

PARLIAMENT OF UGANDA

**REPORT BY THE LEGAL AND PARLIAMENTARY AFFAIRS COMMITTEE ON
THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL 2014**

OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDINGS
KAMPALA - UGANDA

MAY 2015

1.0 Introduction

The Parliamentary Pensions (Amendment) Bill, 2014 was read for the first time on 10th September 2014 and referred to the Legal and Parliamentary Affairs Committee for scrutiny.

The Committee scrutinized the bill in accordance with Rules 117 and 118 of the Rules of Procedure of Parliament wishes to report.

2.0 Background

The Parliamentary Pension Act 2007

In 2007, Parliament passed the Parliamentary Pensions Act, which created a contributory pension scheme for Members of Parliament and staff of Parliament and established the Parliamentary Pensions Fund.

This is the second Amendment to the Principle Act of 2007. The first Amendment Bill was moved in 2010. The **Parliamentary Pensions (Amendment) Bill, 2010**, seeking to amend the Parliamentary Pensions Act was introduced by Hon. Stephen Biraahwa Mukitale, the then Chairperson of the Parliamentary Pensions Board of Trustees. This August House passed it in 2011. The 2010 amendment bill sought to;

- i. clarify on membership by including Members of Parliament who were not Members as at 2nd July 2001;
- ii. clarify on the type of pension scheme that was created;
- iii. transfer of members benefits to another pension scheme upon retirement or withdrawal from the scheme;
- iv. provide for dispute resolution; and,
- v. provide for disability pension amongst others.

The second amendment to the Principle Act, **The Parliamentary Pension (amendment) Bill, 2014** presented to the House in September 2014 is the subject of this report.

3.0 Object of the Bill

The object of the **Parliamentary Pension (Amendment) Bill, 2014** is to amend the Parliamentary Pensions Act 2007, Act No. 6 of 2007 to:

- i. give a corporate status to the Parliamentary Pension scheme;
- ii. provide for additional powers of the Board of Trustees;
- iii. provide for continuity of the Board membership;
- iv. change the pensionable period of service from five years to ten years of continuous service;
- v. include the staff of the Parliamentary Pension scheme as members of the scheme;
- vi. provide for additional voluntary contributions;
- vii. change the duration of actuarial valuation from five years to three years; and
- viii. provide for trivial pension.

4.0 Methodology

In scrutinizing the Parliamentary Pensions (Amendment) Bill 2014, the Committee held meetings and carried out consultations with the following stakeholders:

- i. Board of Trustees of the Parliamentary Pension Scheme;
- ii. Parliamentary Commission
- iii. Members of Parliament
- iv. The Staff of Parliament; and
- v. Former Members of Parliament.



Handwritten signatures and initials of committee members and stakeholders, including 'Chairperson', 'Secretary', 'Parliamentary Commission', 'Members of Parliament', 'The Staff of Parliament', and 'Former Members of Parliament'.

The Committee identified Kenya as one of the countries with a robust pension regime. The Committee visited the Retirement Benefits Authority of Kenya and other affiliated institutions to benchmark best practices for purposes of enriching the bill.

5.0 Issues raised by stakeholders

The stakeholders raised the following issues:

- i. Clause 3 seeks to amend section 5 of the Principal Act by allowing staff of the Parliamentary Pension scheme to become members of the scheme. The Staff of the Parliamentary Pension scheme are employed on contract basis and make their contribution to NSSF. This would compromise the proposed clause on establishment of a body corporate and create a conflict of interest.
- ii. Clause 5 introduces voluntary contributions by members of the scheme towards the scheme. Unplanned contributions would distort planning for the scheme.
- iii. Clause 16 seeks to give powers to the board to delegate any of its powers to any other person. The provision does not specify which powers the board can delegate.
- iv. Clause 16 seeks to empower the board to borrow money. The stakeholders were of the view that a pension scheme must restrict the investments to member's contributions.
- v. Compliance with the Uganda Retirements Benefits Authority has led to increased operational costs in form of fees to the authority itself and fees to third parties such as the investment manager and custodian. All this is charged as a percentage of the value of the scheme assets.
- vi. In addition to the fees in (v), the scheme pays 30% ~~of gross~~ earnings from investment activities as income tax to Uganda Revenue Authority as opposed to SACCOS where investment activities withholding tax is the final tax obligation. The exorbitant

tax levied on the scheme erodes availability of funds to members in form of enhanced interest payment.

