 3500 to 4000, Two security guards, Two domestic staff, Medical care for the retired Speaker or Deputy Speaker and the spouse or spouses and an allowance equivalent to thirty three currency points per month for utilities.

Where the Speaker or Deputy Speaker **ceases to hold office by resignation, the Speaker or Deputy Speaker are entitled to a** monthly allowance equivalent to sixty percent of the monthly salary of the sitting Speaker of Parliament or Deputy Speaker, respectively, One four-wheel chauffer driven car with a cubic capacity of 3500 to 4000, Two security guards, Two domestic staff and Medical care for the Speaker or Deputy Speaker and the Spouse or Spouses.

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Where the **Speaker or Deputy Speaker ceases to Hold Office upon Death**, the Speaker's or Deputy Speaker's Spouse or Spouses is entitled to a monthly allowance equivalent to sixty percent of the monthly allowance payable to the deceased speaker or Deputy Speaker, one four-wheel chauffer driven car with a cubic capacity of 3500 to 4000, two security guards, Two domestic staff and a health insurance policy of up to fourteen currency points per month.

From the above, it is clear that the Speaker or Deputy Speaker are not entitled to pension but are only granted retirement benefits and other benefits depending on how they cease to hold office. These benefits do not form part of the Parliamentary Pensions Scheme Structure but are administered by the Parliamentary Commission.

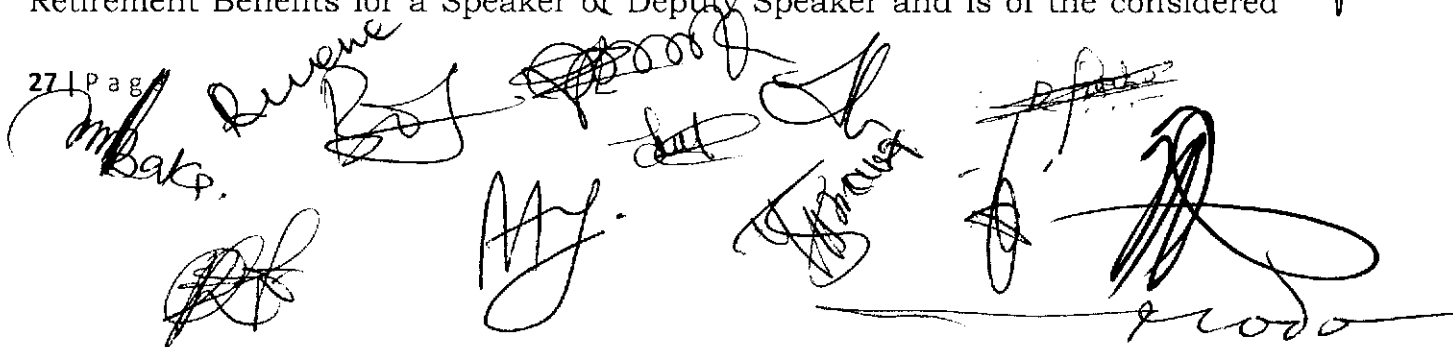
For the avoidance of doubt, the benefits of a spouse or spouses of a person who dies while holding the office of Speaker or Deputy Speaker are granted to the spouse or spouses collectively, until their death. A speaker or Deputy Speaker who is removed from the office of Speaker or Deputy Speaker for abuse of office, misconduct or misbehavior or being disqualified from being a Member of Parliament is not entitled to any of the benefits granted to the Speaker under the Act.

The Committee observes that the benefits granted to a Speaker or Deputy Speaker who ceases to hold office upon death are only granted to the Spouse or Spouses of the deceased Speaker or Deputy Speaker, collectively, and not to any other person. This means that if, for any reason, the Speaker or Deputy Speaker did not have a surviving Spouse, then the benefits cannot be accessed by any other person.

The Committee notes that the Bill has identified this matter and proposes to remedy this by granting the benefits of Speaker or Deputy Speaker who ceases to hold office upon death to the dependents of the Speaker or Deputy Speaker where the deceased Speaker or Deputy Speaker does not have a spouse.

The Bill further proposes that the benefits of a dependant of a person who dies while holding the office of Speaker or Deputy Speaker are to be granted to the dependent for a period of fifteen years. The Bill goes on to propose to limit the dependents of the Speaker or Deputy Speaker to only the Speaker's children, being a son or daughter, including a son or daughter adopted in the manner recognised under the laws of Uganda.

The Committee has examined the Bill and PART IVA of the Act relating to the Retirement Benefits for a Speaker or Deputy Speaker and is of the considered



opinion that the provisions therein are in need of amendment to remove a lacuna created by limiting the grant of benefits to only the surviving spouse and to align the Act with the provisions of the Succession Act, Cap 162.

