

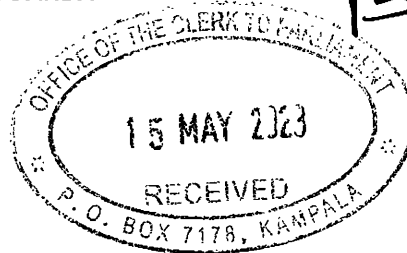


PARLIAMENT OF UGANDA

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15 MAY 2023

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**REPORT OF THE COMMITTEE ON PUBLIC SERVICE AND LOCAL GOVERNMENT
ON**

THE PUBLIC SERVICE PENSION FUND BILL, 2023

OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDINGS
KAMPALA - UGANDA

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May 2023

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1.0. INTRODUCTION

The Public Service Pension Fund Bill, 2023 was read for the first time on the 14th of March, 2023, by the Minister responsible for Public Service, Hon. Wilson Muruli Mukasa. The Bill was referred to the Sectoral Committee on Public Service and Local Government for consideration in accordance with Rule 129 of the Rules of Procedure of Parliament.

The Committee on Public Service and Local Government has examined the Bill in detail, made inquiries and in accordance to Rule 129 (2) presents this report with observations and recommendations to this House.

1.1 METHODOLOGY

The Committee held consultative meetings, reviewed some literature, consulted relevant laws, interfaced and received written submissions from the following stakeholders:

- a) Ministry of Public Service
- b) National Social Security Fund (NSSF)
- c) Parliamentary Pension Scheme
- d) Uganda Government and Allied Workers Union
- e) National Organisation of Trade Unions
- f) Uganda Retirement Benefits Regulatory Authority (UBRA)



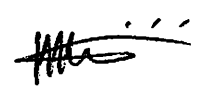
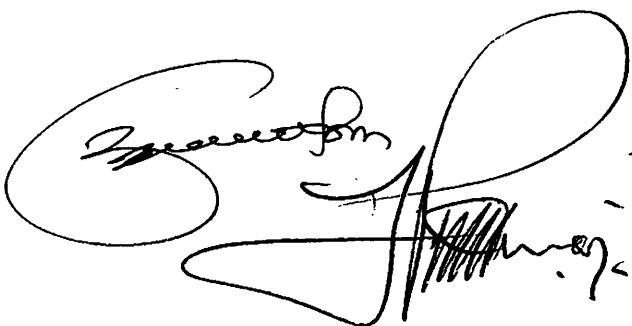
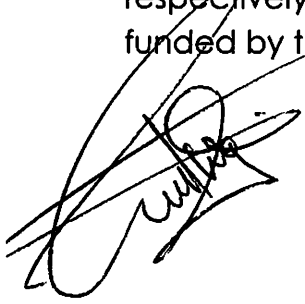
The Committee hereby presents its findings, recommendations and proposed amendments.



2.0. POLICY AND PRINCIPLES

The object of the Public Service Pension Fund Bill, 2023, is to provide for the establishment of a Public Service Pension Fund and a Public Service Pension Scheme; to provide for the governance, functions, organization and management of the Fund; to provide for the collection of contributions to the Fund and payment of retirement benefits to pensioners and their survivors; to provide for the investment of the monies of the Fund and for related matters.

The Public Service Pension Fund shall be a body corporate with a corporate seal and shall establish a Public Service Pension Scheme where both employer and employee shall contribute 5% and 10% of the gross salary of the employee, respectively. Currently, the pension scheme is non-contributory and is 100% funded by the Government from the consolidated fund.



3.0. DEFECTS IN THE EXISTING LEGISLATION

The Pension Act, Cap 286, which is the current law on Pension in Uganda commenced on the 1st of January, 1946. The Pensions Act, Cap. 286, provides for the grant and regulation of pensions, gratuities and other allowances in Uganda. Under the Pensions Act, Cap 286, pensions and benefits thereunder are paid from the Consolidated Fund. Initially, pensions were managed by the Ministry of Public Service under the Pensions Department but were decentralized to Ministries, Institutions and Local Governments in 2015.

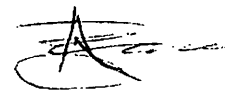
The defects in the Pension Act, Cap 286, which the Bill seeks to cure as mentioned in the memorandum of the Public Service Pension Fund Bill are that; the current public service pension scheme under the Pensions Act, Cap. 286 has presented challenges as a result of its noncontributory character. Because it is noncontributory, the public service pension scheme under the Pensions Act, Cap 286 cannot be sustained. The pension scheme has shortfalls in funding, accumulated pension and gratuity arrears and delayed payment of pension, which has frustrated pensioners and eroded the confidence of the pensionable employees and the pensioners in the current pension system.

3.1 KEY REMEDIES ARE AS FOLLOWS

The Bill seeks to transform from a non-funded, non-contributory pension system to a funded and contributory pension scheme for public servants. The contributory nature of the scheme that this bill intends to establish is intended to ensure affordability and sustainability which shall provide for timely payment of retirement benefits.

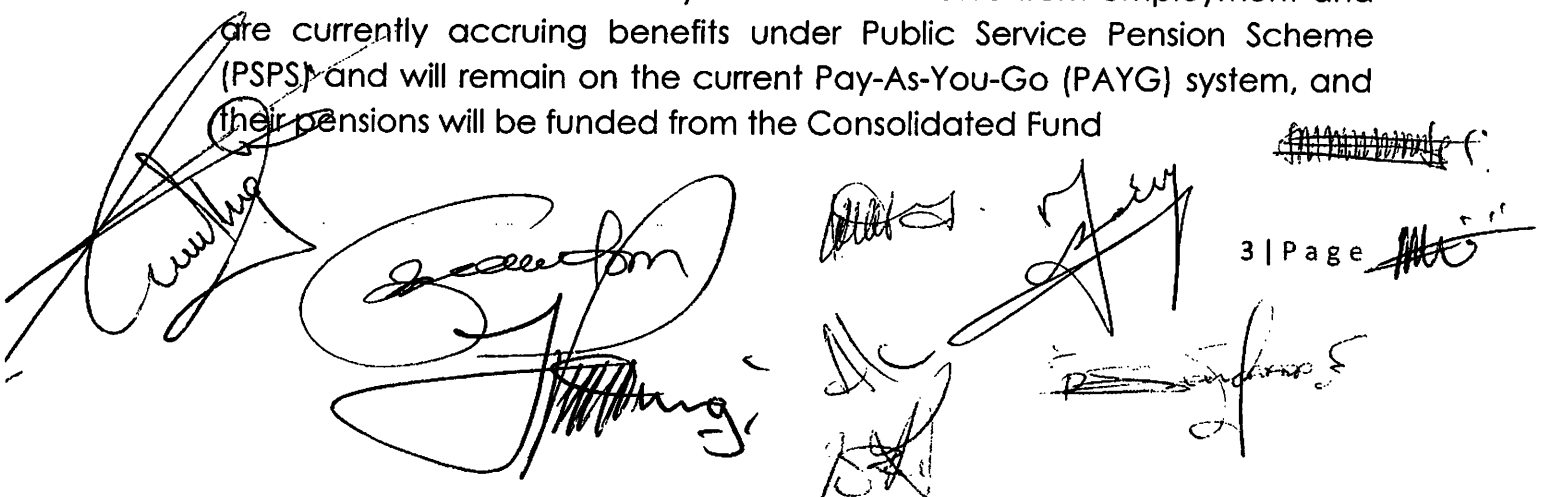
The Bill seeks to ensure compliance with the requirements of the Uganda Retirement Benefits Regulatory Acts 2021 and other relevant laws and guarantee retirement benefits for all public servants.

4.0 GENERAL OBSERVATIONS



4.1 ELIGIBILITY FOR THE PUBLIC SERVICE PENSION FUND AND PUBLIC SERVICE PENSION SCHEME

- i. The current pensioner will continue to be paid from the Uganda Consolidated Fund as is currently through Appropriation by Parliament
- ii. Those who will be left with 5 years or less to retire from employment and are currently accruing benefits under Public Service Pension Scheme (PSPS) and will remain on the current Pay-As-You-Go (PAYG) system, and their pensions will be funded from the Consolidated Fund



- iii. Those employees who will be less than 50 years old at the commencement of the Act will migrate to the Public Service Pension Fund, plus the new employees of government.

5.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

5.1 CLAUSE 5: ESTABLISHMENT OF THE PUBLIC SERVICE PENSION FUND

Clause 5 (3) The application of the seal of the fund on any document to be witnessed by the Chairperson of the Board and the Chief Executive Officer. The Committee observed that this may involve the Board Chair in the day-to-day Operations of the fund. Clause 5 (3) mentions the seal of the fund while Clause 5 (4) mentions seal of the Board. Both sections must be reconciled to address the same aspect.

Committee Recommendations

- i. **Include a stand-alone section to deal with the official seal and how the seal is handled or utilized.**
- ii. **Best practice is for the seal should be witnessed by the CEO and the Secretary to the Fund.**
- iii. **Since the fund is a body corporate, it should have a secretary as per the requirements of the Companies Act 2012.**



5.2 CLAUSE 6: FUNCTIONS OF THE FUND

Clause 6 (a) provides for the function of the Fund to establish and operate a scheme for persons employed in the public service and other public service who elect to join the scheme.

Committee Observations

- a) **It is important for the law to expressly provide for the establishment of the scheme instead of leaving it as a function of the fund.**
- b) **As in above, the Board of Trustees should be responsible for the fund.**

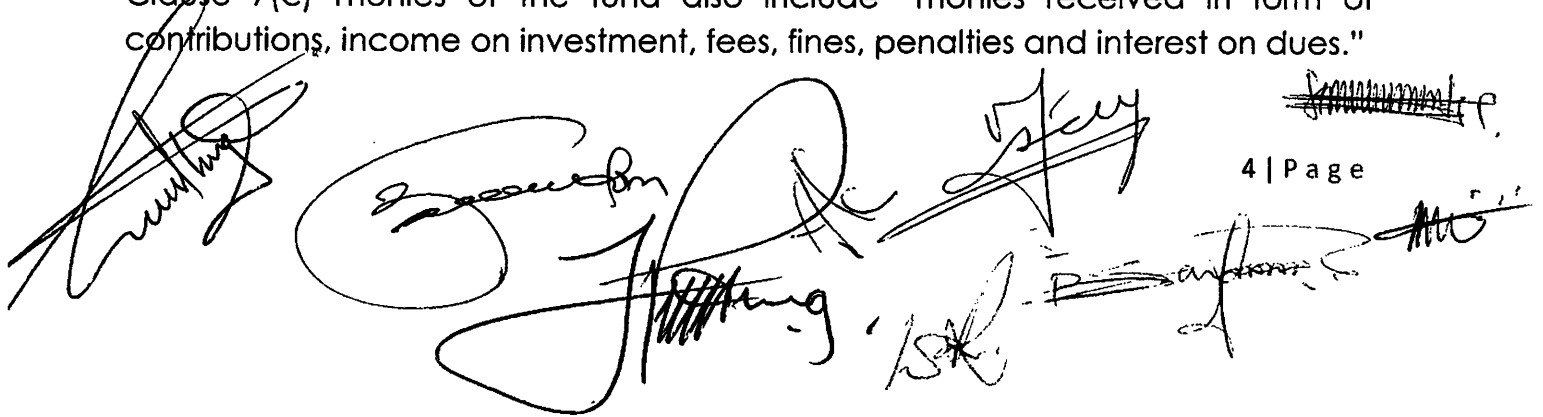


Committee recommendation

The Board of Trustees should be responsible for the operation of the scheme.

