

THE PUBLIC SERVICE SUPERANNUATION SCHEME (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Public Service Superannuation Scheme Act.

| | Provisions of the PSSS Act | Harmonized proposals |
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| | | 1. Section 2 of the Public Service Superannuation Scheme Act, 2012 (herein after referred to as the “principal Act”) by— (a) inserting the following new definitions in proper alphabetical sequence:— |
| | Section 2 “Administrator” means a body corporate or a person appointed by the Board as such under section 35; | “administrator” means a body corporate or an employee of the Fund, appointed by the Board as such under Section 35. |

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| | | “beneficiary” means a dependant, a person nominated by the member in writing, or any other person other than a member entitled to receive a benefit under the Scheme. |
| | | “deferred member” means a member who has left the pensionable service of an employer and who has left all or part of his benefits in the Scheme. |
| | | “employer” means the— |
| | | (a) the Teachers Service Commission; |
| | | (b) the National Police Service Commission or an authorized officer duly appointed by the National Police Service Commission. |
| | | (c) the Public Service Commission or an authorized officer duly appointed by the Public Service Commission. |
| | | (d) any other employer that the Cabinet Secretary determines to be a public service for the purposes of the Act. |

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| | | (b) amending the following definitions in proper alphabetical sequence:— |
| Part II | | |
| | <p>Section 3 -There is established a scheme to be known as the Public Service Superannuation Scheme.</p> <p>(2) The Scheme shall be a retirement benefits scheme within the meaning of the Retirement Benefits Act (No. 3 of 1997)</p> | |
| Amendment of Section 5 of Cap 189A | <p>Section 5(3) A member, other than a member who has retired and has opted to be paid his benefits under section 28(2)(a), who for any reason leaves the public service shall cease to be a member of the Scheme</p> | <p>2. Section 5(3) of the principal Act is amended by inserting the words “or a deferred member” immediately after the expression “section 28(2)(a).”</p> |

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| Amendment of Section 6 of Cap 189A | | 3. Section 6 of the principal Act is amended— |
| | Section 6(1) Every member of the Scheme shall contribute to the Scheme at the rate of seven and a half per cent which shall be deducted from his monthly pensionable emolument | <p>(a) in subsection (1) by inserting the words “not less than” immediately after the words “rate of”</p> <p>(b) by deleting the proviso to subsection (1) and substituting therefor the following new proviso—</p> |
| | | <p>Provided that where the employer fails to deduct member’s contribution, the sum shall be recovered in the subsequent month and a penalty at the rate of the return of the Scheme for the previous financial year shall be payable by the employer.</p> |
| | | <p>By inserting the following new subsection immediately after subsection (2)-</p> <p>(2A) The Cabinet Secretary may by notice in the gazette vary the rates in subsection (1) and (2) after consultations with the members and the Board.</p> |
| | Subsection 6(4) In addition to the contributions specified in subsections (1) | (c) Subsection 6(4) by deleting the word “Government” and substituting therefor the word “employer”. |

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| | and (2), the Government shall take out and maintain a life insurance policy that has disability benefits in favour of every member of the Scheme, for a minimum of five times of the member's annual pensionable emoluments. | |
| Amendment of section 7 of Cap 189A | Section 7(2) Subject to any guidelines issued under subsection (1), a member shall instruct the Government to deduct the additional voluntary contribution from his monthly pensionable emoluments | 4. Section 7(2) of the principal Act is amended by deleting the word "Government" and substituting therefor the word "employer". |
| Amendment of section 8 of Cap 189A | Section 8 The Government shall— (a) deduct a member's monthly contribution from the member's monthly salary; (b) set aside the Government's monthly contribution for each member; and (c) not later than ten working days after the end of the month in which the | 5. Section 8 of the principal Act is amended— (a) by deleting paragraph (a); (b) by deleting the words "the member's and" in paragraph (c). |

