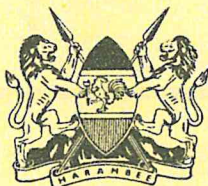


**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**MACHAKOS COUNTY BILLS, 2022**

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**NAIROBI, 30th March, 2022**

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REPUBLIC OF KENYA

# KENYA GAZETTE SUPPLEMENT

## MACHAKOS COUNTY BILLS, 2022

Nairobi, 30th March, 2022

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BENEFITS BILL, 2022**

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**THE MACHAKOS COUNTY (STATE OFFICERS) RETIREMENT  
BENEFITS SCHEME BILL, 2022**

**A Bill for**

**AN ACT of the County Assembly of Machakos to provide for the granting of pension and other retirement benefits to persons who hold the office of Governor, Deputy-Governor, Speaker and Member of County Assembly from 8th August, 2017 and for connected purposes**

**ENACTED** by the County Assembly of Machakos, as follows—

**PART I—PRELIMINARY**

**Short title**

1. This Act may be cited as the Machakos County (State Officers) Retirement Benefits Act, 2022.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“Administrator” means a person appointed by the Board pursuant to the Retirement Benefits Act to be the administrator of the Scheme;

“Accumulated with interest” means accumulated with interest at the rate of fifteen per cent per annum with yearly rests up to the relevant date;

“Appeals Tribunal” means the Appeals Tribunal established under section 20;

“Approved actuary” means an actuary approved by the Board;

“Benefits” means pension and other retirement benefits conferred by this Act;

“Board” means the Board of Trustees established under section 7;

“Child” means any child of a deceased member who has not attained eighteen years of age or if the child is receiving full time education, not more than twenty-five years of age and was at the time of the death of the deceased member wholly or mainly dependent on the deceased:

Provided that this category of dependants shall—

- (a) be closed at the death of the member; and
- (b) includes an unborn child who, if already born would have been a child of the deceased;

“Dependant” in relation to a deceased member, means a relative of the deceased who survives the deceased and who, on the date of the deceased’s death, was—

- (a) a spouse to the deceased;
- (b) a child of the deceased; or
- (c) a parent of the deceased who was dependent on the deceased for the provision of the ordinary necessities of life;

“Deputy Governor” means a person who holds the office of Deputy Governor of Machakos County Government in accordance with the Constitution and the County Government Act, 2012;

“Financial year” means the period of twelve months ending the 30th June in each year;

“Governor” means a person who holds the office of Governor of Machakos County Government in accordance with the Constitution and the County Governments Act, 2012;

“Gratuity” includes a commuted pension under section 10;

“Member of the County Assembly”, for the purposes of this Act means an elected member or a nominated member of the County Assembly under the Constitution of Kenya;

“Pensionable emoluments” includes salary, responsibility allowance, ward office allowance, nominated member’s allowance, *ex-officio* member’s allowance, house allowance, accommodation allowance and sitting allowance;

“Retired Governor” means a person who, having held the office of the Governor of the County Governments at any time after the 8th August, 2017 and has ceased to hold office as such in the manner specified in the Constitution;

“Retired Deputy Governor” means a person who, having held the office of the Deputy Governor of the County Government at any time after the 8th August, 2017 and has ceased to hold office as such in the manner specified in the Constitution;

“Retired Speaker” means a person who, having held the office of the Office of the Speaker of County Assembly at any time after the 8th August, 2017 and has ceased to hold office as such in the manner specified in the Constitution;

“Retired Member County Assembly” means a person who, having held the office of the Member of the County Assembly at any time after

the 8th August, 2017 and has ceased to hold office as such in the manner specified in the Constitution;

“Speaker” means a person who holds the office of Speaker of Machakos County Assembly of Machakos in accordance with the Constitution and the County Governments Act, 2012;

“Sponsor” A County Government to which the member is employed that is required to make contributions to the Scheme and pay benefits to the member;

“spouse” means the wife or husband of an entitled person who dies while holding office as such, and includes in the case of an entitled person under whose religion or custom polygamy is lawful, any person to whom the entitled person is lawfully married in accordance with the tenets of that religion or custom;

“term” means a full term as defined under the Constitution;

“trustee” means a member of the Board of Trustees who, under the law of trust, alone or collectively with other trustees is the legal owner of the assets of the Scheme.