The Committee notes that where a person dies in Uganda, irrespective of the office they hold, the Succession Act immediately applies to the estate of that person. The Succession Act recognizes and grants, among others, certain persons entitlement to benefit from the estate of a deceased person. These persons must be related to the deceased by blood or marriage or are prescribed by the deceased person in a valid will. The Committee notes that according to the Succession Act, the persons who are related to the deceased by blood are those that fall within the degrees of consanguinity prescribed in Part II of the Succession Act and these include lineal descendants and dependent relatives, up to six degrees of kindred while those persons who are related by marriage are those that were married to the deceased person by a marriage recognised as valid under the laws of Uganda.

The Committee observes that PART IVA of the Parliamentary Pensions Act conflicts with the Succession Act in so far as limiting the beneficiaries under the estate of a deceased Speaker or Deputy Speaker to only the surviving Spouse. This is total disregard of the provisions of the Succession Act which recognizes the rights of other persons to benefit from the estate of a deceased person, including spouses, lineal descendants and dependent relatives.

The Committee also found that the Parliamentary Pensions Act is silent on what happens to the benefits of a former Speaker or Deputy Speaker who dies while receiving his or her retirement benefits from the Commission. The Bill and the Act only concentrated on making provision for the benefits and treatment of benefits of the Speaker and Deputy who dies while in office but not one who dies while receiving retirement benefits. It is important to note that the Act does not prescribed the duration for receiving the benefits granted to the Speaker or Deputy but imposes a duration for the receiving the benefits of a Speaker or Deputy Speaker on a spouse or spouses of the Speaker or Deputy Speaker, until their death.

This means that once a former Speaker or Deputy dies while receiving retirement benefits, the surviving Spouse or spouses of the Speaker or any surviving children of the Speaker or Deputy Speaker are not entitled to receive any benefits or continue receiving such benefits and are therefore abandoned by the State.

For instance, a similar provision exists in the Administration of Judiciary Act, 2020 wherein, section 29 (2) of the Act allows the surviving spouse and dependent children of a deceased judicial officer to continue receiving the monthly retirement benefits for the unexpired period of 15 years (judicial officers receive the retirement benefits for 15 years after retirement). This is intended to protect the surviving spouses or spouses and children from destitution following the death of the retired judicial officer.

Recommendation

6.0. NEW EMERGING MATTERS

6.1. Inclusion of provisions on role of secretary and election of members of the Board

The Staff representative argued that these proposals will go a long way in clarifying the role of the secretary to Board as well as prescribing the procedure for electing members of the Board.

The Committee has examined these proposals and rejects them since this is a detail that can be included in regulations or, in the case of the roles of secretary to Board, handled administratively. The Committee notes that principal legislations usually deal with substantive matters and the detail is left for regulations to prescribe. In some instances, some of the matters can be handled administratively rather than being prescribed in the law. Prescribing procedural matters in a principal Act is usually not advised since principal legislations cannot be amended easily to deal with new emerging matters that might have a bearing on the procedural matters that are included in principal legislation.

Recommendation

Given the nature of procedural matters that are proposed for inclusion in the principal Act, the Committee is of the considered opinion that these are included in the regulations or handled administratively without including such in principal legislation.

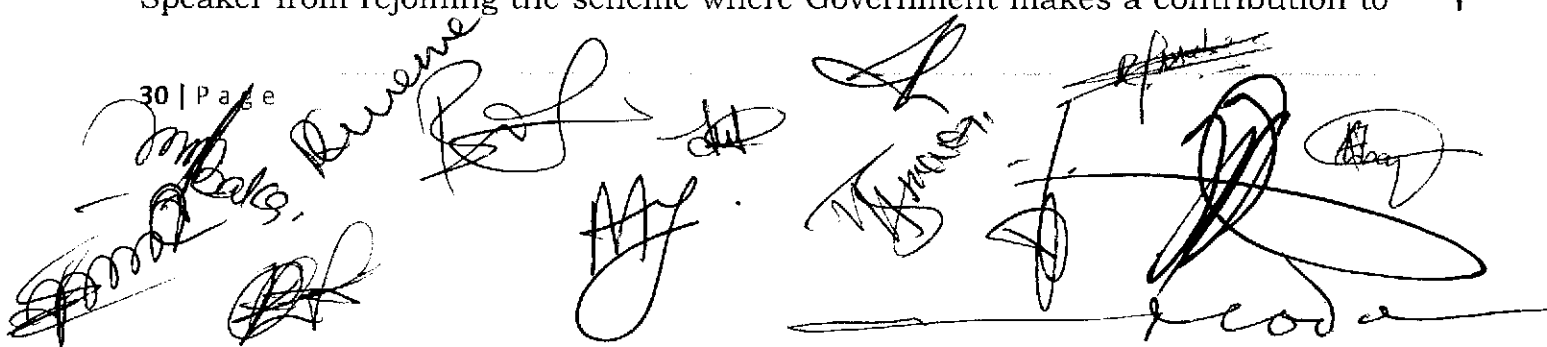
6.2. Prohibition of Government contribution to Speaker or Deputy Speaker

Section 20H (5) of the Parliamentary Pensions Act provides that a person who resigns or is removed from office of Speaker for abuse of office or misconduct or misbehavior but remains a member of Parliament, is entitled to rejoin the Scheme provided Government does not make a contribution and section 6 shall apply to him or her.

