



# SOMALILAND CIVIL SERVANTS' PENSION LAW



REPUBLIC OF SOMALILAND  
CIVIL SERVICE COMMISSION

**SOMALILAND CIVIL SERVANTS' PENSION LAW**

Draft

# Table of Contents

Page

CHAPTER ONE .....	5
PRELIMINARY PROVISIONS .....	5
Article 1: Short title .....	5
Article 2: Purpose of the Law .....	5
Article 3: Definitions .....	5
Article 4: Scope of the Law .....	6
<b>CHAPTER TWO.....</b>	<b>7</b>
<b>ESTABLISHMENT OF CIVIL SERVICE PENSION FUND .....</b>	<b>7</b>
Article 5: Establishment of the Somaliland Civil Service Pension Fund.....	7
Article 6: Objectives of the Fund.....	7
Article 7: Powers and Functions of the Fund.....	8
Article 8: Establishment of a Board of Trustees .....	8
Article 9: Nomination, Term and eligibility, and Powers of the Board .....	9
Article 10: Powers of the Board.....	10
Article 11: Delegation of powers .....	11
Article 12: The common seal .....	11
Article 13: Board Meetings.....	12
Article 14: Committees of the Board .....	12
Article 15: Disclosure of interest .....	12
<b>CHAPTER THREE.....</b>	<b>13</b>
<b>ADMINISTRATION AND MANAGEMENT OF THE FUND .....</b>	<b>13</b>
Article 16: Appointment of the Fund Manager .....	13
Article 17: Requirements to Serve as a Fund Manager.....	13
Article 18: Functions of the Fund Manager .....	13
Article 19: Pension Fund Investments .....	14
Article 20: Appointment and functions of the Custodian. ....	16
Article 21: Duty of care .....	16
Article 22: Administrative expenses of the Pension Fund .....	17
Article 23: Investment of Surplus funds .....	17

Article 24: Reserve Account .....	17
Article 25: Financial Year.....	17
Article 26: Annual Budget .....	18
Article 27: Records, Accounts, and Audit .....	18
Article 28: Actuarial valuation.....	19
<b>CHAPTER FOUR .....</b>	<b>20</b>
<b>PENSIONABLE SERVICE, PENSION CONTRIBUTIONS AND PENSION AWARDS.....</b>	<b>20</b>
Article 29: Pensionable Service .....	20
Article 30: Re-appointment of Civil Servant into Pensionable Service.....	20
Article 31: Pension Contributions.....	20
Article 32: Pension Contribution Payment and Reporting Process.....	21
Article 33: Work Termination Due to Pensionable Age .....	21
Article 34: Confirming the Age of the Civil Servant.....	22
Article 35: Pension Formula at Pensionable Age .....	22
Article 35: Early Pensions .....	22
Article 36: Actuarial Assessment of Early Retirement Factor.....	22
Article 37: Indexation of Pensions.....	23
Article 38: Determination of Pensionable Service.....	23
Article 39: Qualifying for Pension.....	23
<b>CHAPTER FIVE.....</b>	<b>24</b>
<b>DISABILITY PENSIONS .....</b>	<b>24</b>
Article 40: Disabled Persons.....	24
Article 41: Disability Assessments .....	24
Article 42: Physical Examination for Disability Pension Determination .....	25
Article 43: Amount and Duration of Disability Pension.....	25
Article 44: Duty to Inform .....	25
<b>CHAPTER SIX .....</b>	<b>27</b>
<b>SURVIVOR PENSIONS AND GRATUITY .....</b>	<b>27</b>
Article 45: Survivor Pensions Entitlement.....	27
Article 46: Pensions for the Families of Missing Persons Presumed Dead .....	28

Article 47: Pensions for the Survivors of the Deceased Pensioner or Civil Servant.....	28
Article 48: Identification of Additional Survivors.....	28
Article 49: Amount of Survivor Pension .....	29
Article 50: Death or Loss of Eligibility of Recipients of Survivor Pensions .....	29
Article 51: Entitlement to Gratuity .....	29
Article 52: Calculation of Gratuity .....	29
<b>CHAPTER SEVEN .....</b>	<b>30</b>
<b>PENSION AND GRATUITY APPLICATIONS AND PAYMENT .....</b>	<b>30</b>
Article 53: Retirement from the Service .....	30
Article 54: Approval and Payment of Pension or Gratuity .....	30
Article 55: Verification of Continuing Eligibility.....	30
Article 56: Death of Civil Servant or Pensioner .....	30
Article 57: Missing Civil Servant or Pensioner .....	30
Article 58: Death in retirement .....	31
Article 59: Transfer of service .....	31
Article 60: Non-Alienation of Pension Fund Benefits .....	31
<b>CHAPTER EIGHT .....</b>	<b>32</b>
<b>MISCELLANEOUS PROVISIONS.....</b>	<b>32</b>
Article 61: Offences .....	32
Article 62: Misappropriation of assets .....	32
Article 63: Removal from office.....	32
Article 64: Protection from personal liability .....	32
Article 65: Liability for damages .....	32
Article 66: Transitional provisions .....	33
Article 67: Dispute Resolutions .....	33
Article 68: Social Security Appeal Tribunal.....	34
Article 69: Exemption of Tax .....	34
Article 70: Regulations and other procedures .....	35
Article 71: Effective Date .....	35

## CHAPTER ONE PRELIMINARY PROVISIONS

### Article 1: Short title

This Act shall be cited as the Somaliland Civil Servants' Pension Act, Law No. XX 2022

### Article 2: Purpose of the Law

- 1) The purpose of this Law is to establish Somaliland's system of pension scheme for public servants.
- 2) It is also aimed to establish the managing body of this system to serve as managing trustee and collect contributions and calculate and make payment of pensions in accordance with Somaliland's applicable laws.

### Article 3: Definitions

In this Law, unless the context otherwise requires;-

<b>Actuarial Valuation:</b>	Means a study undertaken by an actuary to determine the financial status and solvency of the Pension Fund based on Generally Accepted Actuarial Principles and the appropriate contribution rate to ensure the long-term financial sustainability of the Pension Fund in accordance with International Actuarial Association Standards;
<b>Actuary:</b>	Means a person responsible for evaluating present and future pension liabilities to determine the financial solvency of a pension fund following generally actuarial accepted principles;
<b>Applicant:</b>	Means a person applying for a Pension or Survivor Benefit from the Pension Fund;
<b>Age Certificate:</b>	Means a document issued by the Competent Medical Commission stating the age of an individual in accordance with this Law;
<b>Disability Certificate:</b>	Means a document issued by the Competent Medical Commission regarding a person's Disability in accordance with this Law.
<b>Benefit:</b>	Means pensions, gratuities and pensions paid to Civil Servants or the Survivors of deceased Civil Servants under this Law.
<b>Board:</b>	Means the Board of Trustees of the Pension Fund established under this Law.
<b>Child:</b>	Means any child of a deceased Civil Servant or Pensioner who is under sixteen (16) years of age at the time of the death of the deceased, and including an unborn child who, if already born, would have been a child of the deceased;

<b>Civil Servant:</b>	Means any person who is government employee and recruited in accordance with Civil Service law;
<b>Contribution:</b>	Means an amount expressed as a percentage of Basic Salary to be deducted or withheld from a Civil Servant’s Basic Salary by a Public Institution and paid to the Fund and an amount similarly expressed as a percentage of Basic Salary paid to the Fund by a Public Institution on behalf of the Civil Servant;
<b>Disability:</b>	Means a medically diagnosed physical, sensory or mental condition, disease or injury rendering a person permanently incapable of any work for remuneration as determined according to procedures established by this Law;
<b>Early Pension:</b>	Means receipt of Pension at the end of work before the Pensionable Age;
<b>Financial year:</b>	Means the period of twelve months ending on the 31st December in each year;
<b>Fund:</b>	Means the Somaliland Civil Service Pension Fund established in accordance with this Law;
<b>Future Service:</b>	Means service provided on or after 1 <sup>st</sup> January 2020 by a Civil Servant to one or more Public Institutions
<b>Manager:</b>	Means a person appointed by the Board to administer the Pension Fund;

.....