### **Object of the Scheme**

3. The object of the Scheme is to provide benefits for its members upon their retirement, or for their dependents or nominees upon the death of such members.

### **Membership**

4. A person who is a Governor, Deputy Governor, County Assembly Speaker or Member of a County Assembly on or at any time after the commencement of this Act shall be a member of the Scheme.

### **Re-election and Reappointment**

5. When, at the termination of his or her term of office, a Governor or other state officer is re-elected or re-appointed, his or her membership of the Scheme shall for the purposes of these Act be deemed not to have been interrupted by such event.

## **PART II—ADMINISTRATION AND MANAGEMENT OF THE FUND**

### **Establishment of the Scheme**

6. (1) There is established the County (State Officers) Retirement Benefits Scheme.

(2) The Scheme is an irrevocable statutory trust vested in, operated and managed by the Board.

**Establishment of the Board of Trustees under part IV of the Act**

7. (1) There is established a board of trustees of the scheme known as the County (State Officers) Retirement Scheme Board of Trustees, which shall be responsible for administering the scheme under part IV of the Act.

(2) The Board shall be comprised of—

(a) an independent Chairman who shall be appointed by the County Assemblies Forum and who—

(i) has at least fifteen years of experience in senior management in the public service or private sector and;

(ii) is not in service of any employers or workers' representatives or any person affiliated to any organizations represented in the board;

(b) three members representing the County Assembly Service Boards;

(c) five members representing the Members of County Assemblies.

(3) The Board is a body corporate with perpetual succession and a common seal and is in its corporate name capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;

(c) entering into contracts;

(d) borrowing and lending money; and

(e) doing or performing all such other things or acts as may be necessary in furtherance of its purpose and functions.

(4) The Board may coopt not more than two persons to assist it for such purposes and such periods as the board may determine, but persons so coopted may not vote on any matter before the board.

(5) The board shall elect from among its number 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 of is for any reason incapable of exercising his functions.

(6) A Trustee appointed under this section shall in relation to the Scheme have duties and obligations of a Trustee and be accountable in accordance with the provisions of the Trustees Act (Cap. 167).



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**Functions of the Board**

**No. 3 of 1997**

8. The Board shall—
- (a) formulate the policies relating to the Scheme in accordance with the provisions of Retirement Benefits Act;
  - (b) collect contributions and income payable to the Fund under this Act;
  - (c) pay out the various benefits to persons entitled to the benefits as provided under the Act;
  - (d) protect the Fund's assets and ensure long term viability of the Scheme;
  - (e) ensure efficient administration of the Scheme;
  - (f) ensure prudent investment of the monies forming part of the Fund and where necessary establish companies to perform such functions as the Board may consider necessary and relevant to the Scheme including offer administration services, fund management, and consultancy services;
  - (g) negotiate competitive annuity rates on behalf of retiring and withdrawing members;
  - (h) ensure that the Scheme observes high standards of corporate governance and business ethics; and
  - (i) perform any other functions assigned to it under this Act.

**Powers of the Board**

**No. 3 of 1997**

9. (1) The Board shall have all powers necessary for the proper performance of the functions of the Scheme under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

- (a) invest the assets of the Scheme in such manner as best promotes the purpose for which the Scheme is established;
- (b) appoint service providers as required under the Retirement Benefits Act, Cap. 197.
- (c) determine the provisions to be made for administrative expenses and for reserves of the Scheme;
- (d) ensure protection, where necessary, of the assets of the Scheme;

- (e) associate with any other institution so as to further the purpose for which the Scheme is established;
- (f) receive grants, gifts, donations or endowments and make legitimate disbursements from them;
- (g) enforce remittance of outstanding contributions by a Sponsor;
- (h) invest any monies of the Scheme not immediately required for its purposes;
- (i) undertake any activity necessary for the fulfilment of any of the functions of the Scheme.