The above provision has been found to be ambiguous and might be used to deny a former Speaker and Deputy Speaker who is removed from office but retains his or her seat as a Member of Parliament from rejoining the scheme and getting the Government contribution like any other Member of Parliament.

The provision appears to suggest that once a Speaker or Deputy Speaker is removed from office, he or she can rejoin the scheme provided that Government does not make a contribution for the Member. It should be noted that Government is required in section 6 of the Parliamentary Pensions Act to make a contribution of thirty percent of the monthly pensionable emolument paid of each member. This is in addition to the member's contribution of 15%.

Section 20H (5) of the Parliamentary Pensions Act is unfair since it bars a former speaker and Deputy who are removed from office of Speaker or Deputy Speaker from rejoining the scheme where Government makes a contribution to



the Member, yet Government is required in section 6 (2) of the Act to make such contributions to all members of the Scheme. The provision is also impracticable since it on one hand bars Government from making contribution to the former speaker and Deputy if he or she rejoins the Scheme but on the other hand, it makes section 6 applicable to the former speaker and deputy who intend to rejoin the scheme, which section requires Government to make contributions to the Scheme.

Recommendation

The Committee therefore recommends that section 20H (5) be amended to remove the ambiguity cited above.

6.3. Retirement benefits of a former Speaker and Deputy Speaker

Whereas the Parliamentary Pensions Act makes provision for the payment of various retirement benefits to a retired Speaker or Deputy Speaker and a surviving spouse or spouses of a Speaker, the retirement packages granted to the Speaker and Deputy are meager compared to those granted to other office bearers of similar status.

Schedule 4 of the Parliamentary Pensions Act provides for the retirement package of a Speaker and Deputy Speaker on retirement and upon death and provides as follows-

Benefits of a Speaker/deputy speaker ceasing to hold office by retirement and grants the speaker the following benefits-

- (a) A monthly allowance equivalent to sixty percent of the monthly salary of the sitting Speaker/Deputy Speaker of Parliament.
- (b) One four-wheel chauffer driven car with a cubic capacity of 3500 to 4000.
- (c) Two security guards.
- (d) Two domestic staff.
- (e) Medical care for the retired Speaker/deputy speaker and the spouse or spouses
- (f) An allowance equivalent to thirty three currency points per month for utilities.

Benefits of a Speaker/deputy speaker who ceases to hold office by resignation are-

- (a) A monthly allowance equivalent to sixty percent of the monthly salary of the sitting Speaker/Deputy Speaker of Parliament.
- (b) One four-wheel chauffer driven car with a cubic capacity of 3500 to 4000.
- (c) Two security guards.
- (d) Two domestic staff.
- (e) Medical care for the Speaker/deputy speaker and the Spouse or Spouses.

Benefits of a Spouse or Spouses of a Speaker/deputy speaker who ceases to Hold Office upon Death are-

- (a) A monthly allowance equivalent to sixty percent of the monthly allowance payable to the deceased speaker/deputy speaker.
- (b) One four-wheel chauffer driven car with a cubic capacity of 3500 to 4000
- (c) Two security guards.
- (d) Two domestic staff.
- (e) A health insurance policy of up to fourteen currency points per month.

The above should be retirement package is meager and do not afford the Speaker or Deputy Speaker a decent life in retirement. Furthermore, the retirement benefits do not take into account the duration of service in the office of Speaker or Deputy Speaker for the person so retiring. The Committee is also concerned that unlike the retirement benefits of other office bears that have been revised to afford the bearers of certain office a decent retirement, the retirement benefits of the Speaker and Deputy Speaker have not been revised since 2007 compared to those of the President, Vice President and Prime Minister which were revised in 2010 and those of Judicial officers which were revised in 2020.

For instance, in 2010 of the Vice President and Prime Minister were enhanced in 2010 to introduce new types of benefits applicable to such offices, including, among others a house purchase fund equivalent to 15000 currency points, allowances to meet utility expenses and purchase of furniture and Health support equipment.

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year's salary paid for each term served in office;
- (c) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person's spouse;
- (g) gratuity paid at the end of the entitled person's service at the rate of thirty-one per cent of the entitled person's salary while in office;
- (h) one armed security guards who shall be provided on request by the entitled person;
- (i) diplomatic passports for the entitled person and his spouse; and
- (j) access to the V.I.P. lounge at all airports within Kenya.