5.3 CLAUSE 7: SOURCES OF MONIES OF THE FUND

Clause 7(c) monies of the fund also include "monies received in form of contributions, income on investment, fees, fines, penalties and interest on dues."



Clause 7 (g), "sums of money borrowed by the Board in accordance with the Public Finance Management Act 2015."

Committee Observation

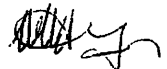
The Committee observed that allowing the Board to borrow will expose the public service pension scheme to several risks which may end up eroding the fund since the reasons for borrowing have not been clearly stipulated.

Committee recommendation

To avoid exposing the scheme to the risk of high interest rates and other risks arising from borrowing, the Board should not be allowed to borrow.

5.4 CLAUSE 8: BOARD OF TRUSTEES

Clause 8 provides for the Board of Trustees appointed by the Minister.



Committee Observations

I. The Committee observed that there is no provision that prescribes for the requirement for the board of trustees to be subjected to the fit and proper test as stipulated in Section 42 (1) URBRA Act, 2011.

II. Section 41 (1) of URBRA Act 2011 stipulates the Authority may refuse to grant a licence to an applicant if the Authority is satisfied that:

(a) The information contained in the application is false in any material particular;

(b) The applicant is not a fit and proper person as prescribed in Part II of Schedule 3;

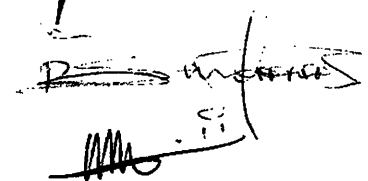
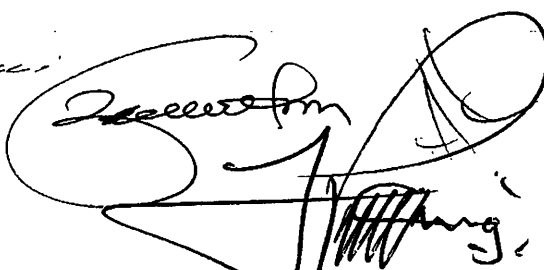
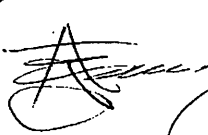
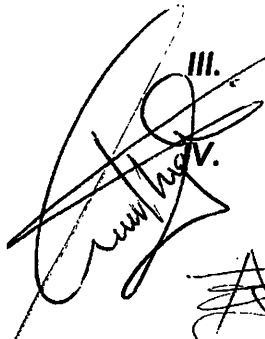
(c) the applicant has ever been a trustee of a retirement benefits scheme whose licence was revoked by the Authority due to any fault either fully or partially of the applicant; or

(d) the applicant does not meet the requirements specified in section 41(1).



III. Clause 8 (e) and (f) ring fenced representation to the fund to only the labour unions in Central Government and Local Government.

IV. The Bill does not clearly states how the representatives of the Central Government and Local Government workers will be nominated. The



process of nomination is not clearly stated in the Bill. Leaving the process open will cause conflicts of interest within the unions.

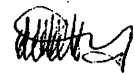
- V. **Public Service (Negotiating, Consultative Act 10 and Disputes Settlement Machinery) Act**, that provides for the National Negotiating and Consultative Council, a body mandated to, among other things, facilitate consultations, dialogue, and negotiations between the Government as employer and all public service labour unions.

Committee recommendations

- I. **The Committee recommends that a person nominated for appointment on the Board of trustees shall be subject to a fit and proper test in accordance with the URBRA Act 2011.**
- II. **Public Service Negotiating and Consultative Council established under Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, 2008 supervise the process of nominating the representatives of the Central Government and Local Government workers to the Board of Trustees.**

5.5 CLAUSE 9: FUNCTIONS OF THE BOARD

Clause 9 provides for the function of the Board



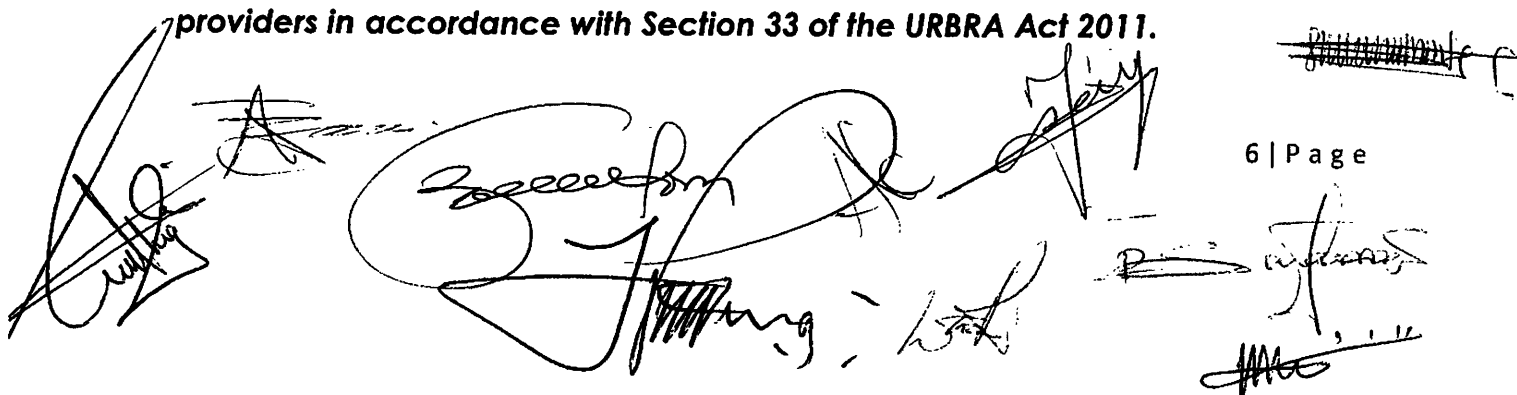
Committee Observations

The Committee observes as follows;

- i. **Section 9(2) provides for the Board to delegate any of the functions in subsection (1) to a custodian, fund manager, asset manager or an actuary.**
- ii. **The appointment of an asset manager, custodian, auditor, actuaries and any other service provider cannot be delegated.**
- iii. **The appointment of asset managers, custodians, accountants, auditors, actuaries or other service providers by the Board should not be delegated to a custodian, fund manager, asset manager or an actuary.**
- iv. **Section 33 of the URBRA Act 2011 stipulates that every retirement benefits scheme shall have a custodian, trustee, administrator and fund manager licensed in accordance with this Act.**

Committee recommendation

The Board of trustees should be responsible for appointing the service providers in accordance with Section 33 of the URBRA Act 2011.



5.6 CLAUSE 10. TENURE OF OFFICE

Clause 10 sub-clause (1) provides that; "A member of the Board, shall hold office for a period of three years and shall be eligible for reappointment for only one more term".

Committee Observations

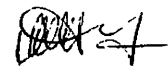
The Committee observes as follows;

- i. The Committee observed that it is mandatory under this clause for a member of the board to be reappointed for one more term on the board.
- ii. That it is not a guarantee that the board member shall perform well during the first tenure, to warrant such reappointment.
- iii. Sub-clause (3)(a) is to provide for infirmity and yet no clear process for affirmation

Recommendations

The Committee recommends as follows

- i. The Committee recommends the reappointment of the Board members be subject to satisfactory performance.
- ii. Infirmity of the body or mind be ascertained by a Medical Board.



5.7 CLAUSE 18. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER

The Bill under Clause 18 (2) (c) provides that the Chief Executive Officer shall be the secretary of the Board and its committees.

Committee observation


The Companies Act 2012 and the best corporate governance practices which require every legal entity/ body corporate to have a Corporation Secretary.

Committee recommendation

The Committee recommends provision for the Secretary to the board in consistent with the Company Act, 2012.

5.8 CLAUSE 19. TENURE OF CHIEF EXECUTIVE OFFICER

Clause 19 sub-clause (1) provides that; "The Chief Executive Officer shall hold office for five years and is eligible for re-appointment for only one more term."



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Committee Observations

The Committee observes as follows;


- i. Just like in Clause 10 which provides for tenure of office of board members, this Clause 19 (1) presupposes that it is mandatory for the Chief Executive Officer to hold office for five years and to be eligible for reappointment, for one more term.**
- ii. Clause 19 (1) presupposes that it is mandatory re-appointment of the Chief Executive Officer**

Committee recommendation

The Committee recommends the reappointment of the Chief Executive Officer be subject to satisfactory performance of his or her duties in the previous term.

5.9 CLAUSE 26: CANCELLATION OF REGISTRATION

Clause 26 provides for the cancellation of registration of an employee



Committee Observations

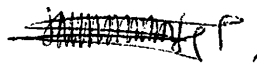
- I. The bill does not envisage an employee who has ceased being an employee under public service to continue contributing to the Fund.**
- II. Pension schemes do not provide cancellation of membership. A member can leave the scheme by deregistration upon notification.**

Committee recommendation

The Committee recommends alignment of the headnote with the contents of the provision in the Bill.

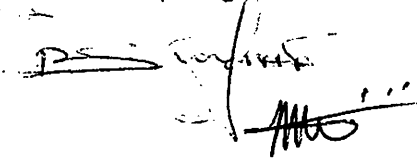


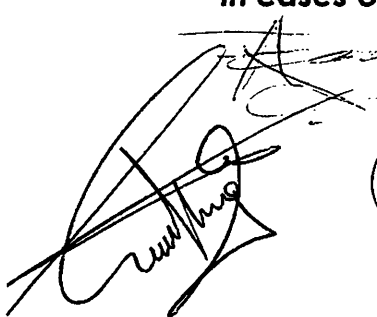
5.10 CLAUSE 27: MANDATORY CONTRIBUTION

Clause 27 provides for mandatory contribution. Clause 27 (2) "contribution shall be paid to the Fund on the last day of the month in respect of which a payment for the salary for that month or part of the month is made to the employee". Clause 27 (5) "The Minister may, on the basis of the actuarial valuation under section 32 of the Act, by Statutory Instrument, vary the rates contribution referred to in subsection (3).