(3) The Board may subject to such conditions as it may think fit, by directions in writing, delegate any of its powers to any one or more of the Trustees or to an employee of the Administrator.

#### **Committees of the Board**

10. (1) The Board may establish committees for the better carrying out of its functions.

(2) The Board may co-opt persons 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) The persons co-opted under subsection (2) shall not be more than three.

#### **Tenure of office**

11. (1) Each Trustee holds office on part-time basis for a term of three years and may be eligible for re-appointment for one further final term of three years.

(2) Where a Trustee opts to apply for re-appointment under subsection (1), the reappointment may be considered based on the performance of the applicant.

(3) The Board shall put in place arrangements to ensure that one-third of the Trustees are appointed in a staggered manner separated by at least six months.

#### **Remuneration of Trustees**

12. (1) The Trustees shall be paid such allowances, bonuses, and reimbursement of expenses as may be determined by County Assemblies Forum and approved by members in the Annual General Meeting.

(2) The Trustees shall conduct extensive remuneration surveys to determine their remuneration.

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**Removal from Office**

13. (1) A Trustee may be removed from office by the appointing authority under the following circumstances—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty;
- (d) bankruptcy; and
- (e) absence from three consecutive meetings of the Board without a reasonable written explanation addressed to the Board Chairman.

**Vacation of office**

14. A person ceases to be a Trustee if the person—

- (a) resigns in writing, to the chairman, council of governors;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months; (c) is declared bankrupt;
- (d) is unable to perform the functions of their office by reason of mental or physical infirmity;
- (e) is removed in accordance with section 12 or (f) dies.

**Filling of casual vacancy**

15. Where a vacancy occurs in the membership of the Board under section 11 or 12, the chairman, council of governors shall appoint a new member in accordance with the provisions of this Act.

**Meetings of the Board**

**Cap. 197**

16. (1) The business and affairs of the Board shall be conducted in accordance with the Regulations provided for in the First Schedule.

(2) Except as provided in the First Schedule, the Board may regulate its own procedures subject to compliance with the provisions as to meetings under the Retirement Benefits Act.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any of its decisions.

**Common seal of the Board**

17. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall be used under the directions and authority of the Board.

(2) The common seal of the Board when affixed to a document and authenticated shall be judiciously noticed and unless the contrary is established, an order or authorization of the Board under this section shall be presumed to have been given.

**PART III —RETIREMENT BENEFITS FOR GOVERNOR,  
DEPUTY GOVERNOR AND SPEAKER****Persons entitled to benefit**

18. Subject to this Act, the persons entitled to the benefits conferred under this part shall be persons who, have served a term and retire as Governor, Deputy Governor and Speaker of the County.

**Circumstances under which benefits may not be paid**

19. (1) Despite the provisions of section 3, the County Assembly may, on a motion supported by the votes of not less than half of the members thereof, resolve that an entitled person, surviving spouse or children, as the case may be, shall not receive any benefits conferred by this Act, on the grounds that such person—

- (a) ceased to hold office on account of having acted in wilful violation of the Constitution;
- (b) was guilty of gross misconduct;
- (c) has, since ceasing to hold office been convicted of an offence and sentenced to imprisonment for a term of three years or more, without the option of a fine:

Provided that this provision shall come into operation on the date of commencement of this Act.

(2) Where an entitled person holds any appointive or elective post in or under any level of government to which there is attached a rate of pay, other than a nominal rate, the benefits to which he or she is entitled shall be reduced by the amount of such pay.

**Pension and other benefits of retired persons**

20. (1) Without prejudice to any other provisions under this Act, a retired Governor shall, during his or her lifetime, be entitled to—

- (a) a lump sum payment on retirement, calculated as a sum equal to one year's basic salary for each term,

- (b) a monthly pension equal to eighty per cent of the basic monthly salary of the entitled person's last monthly salary while in office;
- (c) any other benefit as stipulated in the respective Schedule.