- vii. Further section 7B of the Parliamentary Pensions Act restricts the lending out of the scheme funds to any person. The exception in section 7B (2) which allows a member to utilize a portion of his or her benefits to secure a mortgage or a loan for purchasing a residential house is not easy to operationalize.
- viii. The scheme funds should be availed to Members as loans at a low interest rate.

6.0 Findings and observations by the Committee

- i. Section 92 of the Uganda Retirements Benefits Act 2011(URBRA Act) provides that the Act takes precedence over other Acts regarding pension matters. The Parliamentary Pension Scheme has to be subjected to the provisions of the URBRA Act. Any law in conflict with the Act must be amended to bring it in conformity with the Act.
- ii. The Trustees of a Pension Scheme must be skilled people or professionals especially in the financial and investment matters. The trustees have the main responsibility for the administration of a pension scheme and compliance with the requirements that apply to that scheme. Even if the day to day administration is delegated, the trustees are still responsible for the scheme. They have to be aware of up-to-date position in respect of the documentation governing the scheme and should take steps to ensure that they are sufficiently informed to discharge their duties and responsibilities as trustees. They have to keep evaluating the fund Manager. Have to participate in the drawing of the investment policy which policy should have risk controls, research and asset allocation. Trustees must undergo trustee training as frequently as possible.

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iii. The Bill proposes to include the staff of the Parliamentary Pension Scheme as members of the scheme. The committee made the following observations on this proposal

- The Parliamentary Pension Scheme is a hybrid scheme under which Members and the Government make contributions to the Fund.
- The scheme is a defined benefit scheme where the benefit is defined in accordance with a hybrid balance benefit formula as provided for in schedule 1 to the Parliamentary Pensions Act. Where the fund cannot sufficiently cover the benefit of an entitled beneficiary, the Government will have to make good the deficit.
- The Staff of the Parliamentary Pensions Scheme being employed on a contract basis have to be catered for under a special arrangement. The proposal is for the Scheme i.e. Members contribution to provide the 30% for the staff of the Parliamentary Pension Scheme. This is not an acceptable expense considering best pension governance practices.
- Where employees are employed on a contract basis as opposed to permanent and pensionable basis, the appropriate retirement scheme for such employees is a provident fund like National Social Security Fund.
- The Staff of the Secretariat of the Parliamentary pension scheme are the administrators of the scheme. To this effect, the Committee observed that to ensure effective administration of a pension scheme, the administrator of a pension scheme should be independent of the scheme.

iv. The proposed bill intends to introduce voluntary contributions. The committee made the following observations:

- For voluntary contributions to be allowed in to the scheme there is need to have proper laid down guidelines to cater for such.

- b) The funds have to be deducted from source for a period specified by the Member.
- c) The arrangement requires a separate account and the member decides whether to withdraw the lump sum amount or spread it over a period of time by purchasing annuity.
- d) The Parliamentary Pensions Scheme is a defined benefits scheme where benefits accruing to a Member are determined basing on the provided formula. Allowing voluntary contributions may not augur well with the existing scheme.

v. On whether the Scheme funds can be lent out? The committee made the following observations:

- a) The best pension governance practices worldwide require that any Act, rules, regulation or deed document establishing a pension scheme must put in place restrictions on the use of scheme funds. The fundamental restriction is that the scheme funds should not be lent to any person.
- b) The URBRA Act section 68 puts restrictions on the use of scheme funds. Section 68(1) (b) and (c) stipulates that the scheme funds shall not be lent to any person, except through securities sold on the open market or be invested with a bank, nonbanking financial institution, insurance company or any other institution with a view of securing loans or mortgages, at a preferential rate of interest.
- c) Subsection (2) of section 68 gives an exception that a prescribed portion of the benefits accruing to a member in a retirement scheme may be assigned and used by the member;
 - (i) to secure a mortgage or a loan for purchasing a residential house from any institution; or
 - (ii) to pay for medical treatment in respect of the Member, on recommendation of the Uganda Medical Board.