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| | contributions are due, remit an amount comprising the member's and the Government contribution to the Custodian. | | | |
| Insertion of new section 8A in Cap 189A | | 6. The principal Act is amended by inserting the following new section immediately after section 8— | | |
| | | <table border="1"> <tr> <td>Obligation of the Employer</td> <td> 8A. An employer shall- (a) deduct and remit to the Custodian a member's monthly contribution from the member's monthly salary not later than ten working days after the end of the month in which the contributions fall due; (b) Ensure that the Government's contribution is remitted in accordance with section 6(2). </td> </tr> </table> | Obligation of the Employer | 8A. An employer shall- (a) deduct and remit to the Custodian a member's monthly contribution from the member's monthly salary not later than ten working days after the end of the month in which the contributions fall due; (b) Ensure that the Government's contribution is remitted in accordance with section 6(2). |
| Obligation of the Employer | 8A. An employer shall- (a) deduct and remit to the Custodian a member's monthly contribution from the member's monthly salary not later than ten working days after the end of the month in which the contributions fall due; (b) Ensure that the Government's contribution is remitted in accordance with section 6(2). | | | |
| Insertion of a new section 8B | | <p>7. The principal Act is amended by inserting the following new section immediately after section 8A-</p> <p>“8C. The Public Service Superannuation Scheme Fund</p> <p>(1) There shall be a Public Service Superannuation Scheme Fund, which shall vest in and be operated and managed by the Board.</p> | | |

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| | | (2) There shall be paid— (a) into the Fund all contributions and any other payments required by this Act to be paid into the Fund; and (b) out of the Fund, all the benefits and any other payments required under the provisions of this Act to be paid out of the Fund. |
| Amendment to the heading of Part III | | 8. Part III of the principal Act is amended by deleting the heading of Part III and substituting therefor the following new title- “THE PUBLIC SERVICE SUPERANNUATION SCHEME BOARD OF TRUSTEES” |
| | | 9. The principal Act is amended by repealing section 9. |
| | Section 10(1) (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to the public service or his representative | Section 10 is amended by deleting subsection (1) and substituting therefor the following new subsection- (1) There is established a board of trustees of the Scheme to be known as Public Service Superannuation Scheme Board of Trustees, which shall consist of— (a) a Chairperson who shall be appointed by the President and who— |

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| | | <ul style="list-style-type: none"> (i) has a bachelors degree in human resource, pension administration, actuarial science, banking, insurance, finance, accounting, economics, auditing, law or any other relevant field. (ii) has an aggregate of at least twenty years' experience ten of which should have been served in senior management position in a relevant field. (iii) is not in the service of any employers' or worker's representatives or any person affiliated to any of the borganizations represented on the Board. (b) one person nominated by the Principal Secretary in the Ministry for the time being responsible for matters relating to finance. (c) one person nominated by the Principal Secretary in the Ministry for the time being responsible for matters relating to the public service; (d) one person nominated by the Secretary to the Teachers Service Commission; (e) one person nominated by the Secretary to the Public Service Commission; (f) one person nominated by the Secretary to the National Police Service Commission; (g) one person nominated by the Kenya National Union of Teachers; (h) one person nominated by the Kenya Union of Post Primary Education Teachers; |
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| | | <p>(i) one person nominated by the Union of Kenya Civil Servants;</p> <p>(j) one person nominated by employees of the National Police Service;</p> <p>(k) one person nominated by employees of any other employers recognized in this Act; and</p> <p>(l) the Chief Executive Officer appointed under section 20, who shall be an ex officio member and who shall not be entitled to vote on any matter before the Board.</p> |
| Amendment of section 13 of Cap 189A | <p>Section 13(2(a) Notwithstanding the provisions of subsection (1), a Trustee of the Fund shall be removed from office by a resolution of the Board if the Trustee—</p> <p>(a) has been absent from three consecutive meetings of the Board without justifiable cause or the permission of the Chairman</p> | <p>13. Section 13(2(a) of the principal Act is amended by deleting the word “three” and substituting therefore words “two”</p> |
| Amendment of section 18 of Cap 189A | <p>Section 18 The Chairman and the Trustees shall be paid such sitting allowances or other</p> | <p>14. Section 18 of the principal Act is amended by deleting the words “the Cabinet Secretary may, from time to time, approve” and substituting therefore words “approved by members during a properly constituted general meeting after every three years”.</p> |