#### Article 4: Scope of the Law

- 1) The provisions of this Law shall apply to all persons in public service who are recruited in accordance with Civil Service Law.
- 2) This Law shall apply to the administration and management of all pension schemes provided in this Law.
- 3) The persons in paragraph (1) should attain the age of six five years which is the retirement age.
- 4) This Law shall not apply to the uniformed services.

## CHAPTER TWO

### ESTABLISHMENT OF CIVIL SERVICE PENSION FUND

#### Article 5: Establishment of the Somaliland Civil Service Pension Fund

- 1) The Somaliland Civil Service Pension Fund is hereby established as an independent legal entity acting as a managing body on behalf of pensionable employees, pensioners, and survivors.
- 2) The Fund shall be an independent trust with perpetual succession and legal personality in accordance with this Law.
- 3) The entity shall provide a defined benefit retirement scheme in accordance with this Act.
- 4) The Fund shall be administered by a manager recruited and appointed by the Board of Trustees established in accordance with this Law.
- 5) The Pension Fund assets shall consist of –
  - a) All contributions and any other payments required by this Act to be paid into the Pension Fund;
  - b) monies as may vest in or accrue to the Pension Fund in the performance of its function under this Act;
  - c) grants, gifts, and any other endowments given to the Pension Fund;
  - d) Income from investments made as approved by the Board;
  - e) monies earned by the Pension Fund from any other source;
  - f) transfers in from other retirement benefit schemes or funds; and
  - g) Monies from donors to fund past liability needs.
- 5) There shall be paid out of the Pension Fund-
  - a) All the benefits and any other payments required under the provisions of this Act;
  - b) The expenses incurred in the management and administration of the benefits provided under this Act.

#### Article 6: Objectives of the Fund

The objectives of the Fund are:-

- 1) To serve as management Trustee for the Pension Schemes.
- 2) To perform and exercise the functions and powers of awarding, administering, and paying pensions; and
- 3) To ensure prudent investment and custody of Pension Assets in accordance with this Law and other national applicable laws.

## Article 7: Powers and Functions of the Fund

The Fund shall have the following powers and duties:-

- 1) Pay retirement benefits to Civil Servants and their Survivors;
- 2) ensure that every Civil Servant receives his retirement benefits as and when they become due;
- 3) improve the social security of Civil Servants by ensuring that they have sufficient funds for their livelihood during their retirement;
- 4) Establish a uniform set of rules, regulations, and standards for the administration and payment of Pensions and other benefits according to this Act;
- 5) Manage the Pension Schemes of the civil servants and other pension schemes as may be prescribed by other applicable laws;
- 6) Adopt investment principles for the Fund;
- 7) Maintain records on pensionable employees, pensioners, and survivors including but not limited to, personal identifying details of pensionable employees, identification numbers, addresses, pensionable service, pensions, identifying details of family members who are potential survivors, and other details required to calculate and pay benefits in accordance with Somaliland's applicable laws;
- 8) Collect contributions from pensionable employees;
- 9) Conduct inspections on financial records of the government institutions required to make contributions;
- 10) Enter into agreements for the purchase, sale, lease, or rental of real property necessary for the protection of the Fund;
- 11) Conclude contracts and agreements with asset managers, Custodians, actuaries, accountants, auditors, and other relevant service providers;
- 12) Recruit the necessary personnel for the Fund;
- 13) Conduct public information campaigns directed at educating civil servants, pensionable employees, pensioners, and survivors;
- 14) Develop and promote pension services; and
- 15) Exercise those powers necessary to achieve the objectives of the Fund.

## Article 8: Establishment of a Board of Trustees

- 1) There shall be established a Board of Trustees of the Pension Fund to be known as the Public Service Pension Fund Board of Trustees, to be entrusted with the management of the pension scheme fund.
- 2) The Board shall consist of seven/five (7/5) persons who are as follows:-
  - a) Minister of Finance who shall be the Chairperson of the Board of Trustee
  - b) The Chairperson of the Somaliland Civil Service Commission, as head of the institution responsible for the Pension Fund, shall call the meetings, and provide guidance to the Board on matters of pension policy and legislation;
  - c) The Minister of Employment, Social Affairs, and Family;

- d) The Solicitor General; and
  - e) Accountant General.
- 3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of:-
- a) Suing and being sued;
  - b) Taking, purchasing, or otherwise acquiring, holding, charging, or disposing of movable and immovable property (real estate) solely for purposes of locating the Pension Fund Offices;
  - c) Doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.
- 4) The Board may co-opt not more than two persons to assist it for such purposes and such periods as the Board may determine, but persons so co-opted may not vote on any matter before the Board.
- 5) The Board shall elect from among its members one person to be the Vice-Chairman and act as the Chairman whenever the office of the Chairman is vacant or the holder thereof is absent from a meeting or is for any reason incapable of exercising his functions.
- 6) A Trustee appointed under this section shall, in relation to the Fund, have the duties and obligations of a trustee, and be accountable to the Minister and the Public.
- 7) Members of the Board shall, upon assumption of office, declare their assets and liabilities, including those of their spouses and children in accordance with any law that governs disclosure.
- 8) A member of the Board may not accept a gift, credit, or any remuneration from an Asset Manager, Custodian, Fund Manager, or any service provider of the Pension Fund or company affiliated with the Asset Manager, Custodian, or any service provider.

#### [Article 9: Nomination, Term and eligibility, and Powers of the Board](#)

- 1) The members of the Board shall be appointed by the President.
- 2) The members of the Board of Trustees shall have five years term, commencing from the date of appointment, and may be reappointed for only one term.
- 3) No person shall be appointed as a Trustee if that person;-
  - a) has been convicted of a criminal offense related to lack of honesty or moral turpitude which questions his capacity to serve as a Trustee;
  - b) is adjudged bankrupt or enters into a composition or arrangement with his creditors;

- c) is an official employee of any service provider of the fund or is a beneficial owner with shares in such a service provider; or
  - d) Is disqualified under the provisions of any other written law from appointment as such.
- 4) Members of the Board shall, upon assumption of office, declare their assets and liabilities, including those of their spouses and children.
  - 5) Trustee of the Pension Fund shall be removed from office by a resolution of the Board if the Trustee;-
    - a) Has been absent from three consecutive meetings of the Board without justifiable course or permission of the chairman;
    - b) becomes bankrupt or makes a compromise with his creditors;
    - c) is convicted of a felony or of any offense involving dishonesty or corruption; or
    - d) becomes incapable of carrying out the functions of his office by way of the infirmity of mind or body
  - 6) Whenever the office of a Trustee appointed under becomes vacant before the expiry of the Trustee's term of office, the vacancy shall be filled by the Minister through an interim appointment until such time as an alternative ex officio Board member has been appointed.