(2) A retired Deputy Governor shall during his or her lifetime be entitled to—

- (a) a lump sum equal to one year's basic salary for each term served in office;
- (b) a monthly pension equal to sixty percent of the basic salary of the monthly salary of the retired Deputy Governors' last monthly salary while in office;

(3) A retired Speaker shall during his or her lifetime be entitled to—

- (a) a lump sum equal to one year's basic salary for each term served in office, or as specified, whichever amount is higher;
- (b) a monthly pension equal to sixty percent of the basic salary of the monthly salary of the retired Speaker's last monthly salary while in office; and (c) any other benefit as stipulated in the respective Schedule.

(3) Despite the provisions of this section, a Governor who serves in office for one term or less, shall be entitled to a lump sum payment on retirement, calculated as a sum equal to one year's basic salary for each term and a monthly pension equal to fifty percent of the entitled person's last basic salary while in office.

(4) A Deputy Governor who serves office for one term or less shall be entitled to the benefits under shall be entitled to a lump sum payment on retirement, calculated as a sum equal to one year's basic salary for each term and a monthly pension equal to fifty percent of the entitled person's last basic salary while in office.

(5) A Speaker who serves office for one term or less shall be entitled to a lump sum payment on retirement, calculated as a sum equal to one year's basic salary for each term a monthly pension equal to fifty percent of the entitled person's last basic salary while in office.

(6) In the circumstances where an entitled person is compelled to vacate office on medical grounds then all the benefits payable under this section shall be applicable to the entitled person without any prejudice.

(7) Where an entitled person dies in service after the commencement of this Act, a lumpsum payment on death calculated as a sum equal to

three times his or her annual basic salary shall become payable to his or her legal personal representatives.

### **Role of entitled person**

21. An entitled person shall be expected to play a consultative and advisory role to the County Government and the people of Kenya.

### **Spouse benefits**

22. (1) Upon the death of an entitled person who is in receipt of, or who is entitled to a pension under this Act, the surviving spouse of the entitled person shall be entitled to fifty per cent of the pension which was payable to an entitled person.

(2) In any case where there is more than one spouse entitled to benefits under subsection (1), the benefits shall be divided equally among all such spouses.

### **Children's benefit**

23. A children's pension shall be payable for the benefit of an eligible child where an entitled person dies and—

- (a) if there is only one child, pension at the rate of twenty-five percent of the pension entitlement of the entitled person;
- (b) if there are two or more children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

### **Entitled person is not covered under any other Act**

24. (1) For the avoidance of doubt, an entitled person under this Act shall not, for the purposes of payment of a pension or provision of any other benefits, be covered under any other Act for the same period covered under this Act.

(2) Despite subsection (1), where an entitled person was a contributor under any other pension scheme, his or her contribution shall be returned to him or her with the applicable rate of interest.

## **PART IV — BENEFITS FOR MEMBERS OF COUNTY ASSEMBLY**

### **Persons entitled to benefit**

25. Subject to this Act, the persons entitled to the benefits conferred under this part shall be persons who, have served a term and retired as Member of County Assembly.

## **Contributions**

26. (1) Subject to the provisions this section, there shall be deducted from each payment of pensionable emoluments made to a member, being a payment in respect of any period commencing on or after the date of commencement of this Act, a sum calculated at the rate of twelve and three-fifths per cent of the payment, and amounts so deducted shall be paid into the Scheme.

(2) If any salary or allowance from which a deduction required to be made under this section is not drawn, there shall be set aside, out of moneys available for the payment, a sum equal to the relevant deduction, and any sum so set aside shall be dealt with as if it were a sum so deducted.

(3) Except as otherwise expressly provided in this Act, no deduction or any part thereof made under this section shall be refunded to a member.