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| | remuneration for expenses as the Cabinet Secretary may, from time to time, approve. | |
| Section 20 | Section 20 (2) No person shall be appointed as the Chief Executive Officer unless he has at least ten years' experience in a managerial capacity in the retirement benefits, accounting, finance, investment, insurance or the banking sectors | 15. Section 20 (2) the principal Act is amended by inserting the words "economics, auditing, human resource management, law, pension administration or any other relevant field" after the word accounting. |
| Amendment of section 22 of Cap 189A | | 16. The principal Act is amended by inserting the following new subsection — |
| | | (2) Notwithstanding subsection (1), the Board shall not delegate its discretionary powers to any of its appointed agents. |
| Amendment of section 25 of Cap 189A | Section 25(1) All the benefits derived from contributions by a member shall immediately vest in the member. | 17. The principal Act is amended by deleting section 25 and substituting therefor the following new section - 25. All accrued benefits shall immediately |

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| | | vest in the member. |
| Amendment of section 26 of Cap 189A | Section 26 (a) Provided that a member may withdraw— (a) his contribution and accrued interest in full, on leaving employment for any other reason; | 18. The principal Act is amended by deleting Section 26 and substituting thereof the new section 26. A member may access accrued benefits in accordance with the Retirement Benefits Act on leaving employment. |
| | Section 26(b) the aggregate of any additional voluntary contributions made into the Scheme under section 7(1) together with accrued interest thereon in full, on leaving employment for any other reason. | 19. Section 26 the principal Act is amended by inserting the following paragraph immediately after paragraph (b)— (c) the aggregate of his retirement savings account before attaining the retirement age if the member is emigrating from Kenya on a permanent basis without the intention of returning |
| Amendment of section 27 of Cap 189A | Section 27 subsections (4) The Government may require an officer to retire from the public service— (a) in the case of an officer referred to in subsection (1)(d), on the completion of twelve, sixteen or twenty years' public | 20. Section 27 of the principal Act is amended- (a) in subsection (1) by deleting paragraph (h) (b) by deleting subsections (4). |

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| | <p>service as such an officer, provided he is, within a period of three months next before or after the completion of the period of twelve, sixteen or twenty years' public service as the case may be notified in writing of the intention to require him to retire; or</p> <p>(b) in any other case, at any time after the officer attains the age of fifty years.</p> | |
| Amendment of section 28 of Cap 189A | <p>Section 28 2(a) monthly or quarterly withdrawals calculated by an actuary on the basis</p> <p>of an expected life span and payable out of the Fund;</p> | <p>21. Section 28 of the principal Act is amended by deleting subsection (2) (a) and substituting with a new subsection—</p> |
| | | <p>(2)(a) Monthly or quarterly withdrawals from an Income Drawdown plan.</p> |
| | <p>Section 28(2) the retirement benefits may be paid to a member who retires under section 27 in—</p> | <p>22. Section 28(2) of the principal Act is amended by deleting the word “may” and substituting therefor word “shall”.</p> |

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| | (a) monthly or quarterly withdrawals calculated by an actuary on the basis of an expected life span and payable out of the Fund; or (b) a monthly or quarterly annuity for life purchased from a life insurance company of a member's choice: | |
| | | 23. The principal Act is amended by inserting the following new subsection immediately after subsection (2) — |
| | | (2A). Where the balance of the retirement savings after the determination of the lumpsum referred to in section 28(1) results in an amount determined by the Retirement Benefits Authority as a trivial pension, the member may opt to receive the full retirement savings as a lumpsum payment. |
| Amendment of section 30 of Cap 189A | Section 30 Where a member dies whilst in employment, the Administrator shall apply the entitlements of such member under the life insurance policy maintained under section 6 (4), in accordance with section 28 in favour of the dependants of the deceased or, in the absence of such dependants, to | 24. Section 30 of the principal Act is amended by deleting the words “the Administrator shall apply the” and substituting therefor the words “the Board shall apply the accrued benefits and the” |