Where the Speaker of the National Assembly or the Senate dies in service, a lump sum payment on death calculated as a sum equal to five times his annual salary shall become payable to his legal personal representatives.

In the Republic of Tanzania, the Political Service Retirement Benefits Act, 1999 grants the Speaker and Deputy Speaker of Tanzania the following benefits at retirement-

- (a) a gratuity of the sum equal to fifty percent of the total sums of moneys received by him as salaries when he held office of Speaker;
- (b) an annual pension granted monthly of a sum equal to eighty percent of the salary of the incumbent Speaker of the National Assembly;
- (c) a winding-up allowance of a sum equal to the amount that would be received as salary in twenty four months by the incumbent Speaker.

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- (d) one motor vehicle to be granted once and which shall be maintained by him;
- (e) a driver.
- (f) a diplomatic passport for him and for his spouse.
- (g) seventy litres of fuel per week;
- (h) maintenance allowance for a motor vehicle at a rate equal to forty percent of fuel allowance.

From the above, the benefits granted to the Speaker and Deputy Speaker is lower than those provided to the Chief Justice and Prime Minister, notwithstanding that the Speaker and Deputy Speaker occupy higher offices. The Speaker and Deputy are not granted the option of receiving the benefits in cash in lieu of the benefits granted, thereby limiting the choice of the Speaker and Deputy Speaker.

Recommendation

The Committee recommends that Government reviews the retirement benefits granted to a former Speaker and Deputy Speaker in order to provide benefits that befit the status and office of the Speaker and Deputy Speaker.

Inclusion of Members of East African Legislative Assembly (EALA) to the Scheme

During the deliberations on the Bill, the Members of East African Legislative Assembly (EALA) expressed interests to join the Parliamentary pension scheme and fulfill all conditions and terms as required by the scheme.


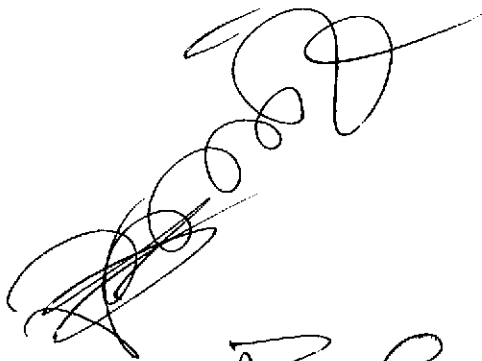
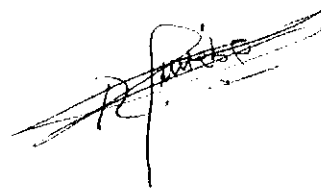
Recommendations

The Committee recommends that Parliament takes interest of including Members of East African Legislative Assembly (EALA) to the Parliamentary Pension Scheme.

7.0. CONCLUSION

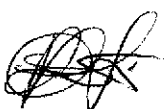
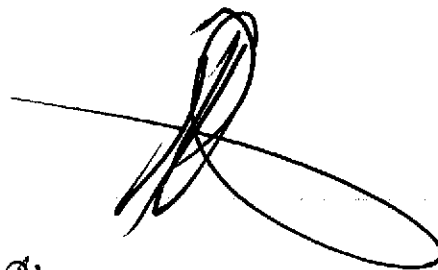

Rt. Hon. Speaker and Honourable Members, the Committee has examined the Parliamentary Pensions (Amendment) Bill, 2022 and recommends that it is passed into law, subject to the amendments contained in this report.

I beg to report.

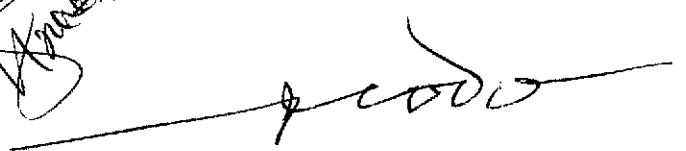


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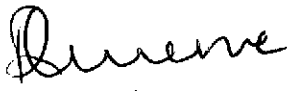
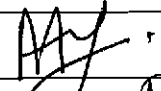



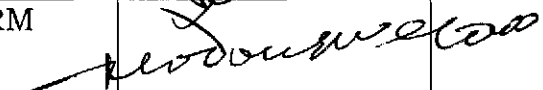
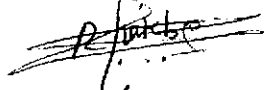
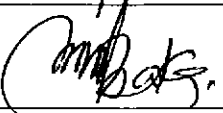

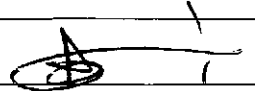


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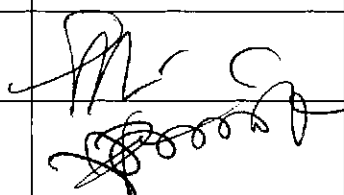