Committee Observations

- a) The Committee observed that the last day of the month is not applicable in cases of salary delays.**



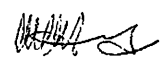
b) The proposed Bill is a fundamental change in the design of the Scheme and should not be left to the Minister alone

Committee recommendation

The Committee recommends a contribution to be paid to the Fund by the 15th day of the next month in respect of which a payment for the salary for that month or part of that month is made to the employee.

5.11 CLAUSE 28: REMITTANCE OF CONTRIBUTIONS

Clause 28 (1) The responsible officer shall remit employer and employee contributions to the specified bank account of the Fund on a monthly basis in such a manner as the Board may, in consultation with the Minister and the Minister responsible for Finance, determine.



Committee observation

Section 69 of the URBRA Act Payment of contribution (2) An employer shall remit the contribution in respect of his or her employee to the retirement benefits scheme before the fifteenth day of the following month.

Committee recommendation

The deducted contributions must be remitted by the responsible Officer by the fifteenth day of the following month as prescribed in Section 69 (2) URBRA Act of 2011.

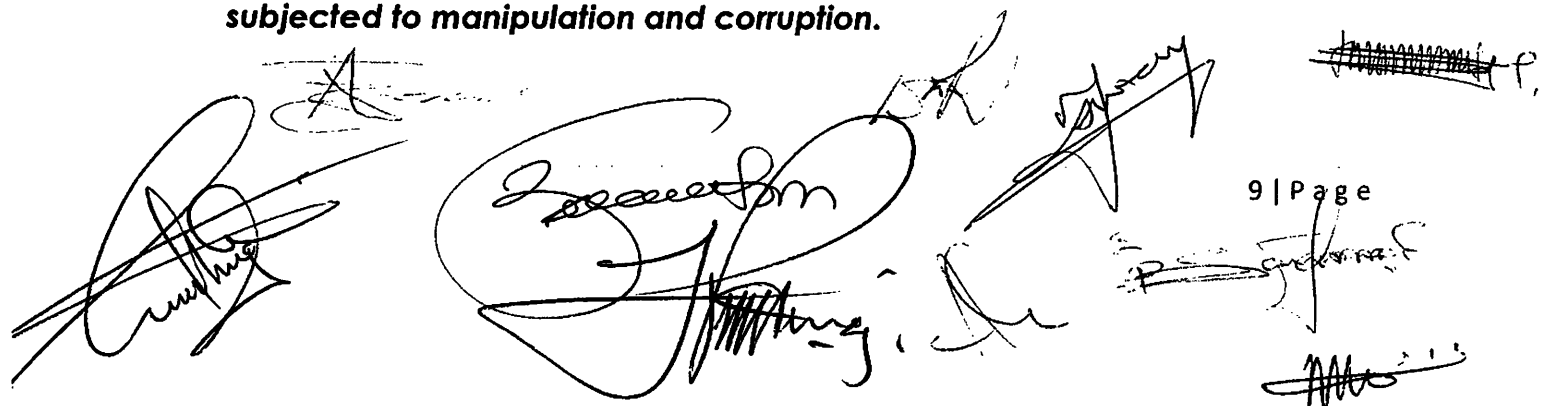
5.12 CLAUSE 30 SOCIAL SECURITY NUMBER

Clause 30 provides for social security number to every member upon registration.

Committee observations

The Committee observes as follows;

- i. That the official identification of Government is National Identification Number. The National Identification Number is unique to every member. It is not transferrable or assignable to anyone else and is becoming the unique identifier for Ugandans.**
- ii. The supply numbers used for salary and pension payroll have been subjected to manipulation and corruption.**



Committee recommendation

The Committee recommends the use of National Identification Number to the identify employees for the purpose of collecting, recording and processing information on social security benefits for each member.

5.13 CLAUSE 31. PENALTY FOR NON-PAYMENT OF CONTRIBUTIONS

Clause 31 provides for the penalty prescribed for non-payment of contributions by the responsible officer.

Committee Observation

The Committee observed that this penalty is too small to create a deterrent behavior. The word seems to suggest that once a responsible officer had added the 1.5% and 1.5%, (3%) no further penalties are accrued. Again this does not create a deterrent behavior.

Committee recommendation

The Committee recommends for a deterrent penalty in case of non-compliance of the law in accordance with Section 69 (3) of the URBRA Act 2011.

5.14 CLAUSE 34: QUALIFYING PERIOD FOR PENSION

Clause 34 (1) "provides for the qualifying period for pension is at least ten years of continuous service in a pensionable service....."

Committee Observations

There is no definition of qualifying service in the definition section yet it is necessary especially in circumstances where the same term has been used elsewhere in the law to connote a different or contradictory meaning.

Committee recommendation

The Committee recommends pensionable period for pension of the public service and the other public service should not defer.

5:15 CLAUSE 36 PAYMENT OF PENSION

Clause 36 lists the circumstances under which a member qualifies for pension.

Committee Observations

- i. Clause 36(1) (b) presupposes that a member receives pension during service in public service yet pension is supposed to be received after a member has ceased to be in service.**

- ii. **Clause 36(1) (c) provides for 45 years yet the mandatory age is 60 years. Lowering the age might put the Scheme at a risk of insolvency. Attainment of 45 years should only apply to an employee who ceases to be a member.**

Committee Recommendation

Payment of pension should be in accordance with the current terms and conditions of service of employees.

5: 16 CLAUSE 38. REFUND OF CONTRIBUTIONS

Clause 38 provides for the circumstances under which contributions can be refunded.

Committee observation

- i. **A member of the Scheme is entitled to a one-off refund of the employee contributions— on termination of probationary appointment; on dismissal of the employee; upon abscondment from duty; or upon resignation from office. This being retirement benefits, the Committee observed that the URBRA Act under Section 70 provides protection against execution, attachment or any process in respect of the contributions or funds of the member.**
- ii. **of sub-clauses (3) and (4), there should not be a refund of excess contributions because it is prone to abuse, yet excess contributions can be offset or carried forward.**

Committee recommendation

All monies contributed for the member should be invested immediately and should both be refundable to the employee.

5.17 CLAUSE 40. PENSION FORMULA FOR FUTURE BENEFITS

Clause 40 provides that;

(1) *The pension payable to a person referred to in section 36 of this Act, shall be calculated based on the length of service of the employee, the last pensionable emoluments and the pension fraction of one six-hundredth.*

(2) *For purposes of this section "last pensionable emoluments" means the last annual basic salary earned by a pensionable employee.*

Committee observation

The Committee observes as follows'

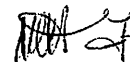
- I. Initial block payment was not provided for in the formula, followed by periodic payments for a given period of time.**
- II. It should be emphasized at the on-set that, the pension payment method under the scheme should not in any way entitle the members to less benefits than they would have gotten under the current PSPS (Public Service Pension Scheme).**
- III. The proposed formula reduces the accrual fraction from the current PSPS (Public Service Pension Scheme) 1/500 to 1/600.**

Committee recommendation

- I. Government could consider adopting benefit design to fit within proposed total cost structure of 15% of in-service employees' total pensionable payroll per annum.**
- II. Retain the current PSPS (Public Service Pension Scheme) 1/500 accrual fraction for future services.**

5:18 CLAUSE 44 RE-APPOINTMENT OF AN EMPLOYEE INTO PENSIONABLE SERVICE

Clause 44 mandates adding pensions accrued by a member who is re-appointed in pensionable service after leaving it to subsequent pensionable service but limits this to members who have not received any retirement benefits.



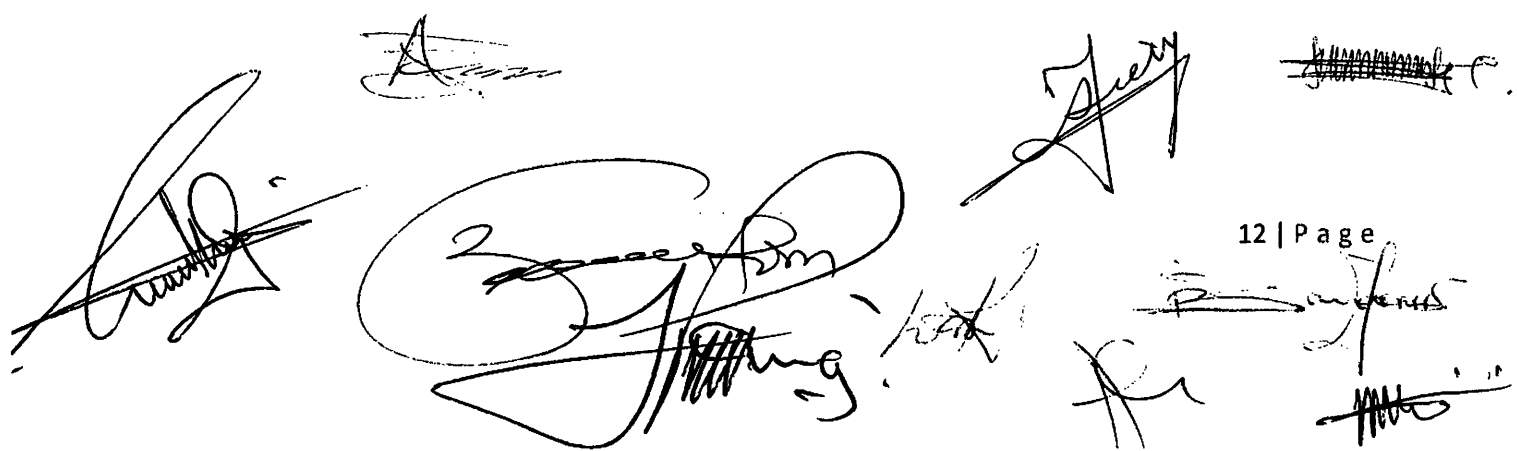
Committee Observations

The Committee observes as follows;

- a) This provision is silent on members who have been reappointed into pensionable service after receiving a part of their retirement benefits.**
- b) Retirements benefits are not earned but accrued**

Committee recommendation

The Committee recommends a provision on how to cater for the balance of retirement benefits where the member who has been reappointed as an employee into pensionable service received some of the retirement benefits.



5:19 CLAUSE 46 RETIREMENT ON MEDICAL GROUNDS ARISING FROM INJURY SUSTAINED ON DUTY

Clause 46 introduces "additional pension", in addition to the grant of pension where a member suffers an injury or contracts a disease in the course of duty.