(4) Where an amount is deductible under subsection (1) in respect of a period before the date of publication of this Act, that amount shall bear interest at a rate of three per cent per annum up to that date and seven per cent per annum thereafter, and the Board may permit the deduction of that amount and interest thereon by instalments over a period of not more than three years from that date, and deduction thereof shall be a first charge on all payments due to a member in respect of pensionable emoluments, or due to the member, a dependant or legal personal representative in respect of any other payment under this Act.

## **Reckonable service**

27. (1) Subject to subsection (2) of this section the total reckonable service of a member shall be the aggregate of all periods beginning on or after the commencement of this Act during which he was or is a member of the County Assembly, and in respect of which periods deduction of contributions has been made under section 25.

(2) Any person to whom this Act applies who has, at any time before the commencement of this Act, but on or after 4th, March, 2013, served as a member of the County Assembly shall, if he applies therefore and pays to the Scheme within a period of one year from such commencement or from such later date as is approved by the Board, all the contributions applicable to his pensionable emoluments in respect of that service accumulated with interest to the date of payment, be eligible to have that service treated as reckonable service under this section.

(3) Where a person is not able to pay the accumulated amount in a lump sum within that period, the Board may permit him to pay the amount in instalments extending over a period of not more than four years, subject

to the condition that interest accumulated in respect of each instalment is paid up to the date of its payment, and subject also to the condition that if, before the full amount is so paid, any pension, gratuity or other allowance becomes due to the person, his dependants or his legal personal representative, that pension, gratuity or other allowance shall, in so far as it relates to or is based on that past service, be reduced to such extent as an approved actuary may advise.

(4) For the purpose of this section, where there is more than one period falling under subsection (1) or (2) those periods shall be aggregated, and where those periods contain fractions of a year the total of those fractions shall be converted into years, months and days by taking a year to contain three hundred and sixty-five days and a month to contain thirty days.

(5) For the purposes of subsection (2), the rate of interest chargeable on an amount payable by the member shall, in respect of the period commencing six months after the commencement of this Act be fifteen per cent per annum.

### **Pensionable emoluments**

28. Pension payable under this Act shall be based on the member's pensionable emoluments for the last twelve months (whether continuous or discontinuous) during which he was a member of the County Assembly.

### **Refund of contributions**

29. (1) The Board shall refund two times the contributions paid by a person accumulated with interest, on written application by that person, subject to the following conditions being fulfilled in respect of him, namely that he has ceased to be a member of the County Assembly and that, if section 29(1)(b) does not apply, his aggregate period of reckonable service is less than one term: Provided that where the refund is due to retirement of the member for reasons of ill-health and the conditions specified in paragraph (b) of section 30 are fulfilled, the amount refunded shall be as specified in that paragraph.

(2) If after the refund of the contributions to him under this section the contributor again becomes a person liable to pay contributions under section 25, he may, if he so desires, repay in one lump sum all the contributions paid to him, including interest paid thereon and accumulated interest thereon to the date of repayment, within a period of three months from the date he becomes so liable.

(3) Any amount (whether of principal or interest) paid by the contributor under subsection (2) shall be treated for the purposes of this



section as if it were a contribution made by him at the time when he makes that payment.

(4) For the purpose of calculating a person's aggregate period of reckonable service, no account shall be taken of any period in respect of which contributions paid by that person have been refunded to him under this section and not subsequently repaid by him.

(5) For the purposes of this Act, a person who ceased to be a member of the County Assembly in consequence of its dissolution shall be deemed to continue to be a member until such time as he fails to be re-elected (whether by reason of failing to stand for election or otherwise) to the County Assembly in the election to the new Assembly consequent on that dissolution.

#### **Pensions to former members**

**30.** (1) Subject to the provisions of this Act, a person shall after the date of commencement thereof be entitled to receive a pension under this section as from the time when the following conditions are fulfilled in respect of him –

- (a) he has ceased to be a member of the County Assembly by reason of the dissolution of County Assembly ; and
- (b) his aggregate period of reckonable service is two terms of County Assembly; and
- (c) he has attained the age of forty-five years.