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- d) Section 7 of the Parliamentary Pension Act provides the same in respect of a mortgage or loan for a residential house. The Proposed amendment will bring in the option of securing a proportion of a member's contribution for purposes of covering medical bills.
- vi. The committee found that for a defined benefit scheme, it is very important to have the actuarial evaluation often. The recommended period for the defined benefits scheme is three years. The committee therefore agrees with the proposal to reduce the period of actuarial variation from five years to three years. A lot of things that require attention could have happened in a period of five years. If there is need for intervention it would be done early enough to cure any mishap.
- vii. The committee agrees with the proposal to have the Parliamentary Pension Scheme becoming a corporate body entity.

7.0 Recommendations

- i. The Committee recommends that the composition of the Board of Trustees should be revised. The Board should be composed of persons having experience or a profession relating to the field of finance, statistics, actuarial studies, accounts or law. The Board of trustees is the engine of the scheme which has to make fundamental decisions.
- ii. The Committee further recommends that the Board of Trustees should submit a bi-annual report on the performance of the scheme to Parliament for consideration.
- iii. There is need to amend the Parliamentary Pensions Act to bring it in conformity with the URBRA Act.
- iv. The staff of the Parliamentary Pension Scheme should maintain remitting their contributions to NSSF which is a provident fund appropriate for their circumstances.

- v. The Parliamentary Pension Scheme should consider introducing the voluntary contributions if only there are proper guidelines in place. This requires putting up a separate account for the voluntary contribution for a defined contribution scheme.
- vi. Finally the committee recommends that the bill be passed into an Act of Parliament subject to the following proposed amendments.

Amendments

Chairman

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Chair

Warden

Chairwoman

Jones

Harris

St

Chairwoman

8.0 PROPOSED AMENDMENTS TO THE PARLIAMENTARY PENSIONS AMENDMENT BILL 2014

1. Clause 1

- Delete sub clause (a) paragraph (III) on definition of the term Member.

Justification

- Consequential amendment on proposed deletion of clause 2 paragraph (a) which seeks to include staff of the secretariat of the Parliamentary Pension Scheme as members of the scheme.

2. Clause 2

- Delete Clause 2 paragraph (a)

Justification

Where employees are employed on a contract basis as opposed to Permanent and Pensionable, the appropriate retirement scheme for such employees is a Provident fund like National Social Security Fund.

3. Clause 3

- Delete the entire clause 3

Justification

- Consequential amendment

4. Clause 4

- Delete Clause 4

Justification

- Consequential amendment

5. Clause 5

- Delete the entire clause.

Justification

- Voluntary contributions are suitable where the retirement scheme is a provident fund like NSSF. The voluntary contribution requires an establishment of a different fund where members would have an option of either being paid their benefits in lump sum or purchasing an annuity.

6. Clause 7

- Delete clause 7

Justification

- Consequential amendment

7. Section 13 of the Principal Act

- Section 13(1) is amended by inserting the word "the Year" between the words 'before' and 2010.

Justification

- For clarity.

8. Section 18 of the Principal Act

Insert a new subsection (1a) immediately after section 18(1) as follows:

(1a) The members elected under Subsection 1(b), (d) and (e) shall have qualification or substantial experience in the field of finance, accounts, statistics, economics, actuarial science or law.

Justification

The Board of trustees is the engine of the scheme which has to make fundamental decisions.