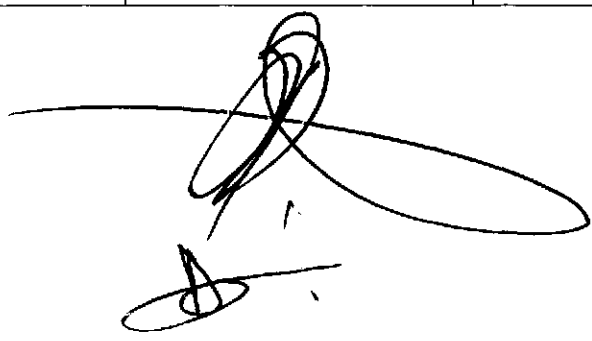
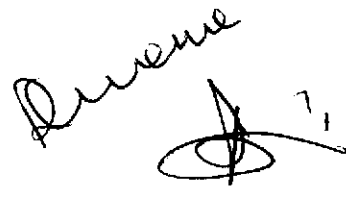


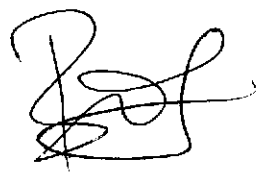
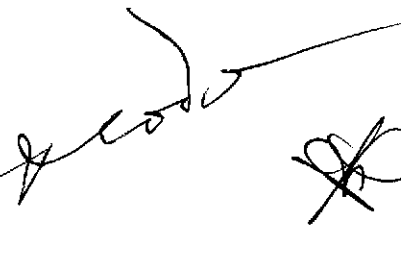

Dr. Arun Kumar



**SIGNATURES OF MEMBERS ENDORSING THE REPORT OF THE
COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE
PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2022**

NO	NAME	CONSTITUENCY	PARTY	SIGNATURE
1	Hon. Rwakoojo Robina Gureme	Gomba West County	NRM	
2	Hon. Mutembuli Yusuf	Bunyole East	NRM	
3	Hon. Okiror Bosco	Usuk County	NRM	
4	Hon. Nkwasiibwe Zinkuratire Henry	Ruhaama County	NRM	
5	Hon. Odoi Benard	Youth Eastern	NRM	
6	Hon. Odoi Oywelowo Fox	West Budma North East	NRM	
7	Hon. Oseku Richard Oribo	Kibale County	NRM	
8	Hon. Baka Stephen Mugabi	Bukooli County North	NRM	
9	Hon. Cherukut Emma Rose	DWR Kween	NRM	
10	Hon. Kajwengye Twinomugisha Wilson	Nyabushozi County	NRM	
11	Hon. Okia Joanne Aniku	DWR Madi Okollo	NRM	
12	Hon. Obigah Rose	DWR Terego	NRM	
13	Hon. Achayo Lodou	Ngora County	NRM	
14	Hon. Kasaija Stephen	Burahya County	NRM	
15	Hon. Teira John	Bugabula North County	NRM	
16	Hon. Silwany Solomon	Bukhooli Central	NRM	
17	Hon. Kwizera Paul	Kisoro Municipality	NRM	
18	Hon. Werikhe Christopher	Bubulo West	NRM	

19	Hon. Malende Shamim	DWR Kampala	NUP	
20	Hon. Lubega Medard Ssegona	Busiro East	NUP	
21	Hon Ssekitoleko Robert	Bamunanika County	NUP	
22	Hon. Ssemujju Ibrahim	Kira Municipality	FDC	
23	Hon. Adeke Ann Ebaju	DWR Soroti	FDC	
24	Hon. Lt. Gen. James Mugira	UPDF		
25	Hon. Asuman Basalirwa	Bugiri Municipality	JEEMA	
26	Hon. Alum Santa Sandra Ogwang	DWR Oyam	UPC	
27	Hon. Shartsi Musherure Nayebare Kutesa	Mawogola North County	INDEP.	
28	Hon. Abdu Katuntu	Bugweri county	INDEP.	
29	Hon. Acrobert Kiiza Moses	Bughendera County	INDEP.	
30	Hon. Niwagaba Wilfred	Ndorwa County	INDEP.	

AMENDMENTS TO THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2022

CLAUSE 2: AMENDMENT OF SECTION 6 OF PRINCIPAL ACT

For clause 2, there is substituted the following-

"Amendment of section 6 of principal Act

Section 6 of the principal Act is amended-



(a) in subsection (1), by substituting for "fifteen", the word "twenty"; and

(b) in subsection (2), by substituting for "thirty" the word "forty".