#### Article 10: Powers of the Board

- 1) The Board shall have all powers necessary for the proper performance of its functions under this Act and the Board shall have the power to:-
- 2) Oversee the administration of the system of contribution collection and benefits payment prescribed in the Law;
- 3) Control, supervise, and administer the assets of the Pension Fund in such manner and such purposes as best promote the purpose of providing retirement benefits for Civil Servants;
- 4) Determine the provisions to be made for capital and recurrent expenditure and Reserve Account of Pension Fund;
- 5) Receive contributions from the Government and Civil Servants and authorize the custody, investment, and administration of these contributions and the payment of retirement benefits as provided under this Act;
- 6) Enter into association with such bodies or organizations within or outside Somaliland as the Board may consider desirable or appropriate and furtherance of the purpose for which the fund is established;
- 7) sub-contract any of its functions to a person or firm with proven experience in the function being sub-contracted;
- 8) give such direction as it may consider necessary to give effect to the provisions of this Act;
- 9) Contributing to the promotion and resource mobilization of the Fund;
- 10) Approve the benefit payment dates, method of payment, and places of payment;

- 11) Approve the method, frequency, and format that contributions and related data should be submitted to the Fund from employers and insured persons;
- 12) Review and approve the Fund pension scheme income and expenditure budget - for submission to the Minister of Finance for final approval;
- 13) Review and approve the Fund's grant and benefit subsidy request from the National Budget – for submission to the Ministry of Finance for final approval;
- 14) Developing and approving the mission, strategic goals, and objectives of the Fund, and establishing policies related to programs and services of the Fund;
- 15) Providing advices and assistances as may be required by the Fund.
- 16) Require the Manager to submit physical and financial reports of the Fund annually, and whenever it deems necessary;
- 17) Ensure the Fund implements its objectives and carries out its activities on the basis of principles of participation, transparency, and accountability;
- 18) The Board of Trustees of the Pension Fund shall establish the following accounts:-
  - a) Account for the receipt of the contributions paid under the Act on a monthly basis by the Government and Civil Servants;
  - b) Current administrative expense account pursuant to the annual budget of the Pension Fund;
  - c) payment of Pensions according to this Act; and
  - d) The Reserve Account.
- 19) Undertake such other necessary activities whose particulars shall be determined by the regulations of the Fund to realize its objectives.

#### Article 11: Delegation of powers

- 1) The Board may, by resolution generally or in any particular case, delegate to the Manager of the Pension Fund, an officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of its functions.
- 2) The receipt of the audit reports and reviewing of these reports prescribed under this Law or any other written law can't be delegated.
- 3) Without prejudice to the preceding paragraphs, the Board shall at all times retain responsibility for powers and functions assigned to it in this Law or any other written Law.

#### Article 12: The common seal

- 1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except by the order of the Board.
- 2) The common seal of the Board shall when affixed to a document and is duly authenticated, be judicially and officially noticed, and unless and until the contrary is proved, any necessary 'order or authorization by the Board under this section shall be presumed to have been duly given.

### Article 13: Board Meetings

- 1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- 2) The quorum for the conduct of the meetings of the Board shall be two-thirds of the Trustees.
- 3) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in the case of an equality of votes the Chairman or person presiding shall have a casting vote.
- 4) The Board may invite any person who is not a member of the Board to participate in the deliberations of the Board, but such person shall not be entitled to vote.
- 5) Subject to this Act, the Board may regulate its own procedure.

### Article 14: Committees of the Board

- 1) The Board may establish committees consisting of members of the Board to deal with such matters as the Board may specify.
- 2) The Board may co-opt persons who are not members of the Board to committees established under subsection (1) for a particular reason and such persons shall hold office for such period as the Board may determine.
- 3) Subject to any specific or general direction of the Board, a committee established under subsection (1) may regulate its own procedure.

### Article 15: Disclosure of interest

- 1) If a member of the Board is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or his child, spouse, parent, sibling or other close family member dependents are directly or indirectly interested in a private capacity the member shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs take part in any consideration or discussion, or vote on any question relating on such matter.
- 2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.
- 3) Failure to disclose such interest shall lead to the disqualification of the Trustee from holding office as a Trustee.

## CHAPTER THREE ADMINISTRATION AND MANAGEMENT OF THE FUND

### Article 16: Appointment of the Fund Manager

The Board of Trustees shall appoint a Fund Manager as a chief Manager who shall be entrusted with the executive, technical and financial management of the Affairs of the Fund.

### Article 17: Requirements to Serve as a Fund Manager

- 1) No person shall be appointed as the Fund Manager unless such person fulfils the following requirements:
  - a) Be a Somaliland citizen;
  - b) Be mentally sound;
  - c) Hold at least a post-graduate degree from a recognized University in a field relevant to pension policy, public policy, financial management, public management, or related discipline;
  - d) Has work experience of not less than twelve years in pension or management of the financial institution;
  - e) Has not been convicted of any offense related to lack of honesty or moral turpitude in the last five years;
  - f) Has not been filed for bankruptcy;
  - g) Not be a member of the Board of Trustees, relative (spouse, parent, child, brother, sister, financial associate, former employee or employer) or financial associate of any Board member at the time of appointment.
- 2) If anyhow, the relationship in (g) occurs after the appointment, the Manager shall apply the disclosure of interest within thirty (30) days of such relationship.

### Article 18: Functions of the Fund Manager

- 1) The Fund Manager appointed in accordance with Article 16 of this Law, shall carry out the following functions:-
  - a) Serve as the Fund's chief executive responsible for the day to day activities of the Fund;
  - b) Implement decisions of the Board;
  - c) Collect Pension contributions according to this Act from the Government and Civil Servants;
  - d) Credit the individual Civil Servants with the contributions each month;
  - e) Maintain records of Pensionable Service and calculate Past Service and Future Service according to this Act;
  - f) Serve as the non-voting Secretary of the Board of Trustees;
  - g) Provide customer service support to Civil Servants, Pensioners, and their Survivors, including access to records of contributions and Pensionable Service;
  - h) Establish procedures for Applicants to apply for Pensions, Disability Pensions, and Survivor Pensions;

- i) Cause to be paid benefits in accordance with the provisions of this Act;
  - j) Maintain financial accounts of the Pension Fund;
  - k) Draft annual reports on the Pension Fund for the Board's approval for submission to Parliament; and
  - l) Carry out any other functions as may be directed by the Board from time to time.
- 2) The Manager shall ensure that the Reserve Account shall be invested for the benefit of the Pension Fund with clearly defined and reasonable fees, charges, costs, and expenses of transactions approved by the Board and provided in the Pension Fund budget.
  - 3) The Manager shall propose to the Board for its approval Pension rules for applications, procedures, and transactions for and awards of pensions and shall publicize such procedures to all relevant applicants for benefits from the Fund.
  - 4) The Manager shall be the non-voting Secretary to the Board of Trustees.
  - 5) The Manager shall make all Pension Fund records available to the Internal Auditor and shall instruct all Pension Fund staff to respond to the Internal Auditor's inquiries. The Internal Auditor shall be independent of the Manager and report directly to the Board.
  - 6) Subject to approval by the Board, the Manager may appoint such officers or members of staff as may be necessary for the proper discharge of the functions of the Pension Fund under this Act or any other written law, on such terms and conditions of service as the Board may determine.
  - 7) Sign and oversee all financial transactions, records, reports, and statements.
  - 8) Represent the Fund in any conference; and
  - 9) Exercise any other duties or functions assigned or delegated by the Board.

#### Article 19: Pension Fund Investments

- 1) Pension Assets shall be invested prudently in accordance with the principles of Trustee responsibility and good governance and for the sole and exclusive benefit of Civil Servants and Pensioners and their Survivors, in Accordance with the requirements of this Law.
- 2) The Board shall adopt an investment policy based on professional advice, which shall conform to the principles set forth in this Law, and shall set forth:
  - a) The types of qualifying instruments and levels of acceptable risk in which the Pension Assets may and may not be invested;
  - b) The parties responsible for making decisions;
  - c) The Procedures for making decisions;
  - d) The procedures for identifying, monitoring and managing investment risks;
  - e) The method for monitoring the compliance of Fund Managers with the investment policy; and
  - f) Other rules deemed necessary by the Board.
- 3) The Board shall present the investment policy to the Central Bank for approval.