Committee Observation

The Committee observed that the term "additional pension" is not defined in the Bill. In addition, the payment of the "additional pension" is optional instead of mandatory.

Committee recommendation

The Committee recommends this provision should be adopted, however, "additional pension should be defined in Clause 2 and that payment thereof in the circumstances mentioned in Clause 46 should be mandatory.

5:20 CLAUSE 51: RETIREMENT BOND

Clause 51 provides for retirement bond. Retirement bond has been used severally in the Bill.



Committee Observation

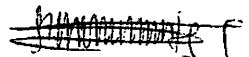
The Committee observed that the retirement bond has not been defined in the Bill, the Bill only defined "bond".

Committee recommendation

There is need to clearly define the word "retirement bond" in the act to clarify on the issue of whether it has the same characteristics as a promissory note.

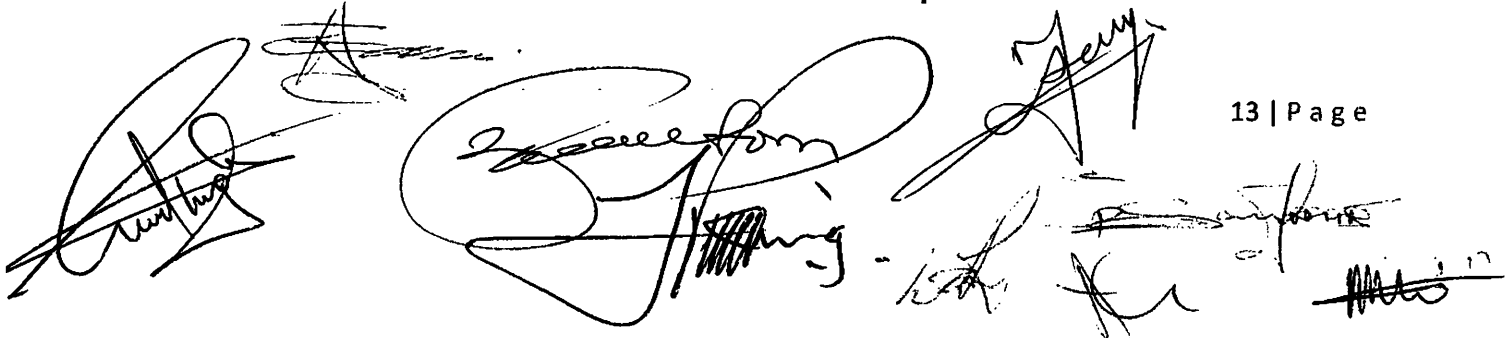
5:21 CLAUSE 53: SUSPENSE ACCOUNT OR UNCLAIMED BENEFITS ACCOUNT

Committee Observations



The Committee observes as follows;

- i. All monies in the scheme belong to the scheme in totality but accrue to the member account in the scheme. It is in order to improve better accountability to avoid losing site of the remittance of the scheme.*
- ii. There is no time when unclaimed benefits should be remitted into a suspense account given that they remain in the pool of the scheme funds.*
- iii. The reserve account world over has been prone to abuse.*



- iv. **It is not prudent to make the Minister and the regulator to be involved in prescribing the treatment of unallocated contributions and unclaimed benefits give that these are administrative issues**
- v. **There should be a stand-alone section for the publication of the of unclaimed benefits in a newspaper of wide circulation.**

Committee recommendations

The Committee recommends the Board to publish details of the unclaimed benefits in a newspaper of wide circulation giving notice to members of the scheme details of the unclaimed benefits.

5:22 CLAUSE 55: BORROWING POWERS

Clause 55 provides the Board may borrow in accordance with the PFMA 2015

Committee Observation

The Committee observed that borrowing may expose the scheme and the fund to serious risks that may erode the scheme of the fund.

Committee recommendation

The Committee recommends clause 55 be deleted to avoid exposing member's funds to high risks.

5:23 CLAUSE 56 ACCOUNT AND AUDIT

Under clause 56 sub-clause (4), the Board shall publish or cause to be published the audited financial statements of the Fund.

Committee observations

- i. **The Committee observed that this provision does not mention the mode of publication of the audited financial statements.**
- ii. **The period six months period mentioned in subsection (2)) is not consistent with four months as prescribed by in the URBRA Act 2011 and Public Finance Management Act 2015.**

Committee recommendations

- I. **To enhance transparency the Committee recommends publications of the audited reports in a newspaper of wide circulation.**
- II. **And conformity with the both URBRA Act 2011 and Public Finance Management Act 2015 in regards to publishment of audited accounts.**

5.24 CLAUSE 60. INVESTMENT

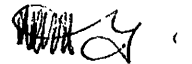
Clause 59 of the fund allows the Fund to invest in accordance with the investment policy of the Fund, and after taking into account the security of assets of the fund, the diversity of investment, the maximum return consistent with security and diversity of assets of the fund and the maintenance of adequate liquidity.

Committee observation

- I. **Section 67 URBRA Act (1) provides for every retirement benefits scheme shall have a prudent investment policy of the funds of the scheme so as to maintain the capital funds of the scheme and generally to secure adequate rates of return on investment.**
- II. **Section 67 URBRA Act (3) there shall be submitted to the Chief Executive Officer, in respect of every scheme, a statement of all investments of the retirement benefits scheme, in such a manner and at such intervals as may be subscribed.**
- III. **Investments of public funds should be subjected to Parliamentary approval**

Committee recommendation

- I. **All investments in the approved plans should be in accordance with the URBRA Act 2011 and regulations thereunder.**
- II. **The Minister should lay the investments plans for approval before Parliament at the beginning of every financial year.**



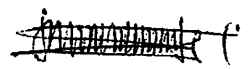
5: 25 POWERS TO MAKE REGULATIONS

Clause 66 provides for the power of the Minister to make regulation for giving effect to the provision of this Act.

Committee Observations

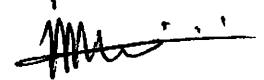
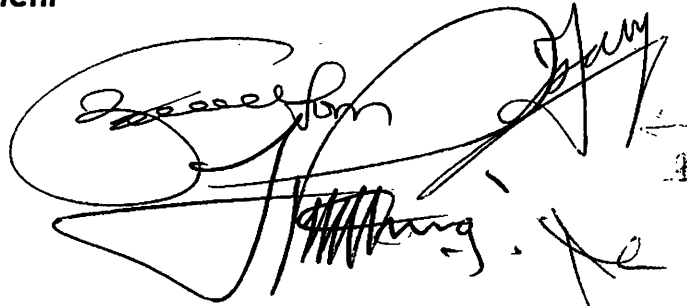
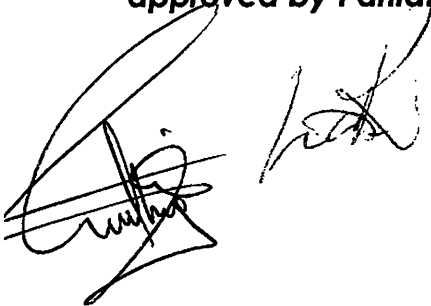
The Committee observes as follows;

- I. **The power to make regulations under clause 66 (2) can be subjected to prejudice and abuse to the general effect under this Act.**
- II. **There is need to seek Parliamentary approval under clause 66**



Committee recommendation

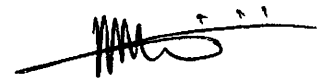
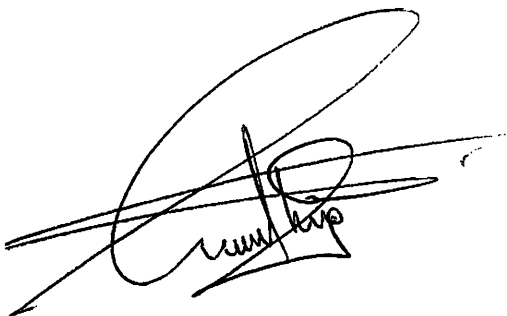
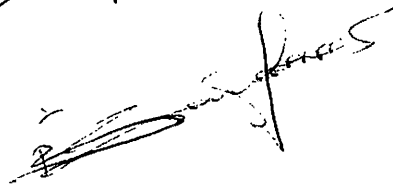
The Committee recommends the Statutory Instruments made under this be approved by Parliament



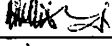

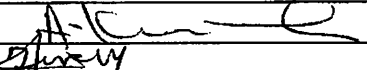
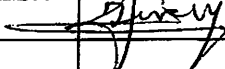
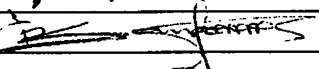
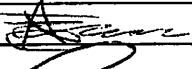
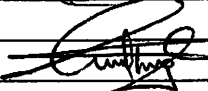

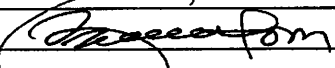
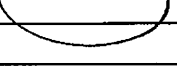

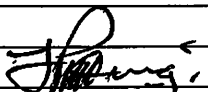
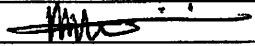
6.0 CONCLUSION

The Committee recommends that the Public Service Pension Fund Bill 2023 be passed into law subject to the proposed amendments.

I beg to move

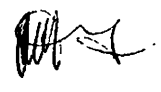


**MEMBERS OF THE PUBLIC SERVICE AND LOCAL GOVERNMENT WHO SIGNED
REPORT OF THE COMMITTEE PUBLIC SERVICE AND LOCAL GOVERNMENT ON THE
PUBLIC SERVICE PENSION FUND BILL, 2023**

| No | Name | Signature |
|----|--------------------------------|---|
| 1 | Hon. Onzima Godfrey C/P |  |
| 2 | Hon. Apolot Christine D/CP |  |
| 3 | Hon. Natukunda Midius | |
| 4 | Hon. Chelimo Reuben Paul | |
| 5 | Hon. Kunihira Abwoli Agnes |  |
| 6 | Hon. Modoi Isaac |  |
| 7 | Hon. Twinobusingye Jovanice | |
| 8 | Hon. Bwiire Sanon |  |
| 9 | Hon. Adriko Yovan | |
| 10 | Hon. Acan Joyce Okeny |  |
| 11 | Hon. Kitanywa Sowedi |  |
| 12 | Hon. Mugabe Martin Muzaale |  |
| 13 | Hon. Byarugaba Alex | |
| 14 | Hon. Baatom Ben Koryang |  |
| 15 | Hon. Biraaro Gashanga Ephraim |  |
| 16 | Hon. Wanyama Micheal | |
| 17 | Hon. Wandwasi Robert |  |
| 18 | Hon. Wokorach Simon Peter | |
| 19 | Hon. Katusabe Godfrey Atkins | |
| 20 | Hon. Muhindo Harold | |
| 21 | Hon. Emigu Julius Peter |  |
| 22 | Hon. Naluyima Betty Ethel | |
| 23 | Hon. Lwanga Jimmy | |
| 24 | Hon. Nambooze Teddy | |
| 25 | Hon. Nakabuye Juliet Kakande | |
| 26 | Hon. Nyangweso Dennis |  |
| 27 | Hon. Isingoma Patrick Mwesigwa | |
| 28 | Hon. Komol Emmanuel | |
| 29 | Hon. Namutaawe Joan | |

PROPOSED AMENDMENTS TO THE PUBLIC SERVICE PENSION FUND BILL, 2023

TITLE: THE PUBLIC SERVICE PENSION FUND BILL.