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| | the executor or the administrator of the estate of the deceased | |
| | | 25. Provided that the benefits payable under this section may be accessed in form of a one-off lumpsum payment to the beneficiaries. |
| Amendment of section 32 of Cap 189A | Section 32(1) Where a member who was married at the date of his retirement, and was receiving a retirement benefit under section 28(2)(b), dies while in retirement, a pension that is equivalent to the unutilized balance of his retirement savings account shall, be paid to his dependants. | 26. the principal Act is amended by deleting Section 32 |
| Amendment of section 33 of Cap 189A | Section 33 Where a member transfers his service within the public service, or from the Government to a county government and vice versa, the same retirement savings account shall be maintained for the member | 29. Section 33 of the principal Act is amended by deleting the words “or from the Government to a county government and vice versa” |
| Insertion of a new | | 30. The principal Act is amended by inserting the following new section immediately after section 33 |

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| section 33A in Cap 189A | | | |
| | | Transfer of the balance of the retirement savings account | 33A. A member who exits public service may transfer the aggregate of the retirement savings account to another registered Scheme. |
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| Amendment of section 35 of Cap 189A | | 31. The principal Act is amended by inserting the following new subsections immediately after subsection (2) — | |
| | | (3) The terms of appointment of the Administrator shall be determined by the Board and set out in a written instrument. Provided that the period of service of a corporate administrator shall not exceed three years renewable subject to satisfactory performance. | |
| Amendment of section 36 of Cap 189A | Section 36 The Board shall appoint a Manager of the Fund who shall, in accordance with the Retirement Benefits Act— | 32. Section 36 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) — | |

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| | <p>(a) develop an investment strategy for the Fund for the approval of the Board;</p> <p>(b) invest and manage the Scheme funds and assets in accordance with the provisions of this Act and the Retirement Benefits Act (No. 3 of 1997);</p> <p>(c) maintain books of account on all transactions relating to the Fund; and</p> <p>(d) provide regular information on investment strategy, market returns and other performance indicators to the Board for the benefit of members of the Scheme.</p> | |
| | | <p>(3) The terms of appointment of the Fund Manager shall be determined by the Board and set out in a written instrument.</p> <p>Provided that the period of service of a corporate administrator shall not exceed three years renewable subject to satisfactory performance.</p> |

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| <p>Amendment of section 37 of Cap 189A</p> | <p>Section 37 The Board shall appoint a Custodian of the Fund who shall, in accordance with the Retirement Benefits Act—</p> <p>(a) receive the total contributions remitted by the employer under section 6 on behalf of the Board;</p> <p>(b) within twenty-four hours of receipt of the contributions from the employer notify the Administrator of such receipt;</p> <p>(c) hold pension funds and assets in safe custody on trust for the member and beneficiaries of the retirement savings account;</p> <p>(d) on behalf of the Board, settle transactions and undertake activities relating to the administration of the Fund including the collection of dividends and related activities;</p> <p>(e) report to the Board on any matter relating to the assets being held by</p> | <p>33. Section 37 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) —</p> <p>—</p> |
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| | <p>the Custodian on its behalf at such intervals as may from time to time be determined by the Board;</p> <p>(f) undertake statistical analysis on the investments and returns on investments with respect to pension funds in its custody and provide data and information to the Administrator and the Board; and</p> <p>(g) execute in favour of the Board the relevant proxy for the purpose of voting in relation to the investments:</p> | |
| | | <p>(2) (3) The terms of appointment of the Custodian shall be determined by the Board and set out in a written instrument.</p> <p>Provided that the period of service of a corporate administrator shall not exceed three years renewable subject to satisfactory performance.</p> |
| <p>Insertion of a new section 38A</p> | | <p>34. The principal Act is amended by inserting the following new section immediately after section 38 -</p> |