Justification

- *To increase the rate of Government contribution to a member's pension by 10% in recognition of the additional contribution by the Member.*

CLAUSE 3: INSERTION OF NEW SECTION 6A IN THE PRINCIPAL ACT

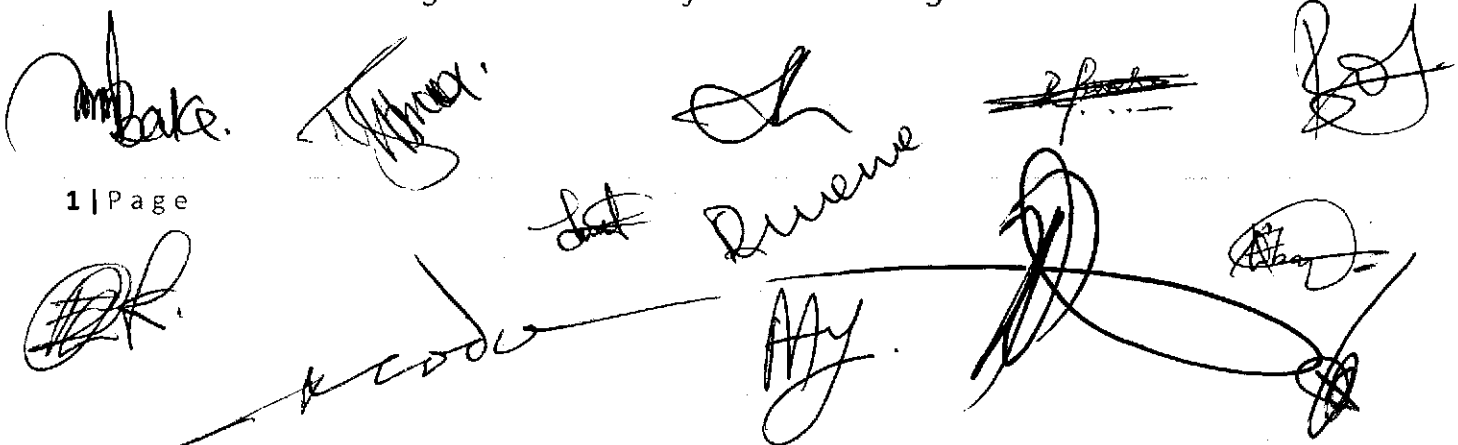
Clause 3 of the Bill is amended in the proposed section 6A-

(a) in the proposed subsection (1), by substituting for the words "Parliamentary Post-Retirement Medical Fund established under sections 17A of the Act" the word "scheme";

(b) in the proposed subsection (2), by substituting the words "the Parliamentary Post-Retirement Medical Fund" the word "scheme";

Justification

- *To remove the restriction proposed on voluntary contributions under the Bill by allowing a member to make voluntary contributions to the scheme without restricting the utilization of those voluntary contributions.*



CLAUSE 4: AMENDMENT OF SECTION 7B OF PRINCIPAL ACT

For clause 4, there is substituted the following-

"Amendment of section 7B of principal Act

Section 7B of the principal Act is amended by substituting for subsection (2) (b) the following-

"(2) (b) pay for medical treatment in respect of a pensioner on recommendation of a medical practitioner approved by the Board.

Justification

- *The provision of medical treatment for members of the scheme is done by the Parliamentary Commission. This makes the proposals in the Bill as well as section 7B (2) (b) of the Principal Act redundant.*
- *To restrict the provision to only pensioners since these are not provided medical treatment by the Commission.*

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 6

The Bill is amended by inserting immediately after clause 6, the following-

"Insertion of section 13A in Principal Act

The principal Act is amended by inserting immediately after section 13, the following-

"13A. Midterm access to benefits

- (1) A member who has made contributions to the fund under section 6 shall be allowed midterm access to his or her benefits accrued from the contributions.
- (2) A member who is forty-five years of age and above and who has made contributions to the fund for at least ten years, is eligible to midterm access to his or her benefits, of a sum not exceeding 20 per cent of his or her accrued benefits.

(3) The Board shall prescribe, by statutory instrument, the terms and conditions and procedure for accessing the accrued benefits under this section.

(4) The statutory instrument under subsection (3) shall be laid before Parliament for approval."

Justification

- *To incorporate a best practice in accessing member's credits by allowing a member to access his or her scheme credits midterm, before he or she becomes eligible to for pension.*

CLAUSE 7: AMENDMENT OF SECTION 15 OF PRINCIPAL ACT

For clause 7, there is substituted the following-



"7. Amendment of section 15 of principal Act

Section 15 of the Principal Act is amended by substituting for the words "Medical Board appointed by the Director General of Medical Services" the words "Parliamentary Commission Medical Board in the case of a member who is a member of staff of the Parliamentary Commission or a medical practitioner approved by the Board in the case of a member who is a Member of Parliament"