- 4) The Board shall report to the Parliament and to the public on the actual investment performance.
- 5) Pension Assets shall be invested in the following assets:
  - a) Promissory notes of the Government of Somaliland that are guaranteed and bear a rate of return;
  - b) Commercial bank deposits in licensed institutions;
  - c) Other financial assets are traded on established and regulated capital markets and can be valued for purposes of calculating investment returns.
- 6) Qualifying domestic instruments include:
  - a) Commercial bank accounts and commercial bank deposits in institutions that are licensed by the Central Bank, which are not under enforcement action or subject to a suspension of their license;
  - b) Securities issued by the Government, to the extent guaranteed.
- 7) Qualifying international instruments must be issued in an internationally recognized jurisdiction with regulated banking, capital, or other financial markets, and may include:
  - a) Deposits in institutions holding a credit rating of the highest investment grade rated by at least two of the most reputable international rating firms;
  - b) Securities issued by governments, to the extent guaranteed by the respective state; the debt instruments and the issuer shall have a rating as set forth in the previous sub-section;
  - c) Securities registered with the capital markets regulator and placed through a public offering or recognized stock exchange subject to the supervision of the applicable capital markets regulator; and
  - d) Mutual and investment funds are subject to the approval of the appropriate regulator in the state of establishment.
- 8) Pension Assets may not be invested in the following assets:
  - a) Securities that are unlisted on a stock exchange or are not publicly traded;
  - b) Assets that cannot be sold or otherwise alienated by law;
  - c) Immovable property (real estate);
  - d) Physical assets not listed on regulated markets and for which valuation is uncertain, including for the sake of example, but not limited to, antiques, works of art, coins and motor vehicles;
  - e) Any property of or security issued by a Board Trustee, Fund Manager, Custodian or their affiliated entities or relatives;
  - f) Any other assets identified by the Central Bank.
- 9) Pension Assets may not be purchased from or sold to a Board Trustee, Fund Manager, Custodian, or their affiliated entities or relatives.

#### Article 20: Appointment and functions of the Custodian.

- 1) If any investment of Pension Assets is made other than in promissory notes of Somaliland (pursuant to Article 19.5(a) above) or commercial bank deposits in Somaliland (pursuant to Article 19.5 (b) above), the Board shall appoint a Custodian of the Fund.
- 2) The Custodian shall:
  - a) Hold Pension Assets in safe custody in trust for Civil Servants, Pensioners and their Survivors;
  - b) Receive Pension Assets, settle transactions and undertake activities relating to the administration of the Fund including the collection of dividends and related activities;
  - c) Maintain books of accounts on all transactions relating to the Pension Fund;
  - d) Report to the Board any matter relating to the assets being held by the custodian on its behalf at such intervals as may from time to time be determined by the Board;
  - e) Undertake statistical analysis on the investment and returns on investments with respect to pension funds in its custody and provide data and information to the Manager and the Board at regular intervals at least quarterly;
  - f) Execute in favour of the Board the relevant proxy for voting in relation to the investments
- 3) Provided that the Custodian shall maintain all pension funds and assets in its custody to the exclusive order of the Board and shall not utilize any Pension Fund assets in its custody to meet its own financial obligation to any person whatsoever.

#### Article 21: Duty of care

The Manager, Manager, and Custodian shall:

- a) Ensure that the assets of the Pension Fund are always managed or held in accordance with the provisions of this Act, Regulations, or guidelines made under the Law;
- b) Take reasonable care to ensure that the management of Pension Fund assets is carried out solely and exclusively in the best interests of the Civil Servants, Pensioners, and their Survivors;
- c) Report to the Board as soon as reasonably practicable, any unusual occurrence with respect to the Fund which in their view could adversely affect the rights of the owner of retirement savings account under the scheme; and
- d) Report to the Board as soon as is reasonably practicable, if the Government is in default of remittance of any contributions and such remittance remains due for more than ten days.

#### Article 22: Administrative expenses of the Pension Fund

The Board shall establish an account into which shall be paid-

- a) The initial take-off grant of money provided by the Government for the expenditure incurred by the board in the exercise of its powers or performance under this Law;
- b) The annual administrative expense as set forth in the annual budget of the Pension Fund;
- c) Such money or assets as may accrue in the course of the exercise of the powers of the Board; and
- d) All monies from any other source provided for, donated, or lent to the Board.

#### Article 23: Investment of Surplus funds

- 4) The Board must invest any Surplus funds held in the accounts established in accordance with this Law.
- 5) The Board may place on deposit with such commercial bank or banks as it may determine any sums of money held in the accounts established in accordance with this Law that is not immediately required for the purposes of the administration of the Fund.

#### Article 24: Reserve Account

- 1) There shall be maintained a Reserve Account of the Pension Fund into which shall be deposited:
  - a) Any excess contributions paid into the Pension Fund by the Government are not required for payment of benefits in the current calendar year;
  - b) Any Surplus as defined in this Law;

Provided that no money shall be drawn out of the Reserve Account except as directed by the Board.

- 2) The Reserve Account shall be invested according to the investment policy adopted by the Pension Fund by the Fund Manager and held by the Custodian.
- 3) Any sums of money determined to be the income of the Reserve Account shall be treated as income forming part of the Reserve Account of the Pension Fund.

#### Article 25: Financial Year

The financial year of the Fund shall be the period of twelve months ending on the the31st December in each year.

## Article 26: Annual Budget

- 1) Before the commencement of each financial year, the Board shall cause to be prepared an annual budget with separate estimates of (i) revenue and expenditure of the Pension Fund programs, and (ii) Pension Fund administrative (current and capital) expenditures.
- 2) The annual budget shall be prepared at least three months before the commencement of the financial year to which it relates and shall be submitted to the Board for approval, and after such approval, the Minister of Finance shall submit the Pension Fund budget to the Parliament for approval. Upon approval of the budget, the Minister of Finance shall transfer the budgeted amount to the Fund.
- 3) The annual budget shall make provision for all the estimated administrative expenditures of the Fund for the financial year and the estimates shall provide for —
  - a) The payment of salaries, allowances, and other charges in respect of the staff of the Pension Fund;
  - b) The payment of pension, gratuities, and other charges in respect of the retirement benefits due to staff of the Pension Fund;
  - c) The rents for the Pension Fund premises in case such separate premises are not provided by the Government;
  - d) Proper maintenance of buildings and grounds of the Pension Fund in case they are owned by the Pension Fund;
  - e) The acquisition of equipment, information technology, software or other property necessary for the operation of the Pension Fund;
  - f) The maintenance, repair, and replacement of equipment and other property of the Fund; and
  - g) Any other administrative costs.
- 4) The annual budget of the Fund shall make provision for all the projected expenditures for payment of benefits by the Pension Fund, to be paid from the contributions to the Fund.
- 5) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual budget approved under this section.

## Article 27: Records, Accounts, and Audit

- 1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, and assets of the Pension Fund.
- 2) The Board shall cause accounts of the Pension Fund to be prepared and submitted for auditing and reporting annually by the Auditor General.
- 3) The Board shall submit an annual report to Parliament, which shall include the results of the annual audit and any other details required by Parliament.
- 4) The Board shall arrange for public disclosure of the annual audit and annual report to Parliament.
- 5) Without prejudice to the preceding paragraphs, the Board shall appoint an internal auditor who is independent of the Fund Manager and directly report to the Board.