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| of Cap 189A | | <p>(1) The Board shall, at the Scheme’s expense, within six months of the end of the financial year of the Scheme, convene a general meeting of the members of the Scheme.</p> <p>(2) The general meeting shall be conducted in accordance with the provisions of the Retirement Benefits Act and the regulations prescribed under this Act.</p> |
| Amendment of section 39 of Cap 189A | <p>Section 39</p> <p>The Board shall establish an account into which shall be paid—</p> <p>(a) the initial take off grant out of moneys provided by Government for the expenditure incurred by the Board in the exercise of its powers or the performance of its function under this Act;</p> <p>(b) the annual administrative fee deducted from the investment income of the Fund at the rate approved from time to time by the Cabinet Secretary but</p> | <p>35. The principal Act is amended by deleting section 39 and substituting therefor the following new section -</p> <p>39 (1) The board shall meet administrative expenses of the scheme from the scheme fund.</p> <p>(2) The administrative expenses referred to in subsection (1) shall not exceed two per cent of the total Scheme assets</p> <p>(3) The Board shall take necessary measures to ensure that the percentage referred to in subsection (2) reduces and is capped at one and a half per cent in the sixth year following the date of commencement of this section.</p> <p>(4) The Board may open an account into which the funds to be used for defraying the expenses referred to in subsection (1) may be paid.</p> |

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| | <p>subject to a maximum of ten per cent of such investment income;</p> <p>(c) such moneys or assets as may accrue to or vest in the Board in the course of the exercise of the powers of the Board;</p> <p>(d) income from the investment of the monies held in the account; and</p> <p>(e) all monies from any other source provided for or donated or lent to the Board.</p> | |
| Amendment of section 40 of Cap 189A | <p>Section 40(1) The Board may invest any surplus funds held in the account established under section 39 in securities approved by the Cabinet Secretary for the time being in charge of matters relating to finance</p> | 36. The principal Act is amended by deleting section 40. |
| Amendment of section 41 of Cap 189A | <p>41. Reserve Account</p> <p>(1) There shall be maintained a reserve account of the Fund into which shall be deposited—</p> | 37. Section 41 of the Principal Act is amended at subsection (1) by deleting the words “there shall be maintained” and substituting therefor the words “the Board may maintain” |

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| | <p>(a) any special contribution paid into the Fund by the Government for the purpose of improving the benefits of the members; and</p> <p>(b) any income of the Fund that the Board determines should be set aside to stabilize the returns to members subject to a maximum of ten percent of such income:</p> <p>Provided that no money shall be drawn out of the reserve account except as directed by the Board.</p> <p>(2) Any sums of money determined to be income of the reserve account</p> | |
| <p>Amendment of section 43 of Cap 189A</p> | <p>43. Annual estimates</p> | <p>38. Section 43 of the principal Act is amended by-</p> <p>(a) in subsection (1) by deleting the word “Fund” and substituting therefor the word “Scheme”</p> <p>(b) by deleting subsection (2) and substituting therefor the following new subsection-</p> |

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| | | <p>The annual estimates shall be prepared at least three months before commencement of the financial year to which they relate and shall be submitted to the Board for approval,</p> <p>(c) by deleting subsection (3) and substituting therefor the following new subsection-</p> <p>(3) The annual estimates shall make provision for all the estimated expenditure of the Scheme for the financial year and in particular, the estimates shall provide for—</p> <p>(a) the payment of the Board expenses, employees’ salaries, allowances and other charges in respect of the staff of the Fund;</p> <p>(b) the payment of pensions, gratuities and other charges in respect of the retirement benefits due to the staff of the Scheme;</p> <p>(c) the proper maintenance of the buildings and grounds of the Scheme;</p> <p>(d) the maintenance, repair and replacement of the equipment and other property of the Scheme;</p> <p>(e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate; and</p> <p>(f) any other administrative costs of the Scheme.</p> <p>(d) By deleting subsection (4)</p> |
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| <p>Amendment of section 44 of Cap 189A</p> | <p>Section 44(1) The Board shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Fund. (2) The Board shall cause accounts of the Fund to be prepared and be submitted for auditing and reporting annually by the Controller and Auditor General in accordance with the Public Audit Act (No.12 of 2003).</p> | <p>39. Section 44 of the principal Act is amended-</p> <p>(a) in subsection (1) by deleting the words “fund” and substituting therefor the word ‘scheme’ (b) by deleting subsection (2) and substituting therefor the following new subsection-</p> <p>(2) The Board shall cause accounts of the Scheme to be prepared and be submitted for auditing and reporting annually by an Auditor appointed by the Board.</p> |
| <p>Amendment of section 45 of Cap 189A</p> | <p>45. Actuarial valuation of the Fund</p> | <p>40. The principal Act is amended by deleting section 45.</p> |
| <p>Amendment of section 49 of Cap 189A</p> | <p>49. Removal from office Notwithstanding the provisions of any other law, the Minister may in addition to</p> | <p>41. The principal Act is amended by deleting section 49 and substituting therefor the following section-</p> |