Substitute for the title the following —

“The Public Service Pension Act, 2023”

Justification

- *To avoid restricting the Bill to only the Fund and provide for an all-inclusive short title.*
- *The current title is exclusive in so far as it only mentions the Fund, yet the Bill provides for other elements of public service pensions other than the Fund, such as the contributory Scheme, the pension formula, among others.*

CLAUSE 2: Interpretation

Clause 2 is amended —

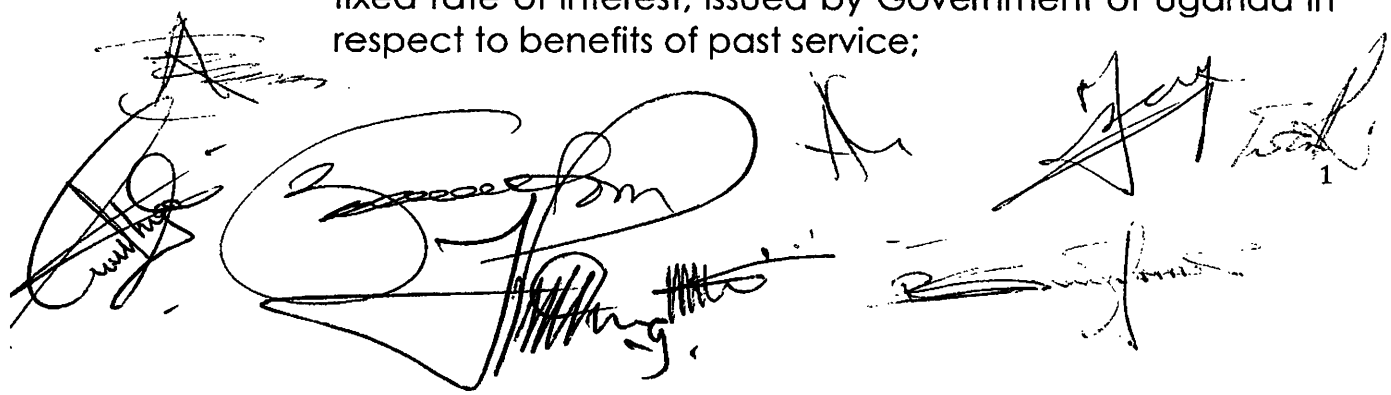
a) by inserting the following definitions in their respective alphabetical order;

““qualifying period for pension” means the length of service in public service or other public service which a member must complete before qualifying for pensionable service;

“qualifying service” has the meaning assigned to it in Section 33;



“retirement bond” means a certificate of debt, paying a fixed rate of interest, issued by Government of Uganda in respect to benefits of past service;



"member" means a person who is registered as a member of the Scheme under section 24 of this Act;

"Public Service Negotiating and Consultative Council" means the Council established under the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, 2008;

"security organisation" means a security organisation established under section 2 of the Security Organisations Act;"

b) by deleting the definition of the phrase "service of the Government" or "service under the Government".

Justification

- The insertions are intended to enhance clarity by providing for interpretations of the words and phrases used in the Bill that need to be defined.
- The deletion is intended to remove a redundant definition.

CLAUSE 4: Application of this Act

~~XXXXX~~

Clause 4 is amended in sub clause (2)—

a) in paragraph (c), by inserting immediately after the word "organisation", the words "except other employees who are employed in civil capacity.";

b) in paragraph (e), by inserting immediately after the word "years", the words "or less".

Justification

hsk

~~XXXXXXXXXX~~

- To extend the application of this Act to employees in the public service who are employed in civil capacity in security organisations.

~~XXXXXX~~

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

- For clarity; the Act does not apply to employees employed in public service who are left with less than five years to attain mandatory retirement age.

CLAUSE 5: Establishment of Public Service Pension Fund

Clause 5 is amended—

- a) in sub clause (2)(a), by substituting for the word "and", the word "or";
- b) by deleting sub clauses (3) and (4).

Justification

- The amendment in sub clause (2)(a) is to empower the Fund to sue or be sued.
- Sub clauses (3) and (4), are redundant since a new clause has been introduced to provide for the common seal in a stand-alone provision.

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 5

The Bill is amended by inserting immediately after Clause 5, the following —

"Seal of Fund

- (1) The seal of the Fund shall be determined by the Board.
- (2) The application of the seal of the Fund on any document shall be authenticated by the signatures of the Chief Executive Officer and Secretary of the Board.

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(3) The seal of the Fund shall in the absence of the Chief Executive Officer or the Secretary to the Board, when affixed to any document, be authenticated by the signatures of the persons who are performing the functions of the Chief Executive Officer or the Secretary of the Board."

Justification

- A consequential amendment arising from the deletion of sub clause (3) and (4) in clause 5 of the Bill.
- To make provision for the seal of the Fund and authentication of the documents bearing the seal of the Fund, as stand alone provision.

CLAUSE 7: Sources of monies of Fund

Clause 7 is amended by deleting paragraph (g).

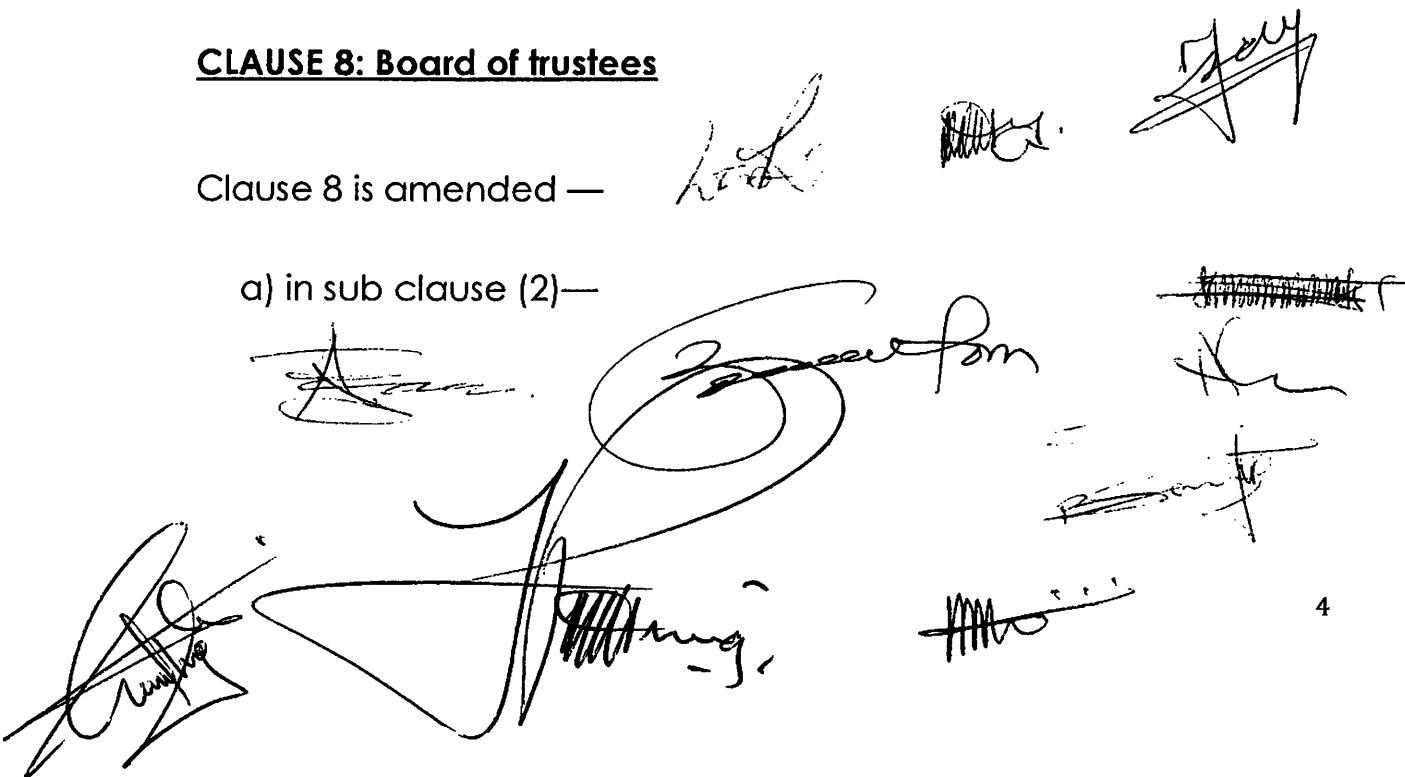
Justification

To prevent the Fund from borrowing since it will receive funding of employee and employer contributions from the civil servants and the Government, respectively.

CLAUSE 8: Board of trustees

Clause 8 is amended —

a) in sub clause (2)—

A collection of handwritten signatures and scribbles in black ink, scattered across the lower half of the page. Some are large and stylized, while others are smaller and more scribbled. They appear to be signatures of various individuals, possibly related to the amendments mentioned in the text.

i) by substituting for paragraph (e), the following —

“a representative of central government employees, nominated by the Public Service Negotiating and Consultative Council, from members of the public service labor unions;”

ii) by substituting for paragraph (f), the following —

““a representative of local government employees, nominated by the Public Service Negotiating and Consultative Council, from members of the public service labor unions;”

iii) in paragraph (g), by deleting the word “and” appearing immediately after the word “banking”;

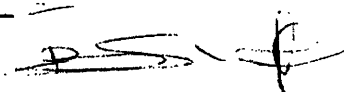
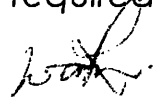
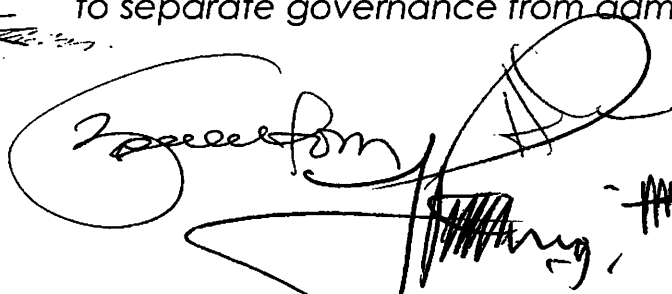
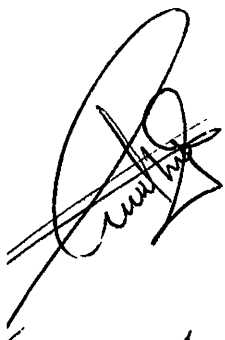
iv) by inserting immediately after paragraph (g), the following—

“(h) a representative of pensioners, nominated from among the pensioners.”;

b) in sub clause (3), by inserting immediately after the word “Board”, the words “without the right to vote”.