9. Insertion of a new section 21A immediately after Section 21 of the Principal Act

Section 21A Bi-annual reports to Parliament

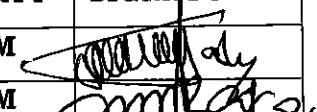
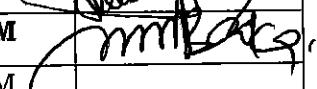
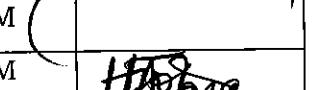
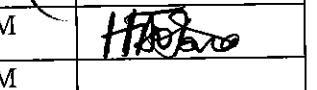
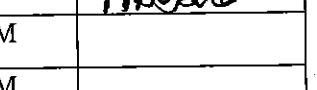
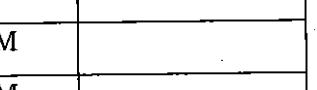
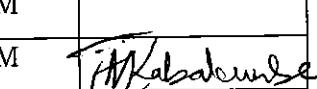
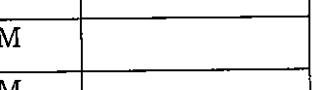
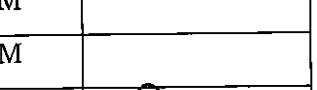
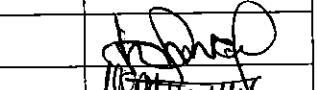
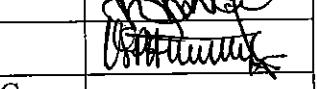
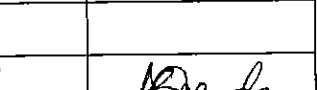
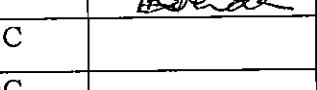
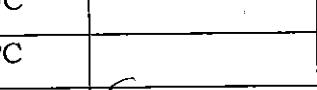
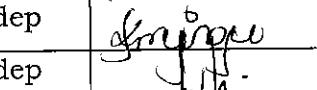
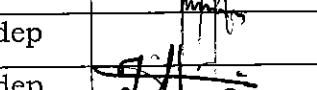
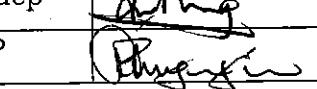
- (1) The Board of Trustees shall at least once in every six months submit a report to Parliament on the performance of its functions.
- (2) Parliament shall consider the report submitted under subsection (1).

- Justification

To involve Parliament in the monitoring of the scheme to ensure that Members achieve financial security at retirement.



COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS
SIGNATURES OF CONSENT FOR THE REPORT ON PARLIAMENTARY
PENSION (AMENDMENT) BILL, 2014

NO	NAME	CONSTITUENCY	PARTY	SIGNATURE
1.	Hon. Tashobya Stephen	Kajara	NRM	
2.	Hon. Baka Stephen	Bukooli North	NRM	
3.	Hon. Achia Remigio	Pian	NRM	
4.	Hon. Obua Denis H.	Ajuri	NRM	
5.	Hon. Timbigamba Lindah	Kyenjojo	NRM	
6.	Hon. Musinguzi Yona	Ntungamo	NRM	
7.	Hon. Kamateeka Jovah	Mitooma	NRM	
8.	Hon. Kabakumba Masiko	Bujenje	NRM	
9.	Hon. Ndeezi Alex	PWDs - Central	NRM	
10.	Hon. Nyakecho Okwenye Annet	Otuke	NRM	
11.	Hon. Nakayenze Connie	Mbale	NRM	
12.	Hon. Byarugaba Alex Bakunda	Isingiro South	NRM	
13.	Hon. Amoding Monica	Youth Northern	NRM	
14.	Hon. Mbabazi Betty	Rubirizi	NRM	
15.	Hon. Mbabazi Amama	Kinkizi West	NRM	
16.	Hon. Wilfred Niwagaba	Ndorwa East		
17.	Hon. Lt. Col. Sarah Mpabwa	UPDF		
18.	Hon. Abdu Katuntu	Bugweri	FDC	
19.	Hon. Medard Lubega Ssegona	Busiro East	DP	
20.	Hon. Joseph Balikuddembe	Busiro South	DP	
21.	Hon. Nabukenya Brenda	Luwero	DP	
22.	Hon. Paul Mwiru	Jinja Mun East	FDC	
23.	Hon. Acire Christopher	Gulu Municipality	FDC	
24.	Hon. Chrispus Ayena	Oyam North	UPC	
25.	Hon. Jennifer Mujungu	Ntoroko	Indep	
26.	Hon. Sam Amooti Otada	Kibanda	Indep	
27.	Hon. Fox Odoi Oywelowo	West Budama North	Indep	
28.	Hon. Gerald Karuhanga	Youth Rep. Western	Indep	
29.	Hon. Namayanja Florence	Bukoto County East	DP	