(2) The annual amount of pension payable to a person under this section shall be a sum equal to one three-hundredth of his pensionable emoluments for each completed month of his aggregate period of reckonable service: but if section 29 (1) b applies, the annual amount of pension payable shall be reduced by five per cent for each complete year or part of a year by which his aggregate period of reckonable service is less than ten years.

#### **Retirement by reason of ill-health**

**31.** Where a member of the County Assembly retires for reasons of ill-health and the Board is satisfied on the basis of medical evidence supported by the report of a Medical Board appointed by the County Director of Medical Services that there is no reasonable possibility of the person becoming fit to become again a member of the County Assembly, the Board shall—

- (a) where the member's aggregate period of reckonable service either—
  - (i) is not less than ten years; or

(ii) is less than ten years and section 29 (1)(b) applies, grant a pension calculated in accordance with sections 34 and 35 notwithstanding that he has not attained the age of forty-five years;

(b) where the member's aggregate period of reckonable service is less than ten years and section 29(1)(b) does not apply, grant a refund of the members contributions together with those made by the County Assembly on his behalf accumulated with interest.

### **Commutation of pension**

32. (1) A member who is entitled to a pension shall be entitled to commute up to one quarter of his annual pension at an equivalent of fifteen times the amount so commuted.

(2) The option to commute under this section shall be exercised in writing, and that option once exercised shall be final and irrevocable.

### **Death before retirement**

33. Where a person dies after the commencement of this Act at a time when he was or had at any time previous to his death been a member of the County Assembly, and he has not become eligible for a pension in accordance with section 29 then—

(a) if his aggregate period of reckonable service is less than twelve months Board shall refund to his legal personal representatives his contributions accumulated with interest;

(b) if his aggregate period of reckonable service is not less than twelve months, but less than ten years the Board shall pay a gratuity to his legal personal representatives of an amount equal to five times his annual pensionable emoluments on the date of his death or on the last date on which he was a member, as the case may be; or

(c) if his aggregate period of reckonable service is not less than ten years the Board shall pay—

(i) a gratuity as under paragraph (b); and

(ii) if he leaves a widow, a pension to the widow under section 34; and

(iii) if he leaves any children, a pension to the children under section 35.

### **Gratuity payable on death in certain cases**

34. Where a pensioner dies and no pension is payable in respect of him under section 34 or 35 and the total of the sums paid to him at the

date of his death on account of his pension, including any part of the pension which has been commuted under section 31, is less than the total of his contributions accumulated with interest to the date of his retirement, then the Board shall grant a gratuity to his legal personal representative equal to the excess of the amount by which those contributions accumulated with interest exceed the total sums so paid.

### **Pensions to widows and widowers**

35. (1) Subject to this section, the widow of a man who has died after the date of commencement of this Act shall be entitled to receive a pension under this section if her late husband, at the time of his death—

- (a) was entitled to receive a pension under section 29 (1); or
- (b) was not so entitled but whose aggregate period of reckonable service was not less than ten years.

(2) The annual amount of a widow's pension under this section shall be one-half of the actual or prospective pension of her late husband: Provided that where the deceased leaves more than one wife the pension payable shall be shared equally among his wives.

(3) Subject to subsection (4), a pension payable under this section to a widow shall continue for her life or until her remarriage:

Provided that in the case of remarriage the Board may, with the concurrence of the Attorney-General, at any time direct that the pension shall be restored if it is satisfied that the subsequent marriage has been terminated.

(4) No pension shall be payable under this section to a widow who at her husband's death was cohabiting with another person; and if a widow entitled to such a pension cohabits with another person the pension shall cease to be payable.

(5) Where a man dies in circumstances in which, apart from this subsection, a widow's pension would be payable to a woman married to him within the year ending with his death, then if—

(a) there are no children of that marriage; and

(b) it appears to the Board that his death within the year was reasonably foreseeable by him at the date of his marriage, the Board, with the concurrence of the Attorney-General, may direct that no widow's pension shall be payable under this section.