Justification

- The substitution of sub clause (2)(e) and (2)(f) is to align the provision with the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act. ~~XXXXXXXXXX~~
- The amendment proposed in sub clause (2)(g), is to separate banking and insurance since they are different fields, and the experience under this provision is required from one and not from both fields. ~~XXXXXXXXXX~~
- The amendment proposed in sub clause (3), is to introduce best corporate governance principles and practices in order to separate governance from administration. ~~XXXXXXXXXX~~



- The insertion of a new sub clause after sub clause (2)(h), is to provide for a representative of pensioners on the Board.

CLAUSE 9: Functions of Board

Clause 9 is amended —

- a) in sub clause (1), in paragraph (j), by substituting for the word “asset”, the word “fund”;
- b) in sub clause (2), by inserting the words “except the function provided for in Section 9(1)(j).” appearing immediately after the word “actuary”.

Justification

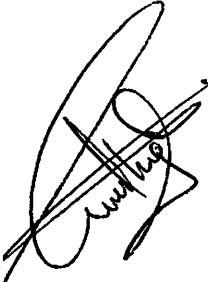
- The amendment proposed in sub clause (1)(j), is for consistency with the URBRA Act, 2011, where a fund manager is appointed instead of “asset manager”.
- For sub clause (2), the appointment of asset managers, custodians, accountants, auditors, actuaries or other service providers by the Board should not be delegated to a custodian, fund manager, asset manager or an actuary, because this will translate into appointing themselves.

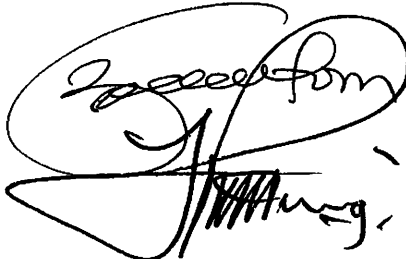
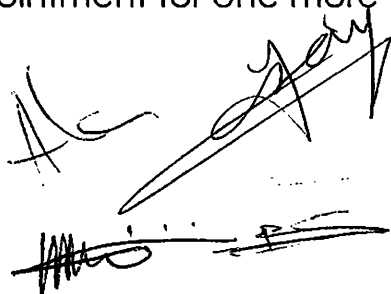
CLAUSE 10: Tenure of office

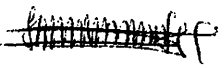
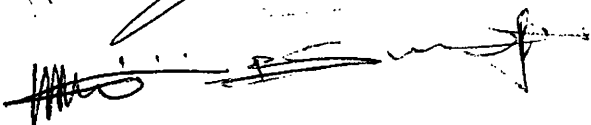
Clause 10 is amended—

- a) by substituting for sub clause (1), the following—

“(1) A member of the Board shall hold office for a period of three years and is eligible for reappointment for one more term only.”



b) in sub clause (3)—

- i) in paragraph (a), by inserting immediately after the word "mind", the words "as ascertained by a medical board;"
- ii) in paragraph (e), by deleting the word "or insolvency;"

c) by inserting immediately after sub clause (5), the following—

"Where a member of the Board is under investigation for an offence involving dishonesty or fraud, the Minister shall suspend the member from being a member of the Board, until investigations are concluded."

Justification

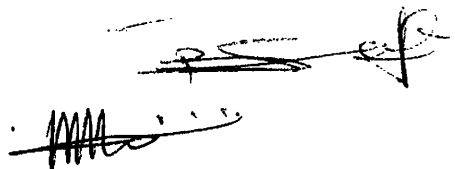
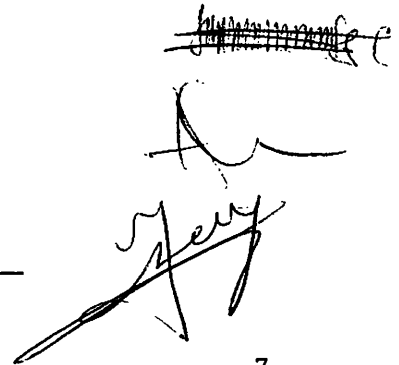
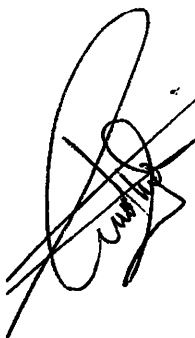


- Sub clause (1) is for proper drafting.
- Sub clause (3)(a) is to provide for who can assess infirmity of the body or mind.
- Sub clause (3)(e); insolvency applies to corporate entities while bankruptcy applies to natural persons.
- The insertion of new sub clause (6) is to allow transparency in investigations where a Board member is under investigation for an offence involving dishonesty and fraud."

CLAUSE 12: Filling vacancies of Board

Clause 12 is amended—

a) by substituting for sub clause (2), the following —



"(2) Where the member of the Board referred to in subsection (1) is the Chairperson, the Secretary to the Board shall, within fourteen days from the date of the vacancy, notify the Minister of the vacancy and the Minister shall, within six months from receipt of the notice from the Secretary, appoint another person to hold office of the Chairperson for the remaining term of the Chairperson who was removed."

b) by inserting immediately after sub clause (2), the following —

"(3) Where a Chairperson is not appointed by the Minister within the time stipulated under subsection (2), the members of the Board shall appoint, from among themselves, a member qualified to hold office of the Chairperson for the remaining term."

Justification

- The amendment in sub clause (2), is to provide for timelines within which a Minister should appoint the chairperson of the Board in case of the vacancy.
- The amendment in sub clause (3) is to prevent any delays in the appointment of Board members from curtailing the execution of the functions of the Board.

CLAUSE 15: Committees of Board

Clause 15 is amended—

a) in sub clause (2), by inserting immediately after the word "other" the word "two".

b) In sub clause (4), by inserting immediately after the word "may", the word "in consultation with the Minister,".

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Justification

- The amendment in sub clause (2), to provide for a limit of the other members of the committees of the Board to ease decision making.
- The amendment in sub clause (4), for consistency with clause 14(2), which gives the Minister a role in the determination of the remuneration of Board members.

CLAUSE 17: Chief Executive Officer

Clause 17 is amended by deleting sub clause (4)

Justification

Sub clause (4) is a duplication of clause 8(3), making the provision redundant.

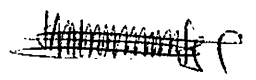
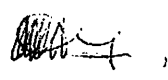
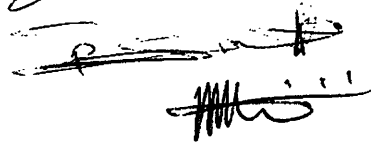
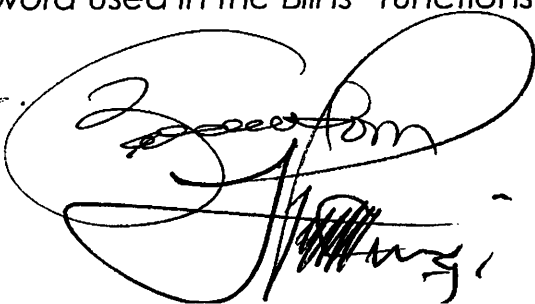
CLAUSE 18: Functions of Chief Executive Officer

Clause 18 is amended in sub clause (2)—

- a) by deleting paragraph (c);
- b) in paragraph (d), by substituting for the word "business" the word "functions";
- c) in paragraph (h), by inserting immediately after the word "statements", the words "of the Fund".

Justification

- The deletion of sub clause (2)(c) is to provide for a secretary of the Board and separate their functions from the Chief Executive Officer.
- The amendment in sub clause (2)(d) is for consistency, because the word used in the Bill is "functions" not "business".



- The amendment in sub clause (2)(h) is for clarity, and to connect the functions of the CEO to the Fund.

CLAUSE 19: Tenure of Office of Chief Executive Officer

Clause 19 is amended—

- a) in sub clause (1), by substituting for the words "only one more term", with the words "one more term only".
- b) in sub clause (2) —
 - i) in paragraph (b), by deleting the words "and insolvent"
 - j) in paragraph (c), by deleting the words "moral turpitude"
 - k) in paragraph (d), by substituting for sub paragraph (ii), the following —

"infirmary of body or mind as ascertained by a medical board;"

Justification

- For sub clause (1), the reappointment of the Chief Executive Officer should not be mandatory, it should be based on, among others, satisfactory performance in his or her previous term.
- For sub clause (2)(b), this is a consequential amendment where insolvency was deleted because it applies to corporate entities, while bankruptcy applies to natural persons.
- For sub clause (2) (d), the word "moral turpitude is ambiguous and is prone to misinterpretation.

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- For sub clause (2)(d)(ii), to provide for who can assess infirmity of the body or mind of a member of the Board.

CLAUSE 20: Appointment of other staff of Fund

Clause 20 is amended in sub clause (4) by deleting the word "immediate".

Justification

It is not practicable for a Chief Executive Officer to be the immediate supervisor of all the staff of the Fund.

CLAUSE 21: Interim management

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Clause 21 is amended—

- a) in sub clause (2), by deleting the words "had there been no interim provision for management of the Fund";
- b) In sub clause (4), by inserting immediately after the word "years", the words "from commencement of this Act".
- c) in sub clause (5), by deleting the word "has".

Justification

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- For sub clause (2) and (5), for clarity and to correct grammatical errors in the provision.
- For sub clause (4), to enhance clarity on the tenure of the interim management.

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CLAUSE 23: Establishment of Scheme

Clause 23 is amended by deleting sub clause (2)

Justification

- *For the deletion of sub clause (2); the Fund established as an independent corporate body does not require a license by URBRA, which is also independent corporate body.*

CLAUSE 26: Cancellation of registration

Clause 26 is amended in sub clause (1), by deleting the words "and that employee has not elected to continue contributing to the Fund"

Justification

For sub clause (1), the bill does not envisage an employee who has ceased being an employee under public service to continue contributing to the Fund.