#### Article 28: Actuarial valuation

- 1) The Pension Fund shall be valued at intervals not exceeding five years by an actuary appointed by the Board.
- 2) The actuary appointed under subsection (1) shall-
  - a) Prepare a report on the state of the Fund; and,
  - b) Recommend any necessary action to be taken.
- 3) The actuary shall submit the report prepared under subsection (2) to the Board.
- 4) The Board shall within one month of the receipt of such report transmit it to Parliament and in so doing, may recommend an increase or decrease in the rates of contributions.

## CHAPTER FOUR

### PENSIONABLE SERVICE, PENSION CONTRIBUTIONS AND PENSION AWARDS

#### Article 29: Pensionable Service

The Pensionable Service of a Civil Servant shall be calculated, during the continuity of employment, from the date of appointment to the date of termination of service.

#### Article 30: Re-appointment of Civil Servant into Pensionable Service

- 1) In the event that a Civil Servant, who terminated Pensionable Service, is re-appointed to a Pensionable post of the Government, the previously earned Pensionable Service shall be added to the subsequent Pensionable Service, providing the Pension Fund has not paid a pension to the Civil Servant.
- 2) If the re-appointed Civil Servant, who terminated Pensionable Service, has been paid a Pension, the Pension Fund shall suspend the payment of Pension.
- 3) The Civil Servant will continue to accrue Pensionable Service and upon retirement from the appointment, the Pensionable Service from both periods of employment shall be totaled to determine a benefit amount.

#### Article 31: Pension Contributions

- 1) Every employed Civil Servant shall contribute to the Pension Fund at the rate of five percent (5%) which shall be deducted from the monthly Basic Salary.
- 2) The Government shall contribute to each Civil Servant at the rate of five percent (5%) of the Civil Servant's monthly Basic Salary.
- 3) The Government's contribution under subsection (2) shall be a direct charge to the Consolidated Fund.
- 4) The obligation of the Government and the Civil Servant to contribute shall commence on the first day of Pensionable Service and end on the last day of Pensionable Service.
- 5) The contributions of the Civil Servant and the Government shall be recorded separately on the payment sheet of the salary of the Civil Servant to be provided periodically to the Civil Servant in a manner established by the Commission.
- 6) The recordkeeping under paragraph (5) of this Article shall also be furnished to the Pension Fund as required by this Law.
- 7) At each Actuarial Valuation of the Pension Fund, the Contribution rates shall be re-evaluated to ensure the financial sustainability of the Pension Fund.
- 8) If the Actuary recommends an increase in the contribution rate to maintain Actuarial Equivalence, the Pension Fund shall be obligated to inform the Minister within thirty (30) days of issuance of the Actuarial Valuation and the Minister shall inform this to the President within the thirty (30) days.

### Article 32: Pension Contribution Payment and Reporting Process

- 1) It shall be the obligation of the Government to transmit monthly contributions and data to the Pension Fund.
- 2) The Pension Fund shall promulgate Pension Rules defining:
  - (a) The manner in which the Government shall transmit Civil Servants' and Contributions to a specified bank account of the Pension Fund on a monthly basis, but in any case, not later than ten working days after the end of the month in which contributions are due.
  - (b) The data records, data fields, and other information that the Government will submit to the Pension Fund correspond with the Contributions on a monthly basis. Such submissions may be in paper or electronic format as deemed necessary.
- 3) The Pension Fund shall accurately record and account for Contributions paid, distinguishing between Civil Servants' and Government Contributions. The Pension Fund shall rely on the records and information provided by the Government.
- 4) The Pension Fund shall have the responsibilities and rights necessary to inspect, assess and enforce payment of Contributions as set forth in this Act.
- 5) The Pension Fund shall provide each Civil Servant with confirmation of Contribution amounts received and of the total Pensionable Service credited, at regular intervals but at least once every twelve months. The Pension Fund may make such confirmation accessible via the internet, telecom or by other electronic means.
- 6) If the Pension Fund determines that the Government made excess Civil Servant or Government Contributions, the Pension Fund may refund such excess Contributions in accordance with the Pension Rules.
- 7) Excess contributions of Civil Servants will be refunded to them with no interest.
- 8) No refunds shall be made with respect to any Contributions for which a Pension award has been made.
- 9) If the Government is in arrears in making Contributions to the Pension Fund, any excess Contributions paid by the Government shall first be applied to the arrears of the Government prior to being refunded.

### Article 33: Work Termination Due to Pensionable Age

- 1) The general Pensionable Age for Civil Servants to terminate their work shall be sixty-five (65) years.
- 2) The age in the preceding paragraph prevails over the pensionable age in the Civil Service Law.
- 3) Civil Servants may be permitted to retire from work duties before attaining the above-cited Pensionable Age and receive Early Pensions in accordance with this Law

- 4) The retiree shall have the right to be granted a Pension after retiring from public service, in accordance with this Law.

#### Article 34: Confirming the Age of the Civil Servant

- 1) Any person hired by the Government, before commencing work, shall confirm the date of birth. The proof of age shall be either the :
  - a) Birth certificate;
  - b) A national identification card or
  - c) A valid Passport
- 2) If there is uncertainty about the Civil Servant's date of birth, the Competent Medical Commission shall, after receiving a request form from the Pension Fund, provide an Assessment of Age Certificate.
- 3) The Pension Fund shall accept the Assessment of Age Certificate issued by the Competent Medical Commission in accordance with the preceding paragraph.

#### Article 35: Pension Formula at Pensionable Age

- 1) The Pension payment to Civil Servants who worked for the Government for a period of ten (10) years or more and who attained Pensionable Age shall be equal to one and two-thirds percent (1.67%) multiplied by the average annual Basic Salary received during the last five years of Service.
- 2) The smallest amount of pension per month granted to the retired civil servant shall be \$30 (thirty) dollars or equivalent to the Somali Shilling.

#### Article 35: Early Pensions

In the event a Civil Servant retires prior to attaining Pensionable Age, the Pension amount shall be reduced by one-half of one percent for each month for which retirement is prior to the Pensionable Age.

#### Article 36: Actuarial Assessment of Early Retirement Factor

- 1) At each Actuarial Valuation the Pension Fund shall ensure that the Actuary re-evaluates the Pension reduction and increase factors and, if necessary, recommends modifications to maintain the Actuarial Equivalence of the Early and Pensions as calculated in accordance with this Law.
- 2) If the Actuary recommends modifications of the reduction and/or increase factors to maintain Actuarial Equivalence, the Pension Fund shall be obligated to inform the Minister within thirty (30) days of issuance of the Actuarial Valuation, and the Minister shall inform the President.

### Article 37: Indexation of Pensions

- 1) The Pension Fund shall index Pension and Survivor payments to be the lesser of:
  - (a) The increase in the average monthly consumer price index for the annual period commencing May 1<sup>st</sup> of the previous year to April 30<sup>th</sup> of the current year, as determined by the Bank; or
  - (b) The increase in the average civil service Basic Salary for the annual period ending April 30<sup>th</sup> of the previous year prior to the current fiscal year, as determined by the Civil Service Commission.
- 2) The Pension Fund shall adjust indexation prospectively within ninety (90) days following receipt of the final and approved notification from the Central Bank of the average monthly consumer price index and the average civil service Salary index.
- 3) The Pension Fund shall not index Pension or Survivor payments retroactively.
- 4) The Pension Fund shall not decrease Pension amounts on account of indexation.