(6) Where a woman who is entitled to receive a pension under section 29 (1), or who is not so entitled but whose aggregate period of

reckonable service is not less than ten years, dies, her widower shall become entitled to a pension under this section.

(7) The provisions of subsections (25) and (26) shall apply mutatis mutandis for the purposes of subsection (27).

### **Pensions to children**

36. (1) Subject to this section, a children's pension shall be payable for the benefit of any child or children of a person who dies after the coming into force of this Act and who, at the time of his death, is or has been married, if at the time of his death either of the conditions specified in section 34 (1)(a) and (b) fulfilled.

(2) A pension payable under this section shall be as follows—

- (a) while there is only one child, a pension at the rate of 25 per cent of the actual or prospective pension of the deceased;
- (b) while there are two children, a pension at the rate of 50 per cent of the actual or prospective pension of the deceased to be divided equally for the benefit of each child;
- (c) while there are three or more children, a pension at the rate of 75 per cent of the actual or prospective pension of the deceased to be divided equally for the benefit of each child.

### **Benefits entitled to Members of County Assembly**

37. (1) a retired Member of County Assembly shall during his or her lifetime be entitled to a lump sum equal to one year's basic salary for each term served in office, or as specified, whichever amount is higher.

(2) A Member of the County Assembly who serves for two terms or more shall be entitled to full medical cover for a retired Member of County Assembly and Spouse.

### **Reduction of benefits**

38. If it is established to the satisfaction of the Board that a member has been guilty of serious misconduct or has made any false claim or declaration concerning a benefit payable under this Act, the Board may reduce any pension or gratuity payable, whether to that member or to any of his dependants in respect of his service, to an extent not exceeding two thirds of the pension or gratuity.

### **Cessation of pension**

39. (1) Every pension granted under this Act shall, unless it has sooner ceased, cease upon the death of the person to whom it is granted.

(2) No such pension shall be payable to a person in respect of any period during which he is a member of the County Assembly.

**Benefits not assignable**

40. A pension or gratuity granted under this Act shall not be assignable or transferable, and shall not be liable to be attached, except for the purpose of satisfying—

- (a) a debt due to the Government; or
- (b) an order of any court for payment of periodical sums of money towards the maintenance of a wife, former wife or minor child of the person to whom the pension or gratuity has been granted.

**Benefits charged to County Revenue Fund**

41. All refunds of contributions, interest on contributions, pensions, gratuities and allowances which are payable under this Act shall be charged on and shall be paid from the County Revenue Fund.

**PART V— FINANCIAL PROVISIONS**

**The Financial year**

42. The financial year of the Scheme shall be the period of twelve months ending on the thirtieth June in each year.

**Expenditure estimates for entitled persons under part III**

43. (1) An entitled person under part III of this Act, or his or her surviving spouse, as the case may be, shall, at least five months before the commencement of each financial year, submit estimates of all the expenditure required in respect of the benefits to which he or she is entitled under this Act for that year, to the County Executive Committee Member responsible for Finance for approval.

(2) Upon approval of the estimates submitted under subsection (1), all monies, from time to time, required in respect of the benefits conferred on an entitled person or his or her surviving spouse by this Act shall be charged on and issued out of the County Revenue Fund without further appropriation than this Act.

(3) All other expenses incurred in the administration of the provisions of this Act shall be met out of monies appropriated by the County Assembly for that purpose.

**Expenditure Estimates for the scheme**

44. (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Scheme for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Scheme for the financial year concerned.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate.

(4) Expenditure of the Scheme shall not be incurred except in accordance with the annual estimates approved under subsection (3).

#### **Auditing of accounts**

45. (1) All accounts kept under this Act shall be audited by the Controller and Auditor-General at least once in every calendar year.

(2) Before any payment is made to any person eligible for a pension, gratuity or other payment under this Act, or to his eligible widow or other dependants, the computation of that payment shall be verified and certified as correct by the Controller and Auditor-General.