CLAUSE 27: Mandatory contribution

Clause 27 is amended—

a) by substitution for sub clause (2), the following—

"A contribution shall be paid to the Fund on the fifteenth day of the next month, following the last day of the month in respect of which a payment for the basic salary for that month or part of that month is made to the employee."

b) in sub clause (5), by inserting, immediately after the word "may", the words "with the approval of Parliament"

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Justification

- For sub clause (2), to give allowance for remission of contributions in time, in cases where payment of salaries is delayed.
- For sub clause (5); for Parliament to regulate the exercise of the power granted to the Minister to vary the rates of contributions.

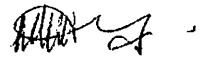
CLAUSE 28: Remittance of contributions

Clause 28 is amended in sub clause (1) by deleting the words "in consultation with the Minister and the Minister responsible for finance;

Justification

Remitting contributions is an operational role of the Fund which does not require consultation of the Ministers.

CLAUSE 30: Social Security Number

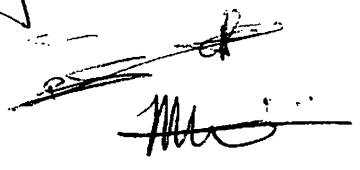
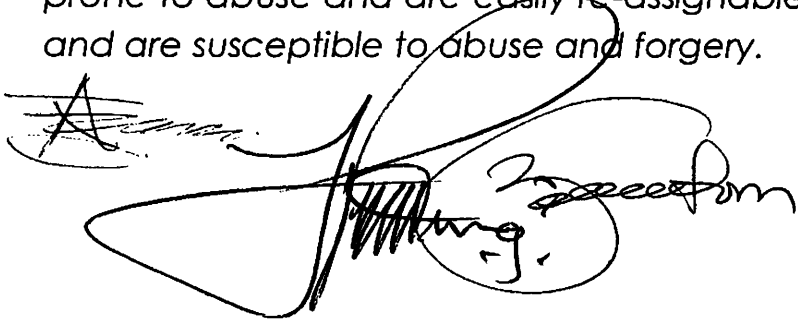
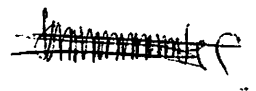
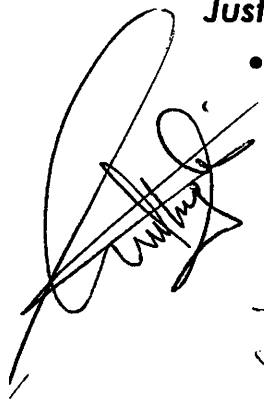


Clause 30 is amended —

- a) by deleting sub clause (1);
- b) in sub clause (2), by inserting, immediately after the word "use", the words "the member's National Identification Number as".
- c) by deleting sub clause (3).

Justification

- For consistent use of the NIN as a social security number. The NIN is unique for every member and is not transferable or assignable to anyone else. Yet social security numbers are prone to abuse and are easily re-assignable to multiple users and are susceptible to abuse and forgery.



- The deletion of sub clauses (1) and (2) is a consequential amendment of clause (2).

CLAUSE 31: Penalty for non-payment of contributions

Clause 31 is amended by substituting for sub clause (1), the following —

“(1) Where the responsible officer fails to remit contributions into the Fund by the fifteenth day of the following month following the month for which the salaries are paid, there shall be added, until the whole sum including the penalty is paid into the Fund, a penalty of a sum equal to ten percent of the total contribution that remains unpaid for each month or part of each month the sum remains unpaid”.

Justification

To provide for a deterrent penalty in case of non-compliance with the law, and to avoid non-payment due to negligence on the part of the responsible officer.

CLAUSE 34: Qualifying period for pension

Clause 34 is amended —

a) by substituting for sub clause (1) the following —

“(1) The qualifying period for pension is at least ten years of continuous service in a pensionable service or an aggregate period of at least ten years in service in the public service or other public service including the period an employee is on leave without pay or joined other public service.”

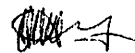
b) by deleting sub clause (2).

Justification

- The amendment in sub clauses (1), is to harmonize sub clause (1) and (2) to ensure that the qualifying period for pension is the duration of service rather than the remitting employer and employee contribution as proposed in in sub clause (2).
- The deleting of sub clause (2), is a consequential amendment arising from the amendment of sub clause (1).

CLAUSE 36: Payment of pension

Clause 36 is amended —



a) In sub clause (1) —

i) by substituting for paragraph (b), the following —

“on ceasing to be a member of the Scheme having been in continuous service for a period of twenty years;”

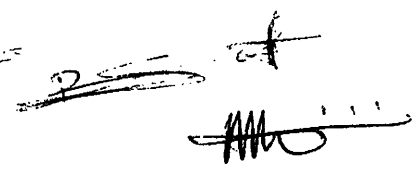
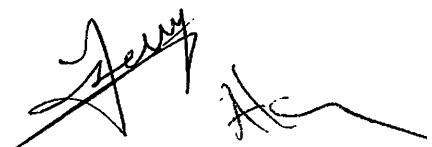
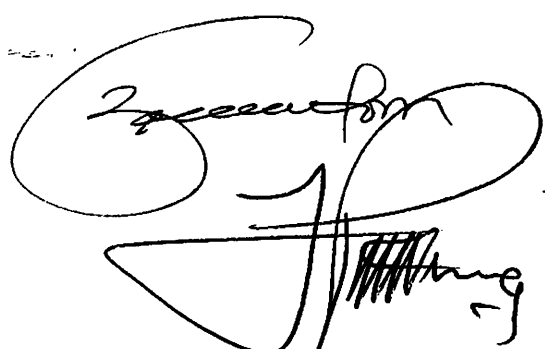
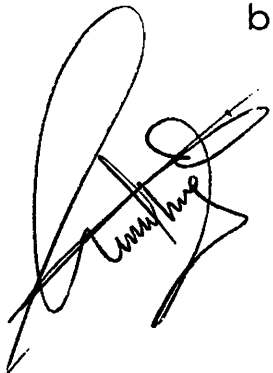
ii) by substituting for paragraph (c), the following —

“on ceasing to be a member of the scheme after attaining forty-five years of age and having served the qualifying period for pension;”

iii) by inserting immediately after paragraph (f), the following;

“on resigning from service, having served the qualifying period for pension;”

b) by substituting for sub clause (2), the following —



"(2) Pension granted under subsection (1) (d) shall be paid for a maximum period of fifteen years to the legal representative for the benefit of the person nominated by the member.

c) in sub clause (4), by substituting for the reference to "subsection (2)", the reference to "subsection (3)".

Justification

- Clause 36 (1) is amended to clarify that pension is only paid to a person who ceases to be a member of the scheme having served a qualifying period.
- Clause 36 (2) and (3) are amended to clarify that pension of a deceased member of the Scheme is only paid to the member's legal representative or to the person nominated by the member.

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CLAUSE 38: Refund of contribution

Clause 38 is amended —

a) in sub clause (1) —

i) by inserting immediately after the word "employee", the words "and employer";

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ii) in paragraph (b), by inserting immediately after the word "employee" the words "before the employee has served a qualifying period for pension."

iii) by deleting paragraph (c)."

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iv) in paragraph (d), by inserting immediately after the word "office" the words "before serving a qualifying period for pension."

b) by deleting sub clause (3) and (4).

c) by substituting for sub clause (5), the following:

" Where the Fund determines that an employer or employee has made contributions in excess of the required contributions, the Fund shall —

(a) in respect to an employee whose contributions are in arrears, offset the outstanding arrears from the excess contributions; and

(b) in respect of an employee whose contributions are paid up, carry forward the excess payment as future contributions."

Justification

- The amendment in sub clause (1), is to expand the provision to refund both employee and employer contributions made for the benefit of the member.
- To harmonize clause 36 and 38, to ensure that members of the scheme are entitled to a refund of their contributions if they do not serve a qualifying period for pension.
- Sub clauses (3) and (4), are redundant as a consequence of substituting sub section (5) to provide for the offsetting or carrying forward excess contributions.
- The substitution of sub clause (5) is to make proper provision for excess contributions made for a member.

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CLAUSE 39: Application for pension or other benefits

Clause 39 is amended—

a) by substituting for sub clause (1), the following —

“A person who intends to receive pension or other benefit shall in accordance with Regulations made under Act, apply to the Board.”

b) in sub clause (2), by substituting for the words “to the member of the Scheme or the survivor” the words “under this Act.”

Justification

The amendment proposed in Clause 39 is to expand the provision to include all persons who qualify for payment of pension or other benefits under the Bill and to clarify on the application for pension.

CLAUSE 40: Pension formula for future benefits

DDG

Clause 40 is amended in sub clause (1), by substituting for the words “one six-hundredth”, the words “one five-hundredth”.

Justification

To maintain the pension fraction of one five-hundredth; so that the payment method under this Scheme does not entitle the member to less benefit than they would have gotten under the current Scheme.

CLAUSE 41: Indexation of pensions

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Clause 41 is amended —

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a) in sub clause (1) by substituting for the word “survivor's” the word “other”.

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b) in sub clause (2) by —

- i) deleting the word "National";
- ii) inserting immediately after the word "year", the words "and shall form part of the terms of reference of the actuarial valuation under section 32."

Justification

- The amendment in sub clause (1), is to expand the provision to cater for all benefits that accrue to the member including the benefits that accrue to other persons other than the member.
- For sub clause (2), the name of the bureau is "Uganda Bureau of Statistics", not Uganda National Bureau of Statistics.

CLAUSE 43: Pension for past service

Clause 43 is amended in the headnote by substituting for the word "Pension" the words "Retirement benefits"

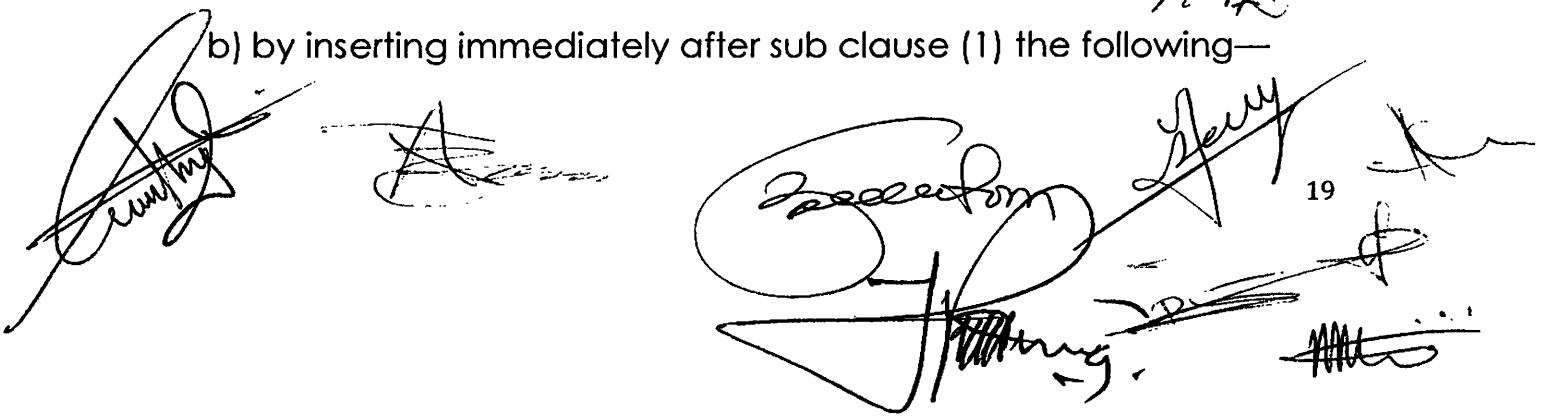
Justification

To align the headnote with the contents of the provision.