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| | <p>the penalties stipulated under this Act, cause to be removed from office any trustee or employee of the Fund who is convicted of an offence under this Act.</p> | <p>A person convicted of an offence shall cease to be a member of the Board upon conviction.</p> |
| <p>Amendment of section 50 of Cap 189A</p> | <p>50. Government of Kenya Public Service Superannuation Bond</p> | |
| <p>Amendment of section 50 of Cap 189A</p> | <p>The right to retirement benefits of any member who at the commencement of this Act is—</p> <p>(a) already covered under any other pension scheme existing before the commencement of this Act and whose benefits are payable out of the Consolidated Fund; and</p> <p>(b) a member of the Scheme shall be recognized in the form of an amount acknowledged through the issuance of a letter recognizing accrued benefits at the date of joining the scheme under this Act.</p> | <p>42. The principal Act is amended by deleting Section 50 and substituting therefor the following new section—</p> |

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| | | The right to retirement benefits of members before commencement of this Act. | (1) The right to retirement benefits of a member who was, as at the 1st January, 2021, already covered under any other pension scheme existing before the 1st January, 2021 and whose benefits were payable the Pensions Act, Cap 189 and the Widows and Children Pensions Scheme Act, Cap 195, for the duration of pensionable service before the 1st January, 2021 shall accrue under that pension scheme and shall be payable in accordance with the Pensions Act, Cap 189 and the Widows and Children Pensions Scheme Act, Cap 195. |
| | | | (2) The Government shall, within six (6) months of the commencement of this Act, issue a letter recognizing accrued benefits of members referred to in paragraph (1) as at 31 st December 2020. |
| | | | (3) The pension benefits of a member for the duration of pensionable service served before the 1st January, 2021, shall be deferred until retirement under section 27 of the Act, except in the case of the death in service of the member. |
| | | | (4) The pension payable to a member whose pension benefits have been deferred under subsection (2) shall be |

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| | | | determined through an actuarial valuation and paid to the member in accordance with the Pensions Act, Cap 189 and the Widows and Children Pensions Scheme Act, Cap 195 upon retirement under section 27 or upon the death in service of the member. |
| Insertion of a new section 56A in Cap 189A | New | Exemption from compliance with provisions of this Act. | The Cabinet Secretary may, by order published in the Gazette and with the concurrence of the Retirement Benefits Authority— (a) exempt the Board from compliance with any specified provisions of this Act; or (b) extend the time for compliance by the Board with any specified provisions of this Act: Provided that nothing in this section shall apply in respect of payment of retirement benefits and any of the provisions of Part IV of this Act. |
| Insertion of a new section 56B in Cap 189A | New | Exemptions from the Unclaimed Financial Assets Act. | The provisions of the Unclaimed Financial Assets Act shall not apply to the Scheme. |

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| Insertion of a new section 61 in Cap 189A | New | Transitional provision | The members of the Board serving immediately before the commencement of this Act shall serve until the end of their respective terms |
| | New | Amendment of section 2 of the State Corporations Act | Section 2 of the State Corporations Act is amended in the definition of ‘State Corporation’ by inserting the following new subparagraph immediately after subparagraph (b) (viii)- (ix) the Public Service Superannuation Scheme established under the Public Service Superannuation Scheme Act |