(3) In computing the benefits due to a person entitled to benefits under this section, the benefits already received by that person under any other law or policy shall be set-off against the benefits due under this Act.

#### **Accounts and Audit**

46. (1) The Board shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities by the Auditor-General.

(2) Within a period of three months after the end of each financial year, the Board must submit to the Auditor General the accounts of the Scheme in respect of that year together with—

(a) a statement of the income and expenditure of the Scheme during that year; and

(b) a statement of assets and liabilities of the Scheme during that year.

(3) The annual accounts of the Scheme must be prepared, audited and reported upon by an auditor in accordance with the International Financial Reporting Standards.

#### **Actuarial review**

47. (1) The Scheme shall be reviewed by an actuary appointed by the Board at such intervals as the Board may consider necessary.

(2) The Actuary appointed under subsection (1) shall—

(a) prepare a report on the state of the Scheme, its sustainability, adequacy and pension targets; and

(b) recommend any necessary action to be taken.

(3) The Actuary shall submit the report prepared under subsection (2) to the Board within the stipulated time in the instrument of appointment.

(4) The Board shall, within six months of the receipt of such report, consider any recommendations made by the actuary and in so doing, may take any action recommended by the Actuary.

**FIRST SCHEDULE****PROVISIONS RELATING TO THE CONDUCT OF BUSINESS  
AND AFFAIRS OF THE BOARD****Meetings**

1. (1) The Board should have at least four meetings in every financial year and not more than four months may elapse between the date of one meeting and the date of the next meeting.

(2) Meetings shall be convened by the Trust Secretary in consultation with the Chairperson and shall be held at such times and such places as the Chairperson shall determine.

(3) The Chairperson shall preside over all meetings and in the absence of the Chairperson by a trustee elected by the Board at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the Board, and shall do so within seven days of the receipt by the Chairperson of a written request signed by at least five other trustees.

(5) Unless five Trustees forming a quorum otherwise agree, at least seven days' notice of a meeting shall be given to every trustee.

**Quorum**

2. (1) The quorum of a meeting of the Board is five Trustees present in a physical location or via a suitable electronic medium.

(2) For special meetings, the quorum is five Trustees present as per 2 (1) above.

**Voting.**

3. A decision of the Board shall be by consensus or by a majority of Trustees constituting a quorum and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote.

**Minutes.**

4. Minutes of all meetings shall be kept and entered in records kept for that purpose by the Trust Secretary.

**Disclosure of interest**

5. (1) If a person is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest.



(2) The person making the disclosure of interest under subsection (1) must not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the registers and minutes of the meeting at which it is made.

**SECOND SCHEDULE****ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED GOVERNOR**

- (a) One driver;
- (b) One four wheel drive car not exceeding 3000cc;
- (c) Fuel Allowance (10% of monthly salary);
- (d) One personal assistant/secretary;
- (e) One house keeper;
- (f) Full medical cover for local and overseas treatment for Executive and Spouse;
- (g) Maintenance expenses for the vehicles provided pursuant to this Act.

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**THIRD SCHEDULE**

**ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED  
DEPUTY GOVERNOR**

- (a) one driver;
- (b) one car not exceeding 3000cc;
- (c) one personal assistant;
- (d) full medical cover for former Deputy Governor and Spouse.

**FOURTH SCHEDULE****ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED  
SPEAKER**

- (a) One driver;
- (b) One car not exceeding 3000cc;
- (c) Full medical cover for former Speaker and Spouse;
- (d) one personal assistant.

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**MEMORANDUM OF OBJECTS AND REASONS**

The principal object of the Bill is to establish the County State Officers Pension Scheme under the Act.

**Part I** contains preliminary matters.

**Part II** provides for the establishment and management of the Scheme

**Part III** .....

**Part IV (Clauses 24-31)** .....

Dated the .....2022.

ALEX KAMITU,  
*Member, County Assembly.*