### Article 38: Determination of Pensionable Service

- 1) The period in which Pensionable Service is credited shall be based on Past Service and Future Service.
- 2) Past Service shall be credited for years of employment prior to 1 January 2010 based on age as set forth in Annex 1.
- 3) Past Service shall be credited for years of employment from 1 January 2010 to 1 January 2020 based on employment records.
- 4) Future Service shall be credited from 1 January 2020 and shall be based on employment and contribution records.
- 5) Verification of Pensionable Service, the calculation of the Pension, the application and payment process and the period of allocation shall be the tasks of the Pension Fund.

### Article 39: Qualifying for Pension

- 1) The Government shall not be responsible for more than one Pension per Civil Servant.
- 2) A person in receipt of a Pension cannot hold an official government position.
- 3) If a Civil Servant who has qualified for pension is deceased, the person's Survivors shall have rights to one pension only.

## CHAPTER FIVE DISABILITY PENSIONS

### Article 40: Disabled Persons

- 1) A person may be considered to be permanently and totally disabled if aged over sixteen years, but less than Pensionable Age and with a Disability leading to employment termination as defined in this Law.
- 2) The Competent Medical Commission shall assess Applicants for the purpose of Disability Pensions and determine if they fulfill the medical criteria.
- 3) The Competent Medical Commission shall determine whether the Disability renders an Applicant totally incapable of any work for remuneration at the time of application and in the foreseeable future.
- 4) The Applicant may submit an application for Disability Pension to the Pension Fund within ninety (90) days after the date of the onset of the Disability.

### Article 41: Disability Assessments

- 1) An Assessment of Disability Certificate issued by the Competent Medical Commission shall include the following:
  - (a) a medical diagnosis of the Disability that the Applicant is suffering and the date of the Disability onset; the diagnosis shall describe the Disability and particular impact of the Disability on employment, including a specific description of impaired functioning of the Applicant;
  - (b) an assessment of the Applicant's functioning with respect to daily living tasks and tasks associated with employment; this shall include reference to Applicant's prior employment, if any;
  - (c) a determination of whether or not the Applicant can be employed, in any capacity, given the total circumstances of the Disability;
  - (d) a determination of complete Disability for a prior period of one year or longer, during which time the Applicant was medically incapable of employment for remuneration; and
  - (e) a prognosis of the permanence of the Disability.
- 2) Applicants for Disability Pensions are entitled to present evidence from their own attending physicians to the Competent Medical Commission, but such reports and statements shall not be a substitute for a determination by the Competent Medical Commission.
- 3) Persons who reside in, are confined in, or are financially supported by institutions caring for the disabled, including psychiatric or medical establishments, religious institutions caring for the infirm or disabled, residential schools and prisons, and other institutions receiving support from a government budget to care for the disabled, are not eligible for Disability Pensions under this Law.

- 4) Persons capable of employment or actually employed in any manner, including any self-employment, shall not be eligible for Disability Pensions. Actual employment, including self-employment, shall constitute presumptive proof of the cessation of Disability. Disability Pension payments may cease as of the first date of employment or self-employment.
- 5) Persons who receive a Veterans Pension, social security pension or any other Pension paid in accordance with this Act or other pension laws, shall not be eligible for Disability Pensions. The Pension Fund may validate with other pension schemes to ascertain whether they are paying a pension to any Disability Applicant.

#### Article 42: Physical Examination for Disability Pension Determination

- 1) At its sole discretion, the Pension Fund may require an Applicant to appear at the Competent Medical Commission for a medical examination at a time and place decided on by the Commission.
- 2) The preceding paragraph, applies also to persons who are already receiving a Disability Pension and whose continuing Disability is being reviewed.
- 3) Failure to attend examination in this article shall disqualify an Applicant from continuing to receive a Disability Pension, with the exception as determined by the Fund of exemption for excused reasonable cases.

#### Article 43: Amount and Duration of Disability Pension

- 1) The disabled Employee shall be entitled to a Disability Pension equal to the Pension benefits that would have been received by the Employee if said Employee had continued in Pensionable Service, receiving the same level of Salary, and commenced Pension payment at Pensionable Age.
- 2) Disability Pensions are payable for life unless the Employee recovers from the disability.

#### Article 44: Duty to Inform

- 1) The Fund shall inform each Applicant for a Disability Pension in writing of the outcome of the application within ninety (90) days of submission. This period may be extended to one hundred eighty days in order to provide additional medical verification as may be required by the Competent Medical Commission.
- 2) A person receiving a Disability Pension shall inform the Pension Fund immediately of any change in circumstances that may affect entitlement to a Disability Pension.
- 3) The Pension Fund may authorize employees of the Pension Fund to carry out random or systematic checks on persons receiving a Disability Pension in order to verify the facts given in the application and continued eligibility for a Disability Pension. Notice of such checks may not be given, provided that they may be carried out at a reasonable time.
- 4) Such authorized Pension Fund employees shall be deemed to have prior authorization to undertake verification of applications and, when so requested, shall produce proof of identity and shall at all times act within the limits of their authority.
- 5) The Pension Fund shall implement procedures for regular monitoring of persons receiving Disability Pensions to confirm continuing Disability and to monitor any

possibility of employment, self-employment, or actual employment or self-employment. Persons receiving Disability Pensions shall be required to undergo medical examinations at a time and location decided on by the Pension Fund.

- 6) Failure to cooperate with a written request by the Pension Fund to monitor continuing Disability shall be grounds for suspending a Pension. Such suspension shall continue until verification has been completed, in which case, if the Pensioner remains eligible for a Disability Pension, arrears will be paid.

**CHAPTER SIX**  
**SURVIVOR PENSIONS AND GRATUITY**

**Article 45: Survivor Pensions Entitlement**

- 1) The Pension Fund shall pay Survivor Pensions to eligible Survivors of deceased Pensioners and deceased Civil Servants.
- 2) The eligible Survivors of a deceased Pensioner shall be entitled to receive the whole or part of the Pension that the retired Pensioner was receiving before the date of death.
- 3) If the Pension has been increased as a result of indexation in accordance with this law, said Pension shall mean the Pension including such increases.
- 4) The eligible Survivors of a deceased Civil Servant, whose age is equal to or greater than the Pensionable Age at the date of death, and who was still in Pensionable Service at the time of death, shall be entitled to the Pension that would have been received by the deceased Civil Servant, had such person received a Pension payment as of the date of death.
- 5) In case of death of the Civil Servant due to a work-related injury or illness, the eligible Survivors of a deceased Civil Servant, whose age is less than Pensionable Age at the date of death, and who was still in Pensionable Service at the date of death, shall be entitled to a Pension based on the amount of the Pension that would have been received by the deceased Civil Servant, had such person continued in Pensionable Service, receiving the same level of Salary, and commenced Pension payment at Pensionable Age.
- 6) In case of death of the Civil Servant due to natural causes unrelated to the performance of work, the eligible Survivors of a deceased Civil Servant, whose age is less than Pensionable Age at the date of death, and who was still in Pensionable Service at the date of death, shall be entitled to a Pension based on the amount of the Pension that would have been received by the deceased Civil Servant, had such person ended Pensionable Service, receiving the same level of Salary, and commenced Pension payment at the date of death.
- 7) The eligible Survivors of a deceased former employee, who was not in Pensionable Service and is entitled to a deferred pension at the date of death, shall be entitled to a Pension based on the amount of the Pension that would have been received by the deceased Civil Servant, had such person commenced Pension payment at Pensionable Age.
- 8) Survivor Pensions shall only be paid to eligible persons as identified in this Law. Civil Servants and Pensioners without eligible Survivors shall not be able to designate any other persons to receive Survivor Pensions.
- 9) In no case shall the total of the Survivor Pensions awarded to the eligible Survivors of a deceased Civil Servant or deceased Pensioner be greater than seventy percent (70%) of the Pension that the Pensioner had been receiving before death or the Pension that the Civil Servant would have been entitled to, as set forth in this Law.