CLAUSE 44: Re-appointment of an employee into pensionable service

Clause 44 is amended—

- a) by numbering the existing provision as sub clause (1);
- b) by inserting immediately after sub clause (1) the following—

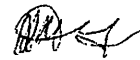
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"Where a member of the Scheme has received a portion of the retirement benefit in relation to past pensionable service, the member shall be issued with a retirement bond for the balance of the unpaid portion of the retirement benefits."

Justification

To ensure that an employee who has a balance of previously earned benefit from the past pensionable service and is re-appointed into pensionable service, is issued with a retirement bond in accordance with section 51.

CLAUSE 45: Death gratuity



Clause 45 is amended —

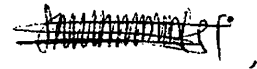
- (a) by substituting for the word 'survivor' the word "a person nominated by the member of the Scheme,"
- (b) by substituting for the "section 36", the "section 37"

Justification

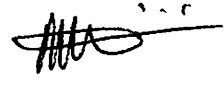
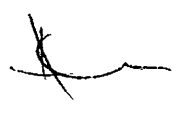


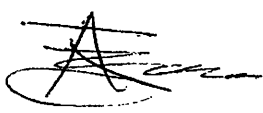
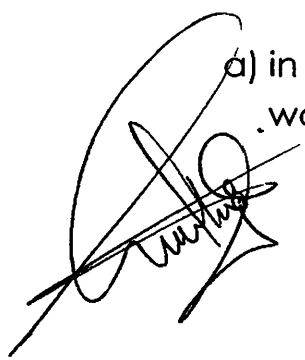
- For clarity to provide for who is entitled to death gratuity.
- It is a consequential amendment arising from the amendment in clause 36 where a member's benefits accrue to a member's nominee upon his or her death.

CLAUSE 46: Retirement on medical grounds arising from injury sustained on duty

Clause 46 is amended—



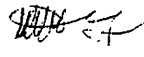
- a) in paragraph (a), by substituting for the word "received" the word "sustained";



b) in the pull out, appearing immediately after paragraph (b), by substituting for the word(s)—

- i) "appointing authority", the word "employer",
- ii) "may", the word "shall"; and,
- iii) "pension" appearing immediately before the word "computed", the word "benefit".

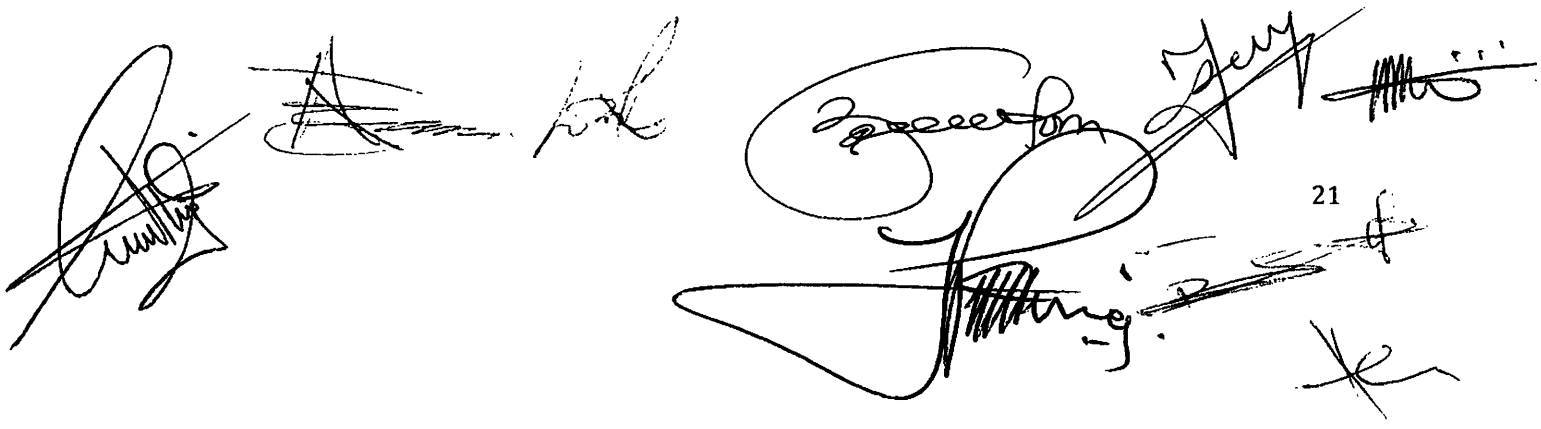
Justification

- For paragraph (a), to improve the drafting of the provision
- For the pull out—
 - For consistency to refer to "employer" which is defined, instead of "appointing authority" which is not defined in the Bill.
 - The phrase "additional pension" is not envisaged in the definition of "pension" in the Bill.
 - The word "shall"; to make it mandatory for the Board to grant additional benefit on medical grounds arising from injuries sustained on duty, upon satisfaction from the medical board and grant of retirement by the employer.

CLAUSE 47. Computation of benefits in case of abolition of office



Clause 47 is amended in sub clause (2) by substituting for the words "additional pension", the words "additional benefits".



Justification

For consistency, to harmonize the contents of the provision with the head note, which refers to "additional benefit".

CLAUSE 48: No alienation or attachment of pension

Clause 48 is amended—

- a) In sub clause (1), by deleting paragraph (a);
- b) in sub clause (2), by substituting for the word "insolvent", the word "bankrupt"

Justification

- The deletion of sub clause (1)(a) is to preserve pension and benefits from attachment by Government for resettlement of a debt relating to tax dues or a debt due to Government.
- The amendment proposed in sub clause (2), is for consistency since insolvency applies to corporate entities.

CLAUSE 49: Pension to cease on death

Clause 49 is amended in sub clause (2) —

- a) by substituting for the word "survivor", the word "the person nominated by the member;"
- b) by substituting for the word "may" with the word "shall".

Justification

- This is a consequential amendment where the word "survivor" has been replaced with either a legal representative or a person nominated by the member of the Scheme.

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- To pay benefits a person nominated by the member or legal representative where a pensioner dies before the expiry of fifteen years after the date of his or her retirement.

CLAUSE 50: Pension for families of missing employee

Clause 50 is amended by substituting for the word "legal representative" the word "manager".

Justification

To bring the provision in conformity with the Estates of Missing Persons (Management) Act, Cap.159, that provides for the appointment of a manager over the estate of the missing person and not a legal representative.

CLAUSE 53: Suspense account or unclaimed benefits account

Clause 53 is amended —

a) by substituting for the head note the following—

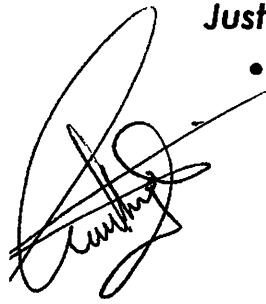
“unclaimed benefits”;

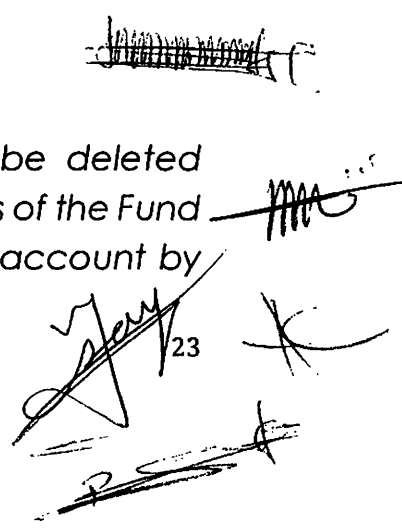
b) in sub clause (1), by substituting for the word "suspense", the words "specified bank"; and


c) in sub clause (5), by inserting immediately after the word "Authority", the words "and the Board".

Justification

- For sub clause (1), suspense accounts should be deleted because they are prone to abuse, as such, monies of the Fund should be posted directly to the specified bank account by the Fund.





- For sub clause (5), to provide for consultation of not only the Authority, but also the Board in prescribing the manner in which the unallocated contributions and unclaimed benefits shall be managed.

CLAUSE 55: Borrowing powers

Delete Clause 55.

Justification

The deletion of Clause 55 is a consequential amendment arising from clause 7 where in borrowing as a source of monies of the Fund has been removed.

CLAUSE 56: Account and Audit

Clause 56 is amended —

a) in sub clause (3)—

- i) by inserting immediately after the word "Minister", the words "and Authority"; and,
- ii) by substituting of the word "six", the word "four".

b) in sub clause (4), by inserting immediately after the word "Fund", the words, "in a newspaper of wide circulation.

Justification

- For sub clause (3), to conform to the Section 64 of the URBRA Act, which requires that a copy of the audited accounts of the retirement benefits scheme should be submitted to the Authority within four months after the end of each financial year.

- For sub clause (4), to enhance transparency of the Fund by providing for the publication of the audited reports in a newspaper of wide circulation.

CLAUSE 59: investment

Clause 59 is amended by inserting immediately after sub clause (3), the following—

“(4) The Board shall submit to the Minister the investment plan for the financial year, for approval.

(5) The investment plan for the Fund shall be in accordance with the Uganda Retirement Benefits Regulation Authority Act, 2011. “

(6) The Minister shall lay before Parliament the investments plan submitted under subsection (4), together with the audited and annual reports.

Justification

To align the investments of the Fund with the URBRA Act, 2011 Section 67.

CLAUSE 66: power to make regulations

Clause 66 is amended —

a) in sub clause (1), by inserting immediately after the word “Board”, the words, “and with approval of Parliament”.

b) by inserting, immediately after sub clause (3), the following—

"(4) Where Parliament does not approve the Regulations under subsection (1), within two weeks from the date of laying of the Regulations, the Regulations shall be deemed to have been approved."

Justification

This amendment is required for Parliament to regulate the exercise of the delegated functions granted to the Minister to make Regulations.