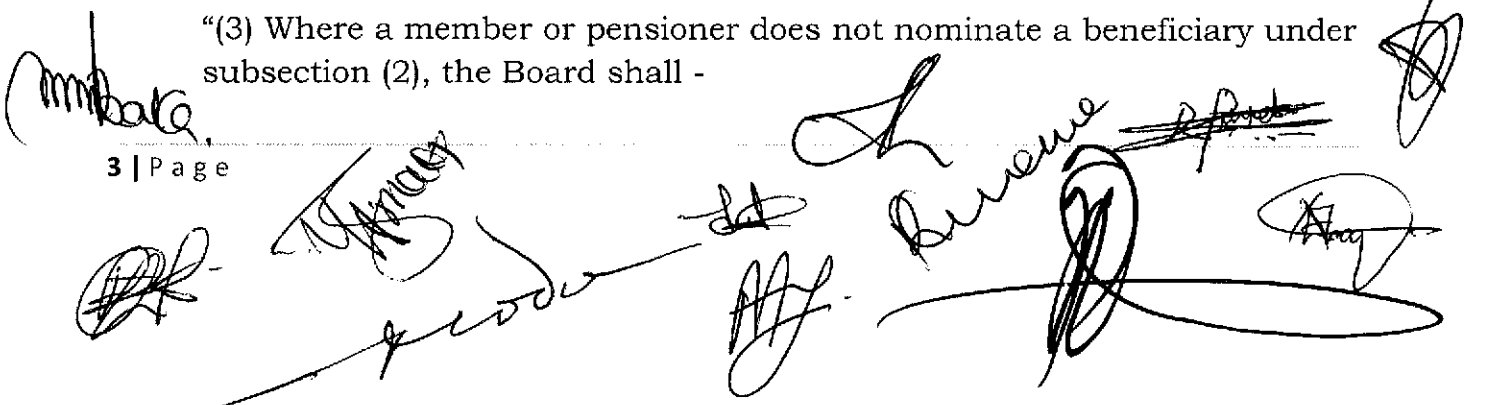
Justification

- *to harmonize the provision with the provisions of the Parliamentary Service (Staff) Regulations, 2019 which obligates, in Regulation 62 (5) (ii), the Parliamentary Commission Medical Board to consider proposals of staff of the Parliamentary Commission for retirement on medical grounds.*

CLAUSE 8: SUBSTITUTION OF SECTION 16 AND 16A OF PRINCIPAL ACT

Clause 8 of the Bill is amended, in the proposed section 16, by substituting for the proposed subsections (3) and (4), the following-

"(3) Where a member or pensioner does not nominate a beneficiary under subsection (2), the Board shall -



- (a) in the case of a member, refund the member's scheme credits to a person who has obtained letters of administration or probate over the estate of the deceased member for benefit of the member's beneficiaries under the estate; and
- (b) in the case of a pensioner, pay the pensioner's benefits under the scheme to a person who has obtained letters of administration or probate over the estate of the deceased pensioner, for the benefit of the beneficiaries of the pensioner.
- (4) Where a person nominated under subsection (2) predeceases the member or pensioner or for any reason, the nominated person cannot take the member's or pensioner's benefits or scheme credits respectively, the member's scheme credits or pensioner's benefits or any part thereof that cannot be taken by the nominated member shall be distributed as if the member or pensioner did not nominate a beneficiary."

Justification

- To remove the proposal in the Bill allowing the Board to distribute the benefits or scheme credits of a deceased pensioner member since it can be abused and instead, apply the provisions of the Succession Act by requiring that the member's scheme credits or pensioner's benefits are made available to a person to whom letters of administration or probate have been granted for distribution to the beneficiaries of the deceased pensioner or member under his or her estate.
- To make provision for the distribution of a member's scheme credits or pensioner's benefits in circumstances where the beneficiary predeceases the pensioner or member.

CLAUSE 9: INSERTION OF NEW SECTION 17A IN PRINCIPAL ACT

Clause 9 of the Bill is amended by inserting immediately after the proposed subsection (2), the following-

"The Board shall deduct an amount not exceeding two percent of the contribution made under section 6 and remit the contribution to the Parliamentary Post- Retirement Medical Fund for the benefit of the member."

Justification

- *To require the Board to deduct a percentage not exceeding two percent (2%) of the contributions of each member to be remitted to the Parliamentary Post-Retirement Medical Fund.*
- *To ensure that every member contributes to the Parliamentary Post-Retirement Medical Fund rather than making the contributions voluntary.*

CLAUSE 15: AMENDMENT OF SECTION 20D OF THE PRINCIPAL ACT

Clause 15 of the Bill is amended by substituting for the proposed subsection (2), the following-

“(2) Notwithstanding the provisions of any other written law, the investment policy of the Scheme in respect of the Scheme’s lending to its members shall be implemented in a manner determined by the Board.”