#### Article 46: Pensions for the Families of Missing Persons Presumed Dead

- 1) When a Civil Servant or Pensioner is missing without any notice or information for a period of at least three years, the Pension Fund shall presume that the Civil Servant is dead and shall pay the entitled Survivor Pension as specified under the provisions of this Chapter.
- 2) Payment shall be made effective from the month after the month in which the Civil Servant went missing, until the date of death of eligible Survivors or, if applicable, the Civil Servant's reappearance.
- 3) If the reappearance of the missing Civil Servant is proved, the Survivor Pension shall be terminated and the entitlement to a Pension at Pensionable Age shall be adjusted, reflecting the amount of the Survivor Pension paid.

#### Article 47: Pensions for the Survivors of the Deceased Pensioner or Civil Servant

- 1) Eligible persons shall be entitled to Survivor Pensions of the deceased Pensioner or Civil Servant. This right is limited to those family members who were alive on the date of death of the deceased Employee.
- 2) A surviving spouse is entitled to a Survivor Pension if the marriage to a Pensioner or Civil Servant was legally or customarily entered into no less than one (1) year prior to the date of the death and was not terminated by a legal divorce.
- 3) The child of a deceased Pensioner or Civil Servant by birth or adoption shall be entitled to a Survivor Pension while under the age of sixteen (16) years.
- 4) A child over the age of sixteen (16) years and with a proven Disability in effect at the time of death of the deceased Pensioner or Civil Servant shall be entitled to a Survivor Pension until recovery from such Disability. The Competent Medical Commission shall certify in accordance with this Law whether the Disability prevents gainful employment. A child with a disability arising after the date of death of the Pensioner or Civil Servant shall not be entitled to a Survivor Pension if over the age of sixteen (16) at the time of death of the Employee.
- 5) The month in which the child attains age sixteen (16), or recovers from Disability, is the final month for which a Survivor Pension is payable to such child.
- 6) The Pension Fund shall award a Survivor Pension for a child only after confirming the age of the child by the submission of either a birth certificate or an Assessment of Age Certificate duly issued by the Competent Medical Commission. The age of the child as recorded in the Pension award shall be final, conclusive, and binding, and shall not be subject to reconsideration by any person for any reason.

#### Article 48: Identification of Additional Survivors

- 1) The Pension Fund shall inform each Applicant for a Survivor Pension in writing of the outcome of the application within thirty (30) days. However, notwithstanding such notification of Survivors, additional Survivors of a Civil Servant shall have up to a year from the date of death of the Civil Servant to make applications for Survivor Pensions.

- 2) In the event that the Pension Fund approves an application that has the effect of reducing or eliminating a Survivor Pension award previously made to other Survivors, the Pension Fund shall re-calculate and reduce the Survivor Pensions awards due to such Survivors of the Civil Servant, as needed. Excess payments shall be refunded according to the provisions of this law.

#### Article 49: Amount of Survivor Pension

- 1) The total amount of the Survivor Pensions for each Civil Servant shall be 70% (seventy percent) of the Pension of the Civil Servant, and shall be equally divided among all of the eligible persons in accordance with this Law.
- 2) In the event that the Civil Servant had more than one spouse who meets the requirements of this law, the Survivor Pension shall be equally divided among all of the surviving spouses.
- 3) In the event that the Civil Servant had only one spouse who meets the requirements of this Law, and had children with such spouse who qualify for a Survivor Pension under this law, the Survivor Pension shall be equally divided among the spouse and eligible children.
- 4) In the event that the Civil Servant had only one spouse and no surviving children, such spouse shall receive the entire Survivor Pension.
- 5) In the event that the Civil Servant had no surviving spouse but had surviving children meeting the requirements of the law, the Survivor Pension shall be equally divided among the children.
- 6) In the event the Civil Servant had no spouse and no surviving children meeting the requirements of this law, no Survivor Pension shall be paid.

#### Article 50: Death or Loss of Eligibility of Recipients of Survivor Pensions

The Fund shall cease payment of Survivor Pensions to any person in the month after which such person ceases to be eligible under the terms of this Law. When a person ceases to be eligible for a Survivor Pension, the remaining amount shall be divided among all of the other eligible Survivors.

#### Article 51: Entitlement to Gratuity

- 1) Gratuity is a severance payment for Civil Servants who have not attained Pensionable Age but have terminated their employment with the Government, and do not have sufficient Pensionable Age to receive a Pension.
- 2) Gratuity is not paid to Survivors.

#### Article 52: Calculation of Gratuity

- 1) Civil Servants, who have not attained Pensionable Age and have been employed by Public Institutions for a period of 0 to 10 years (zero to ten), shall have the right to Gratuity amounting to one-month Basic Salary for every year of employment, to be paid upon attainment of Pension Age according to this Law.
- 2) Civil Servants must apply for Gratuity within a year of reaching Pension Age.

## CHAPTER SEVEN

### PENSION AND GRATUITY APPLICATIONS AND PAYMENT

#### Article 53: Retirement from the Service

- 1) A Civil Servant who retires shall submit an application for benefits to the Pension Fund in a format specified by the Pension Fund.
- 2) Every Civil Servant shall furnish the Pension Fund in the prescribed manner, with the particulars relating to the Civil Servant and their Spouse and Child (ren) for the purpose of receipt of benefits upon death.
- 3) Upon retirement, the Pension Fund shall request updated information on all potential Survivors.
- 4) A Civil Servant or Pensioner may update the particulars furnished under subsection (2) at any time.

#### Article 54: Approval and Payment of Pension or Gratuity

- 1) The Pension Fund shall establish an approval process for benefit applications and shall respond to applications within thirty days of receipt.
- 2) The Pension Fund may request additional information and may consider the application for an additional thirty days upon receipt of a response.
- 3) Payment of Pension shall commence from the end of the month immediately following the month when a decision is made as to benefits.
- 4) Payment shall be made through a commercial bank or other electronic transfers (not in cash).
- 5) The effective date of the Pension shall be the date on which the Pensioner or Survivor meets the requirements of this Act; a retroactive payment of any arrears shall be paid when the award is made.

#### Article 55: Verification of Continuing Eligibility

The Pension Fund shall establish procedures for verification of continuing eligibility for all benefits, including Early Pensions, Pensions at Pensionable Age, Disability Pensions, and Survivor Pensions.

#### Article 56: Death of Civil Servant or Pensioner

Where a Civil Servant or Pensioner dies whilst in employment, the Pension Fund shall pay Survivor Benefits in accordance with this Act.

#### Article 57: Missing Civil Servant or Pensioner

- 1) Notwithstanding anything to the contrary contained in any other law, where a Civil Servant or Pensioner is missing and is proved that he or she has not been heard of for three years by those who might reasonably be expected to have heard of the person if he were alive, there shall be a rebuttable presumption that the person is dead.
- 2) Where it is confirmed that the missing person is dead, the provisions of section 56 above shall apply.

#### Article 58: Death in retirement

- 1) Where a Pensioner who was married at the date of his retirement, and was receiving a retirement benefit under this Law, dies while in retirement, a Survivor Pension shall be paid to the Spouse and/or Child (ren) in line with the provisions of this Law.
- 2) The payment under the preceding paragraph shall be made to the Survivor commencing from the month following the Pensioner's death.

#### Article 59: Transfer of service

Where a Civil Servant transfers his service within the public service or from the Government and vice versa, the same Pensionable Service shall be accumulated for a single Pension entitlement.

#### Article 60: Non-Alienation of Pension Fund Benefits

- 1) No payment shall be made from the Pension Fund —
  - a) to a Civil Servant while he is still in the public service; or,
  - b) To any person as a loan, advance, or other similar benefit or payment.
- 2) Notwithstanding the provisions of any other written law, a benefit granted under this Law shall not be-
  - a) pledged, assignable or transferable except for the purpose of satisfying;-
    - i. debt due to the Government; or
    - ii. an order of any court for the payment of periodical sums of money towards the maintenance of the wife, or former wife, or minor child, of the Civil Servant to whom the pension, gratuity or other allowance has been granted;
  - b) Liable to be attached in settlement of any claim whatsoever.

## CHAPTER EIGHT MISCELLANEOUS PROVISIONS

### Article 61: Offences

- 1) Any person who:-
  - a) Wilfully fails to remit contributions to the Pension Fund as required;
  - b) Knowingly gives false information to the Pension Fund, or being a Trustee or employee of the Pension Fund wilfully misappropriates the assets of the scheme, commits an offense and is liable on conviction to a fine not exceeding 500 US Dollars or to imprisonment to a term not exceeding two years or both.
- 2) Where an offense under this article is committed by a body corporate, every person who at the time of the commission of the offense was-
  - a) Director, general manager, secretary or any other similar officer of the body corporate or
  - b) Purporting to act in any such capacity as provided in paragraph (a) commits that offense
- 3) Despite subsection (2) it is a defense if a person proves that the offense was committed without his own consent or involvement and they exercised due diligence to prevent the offense as ought to have been exercised owing regard to their functions in that capacity and all other circumstances.

### Article 62: Misappropriation of assets

Any employee of the Pension Fund, Board trustee, manager, Manager or custodian who misappropriates the assets of the Fund commits an offense and is liable on conviction to a fine of an amount equal to three times the amount misappropriated or imprisonment for a term not exceeding seven years or both.

### Article 63: Removal from office

Notwithstanding the provisions of any other law, the Board may in addition to the penalties stipulated under this Law, cause to be removed from office any Trustee or employee of the Pension Fund who is convicted of an offense under this Law.

### Article 64: Protection from personal liability

No action or omission of a member of the Board or employee of the Pension Fund shall if the Law was done in good faith for purposes of carrying out the provisions of this Law or any other law, subject the person to any liability, action, claim or demand whatsoever.

### Article 65: Liability for damages

The provisions of this Law shall not relieve the Pension Fund of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests

caused by the exercise of any power conferred by this Law or any other written law or by the failure, whether wholly or partially, of any works.

#### Article 66: Transitional provisions

- 1) The Pension Fund shall have twelve months from the effective date of this Law to calculate the Past Service rights of Civil Servants.
- 2) Any Civil Servant who had attained the age of 65 years and was still in service at the effective date of this Law shall retire and may apply for Pension based upon Past Service.
- 3) Any Civil Servant who has been previously awarded a Pension by the **Minister** shall continue to receive the Pension from the Pension Fund and the Survivors of such Civil Servant shall be entitled to Survivor Pensions according to this Law.
- 4) The final five (5) year Basic Salary average in the Pension formula shall be applied for Pensions effective 1 January 2025 and later.
- 5) The following transitional adjustments to the Pension formula shall be applied:
  - a) Pensions effective on any date in 2021 shall have a formula with a final year Basic salary;
  - b) Pensions effective on any date in 2022 shall have a formula with a final two (2) year Basic salary average;
  - c) Pensions effective on any date in 2023 shall have a formula with a final three (3) year Basic salary average;
  - d) Pensions effective on any date in 2024 shall have a formula with a final four (4) year Basic salary average.
- 6) Indexation of Pensions pursuant to Article 37 shall be in effect only for the calendar year 2022, with the calculation of cost of living being done no later than June 2023 and implemented by January 2024.
- 7) Survivor Pensions payable to the Survivors of deceased former Civil Servants shall be in effect only for such Civil Servants as are employed in the calendar year 2020 or thereafter.
- 8) The Board of the Pension Fund shall invest Pension Assets only in January 2025 only upon the approval of the Central Bank or other regulator of financial markets in Somaliland.
- 9) Pensions payable pursuant promissory notes of the Government of Somaliland (pursuant to Article 41.5) until 1 January 2025. Other investment choices provided in Article 41 may be introduced prior to 1 Jato this Act shall be effective no earlier than the effective date of this Act. Pensions paid retroactively pursuant to Article 53 shall be retroactive only to the date the Act becomes effective.

#### Article 67: Dispute Resolutions

- 1) Any complaint by a pensionable employee, pensioner, survivor, or applicant on a decision of the Fund shall be first be made in writing to the Board of Trustees within thirty days after the applicant receives the notification of the decision.
- 2) Complainants shall be informed formally of their rights to appeal when they receive a decision as to their application.

- 3) The complainant shall provide grounds of the complaint in the appeal, the complaints lacking the grounds shall not be considered.
- 4) The Board of Trustee shall consider complaints and appeals and shall provide a written decision with justifications within thirty (30) days of receipt of the appeal.
- 5) The complainant shall be allowed to be attend hearing sessions of the complaint to provide further details.
- 6) In situations where the grounds for the appeal relate to the medical conditions of the applicant, or in any other case where the Board of Trustees considers it necessary, the Board may:-
  - a) Require the Applicant to undergo further medical assessments; and
  - b) Request the Fund to review the applicant's case with a view to confirming the initial assessment and decision.
- 7) Complainants who because of disability, are unable to make an appeal in their capacity, may have their appeal made by a representative on their behalf, however, the complainant shall personally attend any required medical assessment on his/her case.

#### **Article 68: Social Security Appeal Tribunal**

- 1) A Social Security Appeal Tribunal shall be hereby established to hear and decide on appeals taken from the decision of the Board Trustees in Article 67 of this Law.
- 2) The structure and members of the Tribunal shall be determined by the Government of Somaliland.
- 3) There shall be quorum where more than half of the members of the Tribunal are present in the meeting.
- 4) The Tribunal shall pass decisions by majority vote, provided that the chairperson shall have a casting vote in case of a tie.
- 5) The pensionable employee, pensioner or survivor may seek resolution from the Supreme Court after receipt of the decision of the Tribunal or after the passage of sixty days after filing the appeal to the Tribunal if no decision is reached.
- 6) The Decision of the Supreme Court shall be final.

#### **Article 69: Exemption of Tax**

No tax shall be payable on pension benefits received, pension contributions collected and profits earned from investment of pension funds, in accordance with Law.

#### **Article 70: Regulations and other procedures**

- 1) The Fund with the support of the Board may make Regulations from time to time in respect of this Law to facilitate the implementation of the purposes of this Law.
- 2) Without limiting the generality of paragraph 1 of Article 69, the Regulations under this Article may make different regulations prescribing:-
  - a) The information, proof or evidence to be furnished as any question or matters arising under this Law, including any question or matter relevant to validity of any claim or application for payment of any benefit under this Law.
  - b) Any action required or permitted to be taken under this Law, the time and manner of taking that action, the procedure to be followed and the forms to be used.
- 1) The Fund may also publish a guidelines, standards and code of conducts from time to time in addition to the Regulations.

#### **Article 71: Effective Date**

This Law shall come into force when the Parliament approves and the President Signs and publishes in the Official Gazette.



# SOMALILAND CIVIL SERVANTS' PENSION LAW