Justification

- *The provision is to allow the Scheme to determine the investment policy in respect of the Scheme’s lending policy.*

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER 17

The Bill is amended by inserting immediately after clause 17, the following-

“Amendment of section 20H of principal Act

Section 20H of the principal Act is amended in subsection (5) by deleting the words “provided government does not make a contribution”.

Justification

- *The amendments proposed to section 20H is intended to remove words that make the provision ambiguous since the spirit of the provision is to allow a former speaker or deputy speaker to rejoin the scheme after retiring from the office of Speaker or Deputy Speaker. The words proposed for deletion create ambiguity since they bar Government from making a contribution to the Scheme on behalf of such a member while at the same time the provision requires that section 6, which obligates Government to make a contribution for a member of the scheme, applies in the*

circumstances. The provision unfairly disadvantages former speakers and deputy speakers who rejoin the scheme by barring Government from making a contribution for such a member yet Government is obligated in section 6 to make contributions for all members of Parliament as long as that member is a member of the scheme.

CLAUSE 18: AMENDMENT OF SECTION 20J OF PRINCIPAL ACT

For clause 18, there is substituted the following-

“Insertion of section 20JA and 20JB in principal Act

The principal Act is amended by inserting immediately after section 20J, the following-

“20JA. Benefits of dependent of a Speaker or Deputy Speaker who dies in office

- (1) Where the person who dies while holding office of Speaker or Deputy Speaker does not have a spouse, a dependent of the former Speaker or Deputy Speaker shall be granted benefits prescribed in Part CA of Schedules 4 or 5, as the case may be.
- (2) The benefits under this section shall be guaranteed for a period of twenty years and granted collectively where the dependents are more than one.”

“20JB. Benefits of dependent of a Speaker or Deputy Speaker who dies in retirement

Where a former speaker or deputy speaker dies in retirement, the surviving spouse or spouses and dependents of the former Speaker or Deputy Speaker shall be entitled to the monthly allowances specified in paragraph 1 of Parts C and CA of Schedules 4 and 5 for the unexpired period of twenty years from the date of retirement of the Speaker or Deputy Speaker.

Justification

- To create a new part making provision for payment of benefits to dependents of a Speaker or Deputy Speaker who dies in office without being survived by a spouse.
- To make provision for the benefits of a spouse and dependents of a speaker or deputy Speaker who dies in retirement and to limit their benefits to the monthly allowances granted to the retired Speaker and Deputy Speaker for the unexpired period of 20 years.

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 18

The Bill is amended by inserting immediately after clause 18, the following-

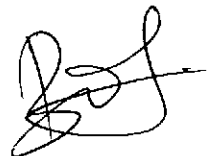
“Repeal of section 27 of principal Act

Section 27 of the principal Act is repealed.



Amendment of Fourth Schedule to principal Act

The Fourth Schedule to the principal Act is amended by inserting immediately after Part C, the following-



Part CA

Benefits of a dependent of a Speaker who dies in office

- (1) A monthly allowance equivalent to sixty percent of the monthly salary of the sitting Speaker; and
- (2) Other allowances to cater for the transport, health and security of the dependent as may be determined by the Parliamentary Commission.

“Amendment of Fifth Schedule to principal Act

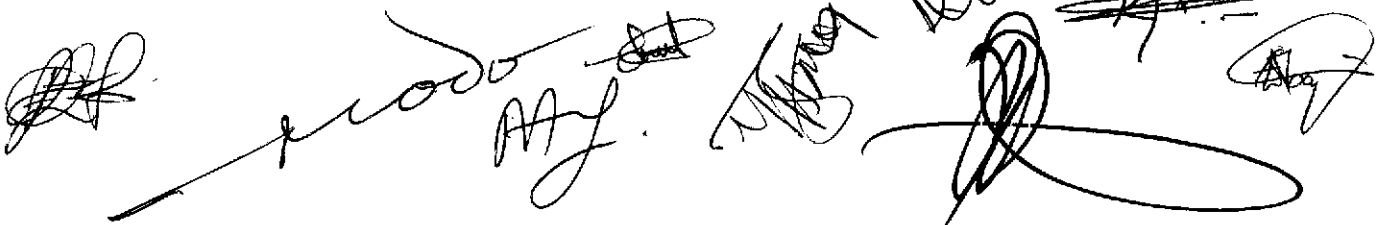
The Fifth Schedule to the principal Act is amended by inserting immediately after Parts C, the following-

“Part CA

Benefits of a dependent of a Deputy Speaker who dies in office

1. A monthly allowance equivalent to sixty percent of the monthly salary of the sitting Deputy Speaker; and
2. Other allowances to cater for the transport, health and security of the dependent as may be determined by the Parliamentary Commission.



Justification

- The repeal of section 27 of principal Act is to remove a spent provision.
- Amendments to schedule 4 and 5 of the principal Act is to prescribe the benefits of a dependent of a Speaker or Deputy Speaker who dies while in office.

