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**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026**

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**DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION**

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**REPORT ON THE CONSIDERATION OF
THE PUBLIC SERVICE SUPERANNUATION SCHEME
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2025)**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 16 APR 2026	DAY: THUR
TABLED BY:	WILLIAMS OBIED
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**CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI**

APRIL 2026



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LIST OF ABBREVIATIONS AND ACRONYMS

AGM	Annual General Meeting
Cap.	Chapter (of the Laws of Kenya)
CEO	Chief Executive Officer
CS	Cabinet Secretary
DB	Defined Benefit
DC	Defined Contribution
M.P.	Member of Parliament
NPS	National Police Service
NSSF	National Social Security Fund
NYS	National Youth Service
PSC	Public Service Commission
PSSF	Public Service Superannuation Fund
PSSS	Public Service Superannuation Scheme
PRMF	Post-Retirement Medical Fund
RBA	Retirement Benefits Authority
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission
WCPS Act	Widows and Children Pensions Scheme Act

LIST OF ANNEXURES

1. Report Adoption Schedule
2. Committee Minutes
3. Copy of the newspaper advertisement on public participation
4. Letters inviting stakeholders to meetings with the Committee
5. Stakeholders' submissions

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Social Protection on its consideration of the Public Service Superannuation Scheme (Amendment) Bill (*National Assembly Bill No. 33 of 2025*). The Bill underwent First Reading on 8th October 2025 and was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

The Bill is divided into fifty-six (56) clauses. The Public Service Superannuation Scheme (Amendment) Bill (*National Assembly Bill No. 33 of 2025*) seeks to amend the Public Service Superannuation Scheme Act in order to streamline the governance and administration of the Scheme.

Following placement of advertisements in the print media on 17th October 2025 seeking public and stakeholder views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from the Public Service Superannuation Scheme, the National Treasury, Retirement Benefits Authority (RBA), Salaries and remuneration commission as well as the National Social Security Fund (NSSF).

The Committee invited stakeholders vide letters REF: NA/DDC/SP/CORR/2025/062, NA/DDC/SP/CORR/2025/064 both dated 22nd October 2025, to give their submissions on the Bill.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all stakeholders who made their respective submissions on the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made valuable input during consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Social Protection and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee regarding the Public Service Superannuation Scheme (Amendment) Bill (*National Assembly Bill No. 33 of 2025*).

I thus wish to table this Report on the Public Service Superannuation Scheme (Amendment) Bill (*National Assembly Bill No. 33 of 2025*) in this Honourable House, with the recommendation that the Bill be **approved with amendments** which are contained in this Report.

The Hon. Alice Wambui Ng'ang'a, CBS, M.P.
Chairperson, Departmental Committee on Social Protection

PART ONE

I PREFACE

I.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Social Protection is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. **To study and review all the legislation referred to it;**
 - v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

I.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
3. In executing its mandate, the Committee oversees the following State departments and Commission;
 - i. The State Department for Social Protection and Senior Citizen Affairs
 - ii. The State Department for Children Services
 - iii. The State Department for Gender and Affirmative Action
 - iv. The State Department for Youth Affairs and Creative Economy
 - v. The State Department for Public Service (National Youth Service)
 - vi. The National Gender and Equality Commission (NGEC)

I.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Social Protection was constituted by the House on 27th October 2022 and re-constituted on 5th March 2025, and comprises of the following Honourable Members:

5.

Chairperson

Hon. Alice Wambui Ng'ang'a, CBS, MP
Thika Town Constituency
UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency
UDA Party

Members

Hon. Faith Wairimu Gitau, CBS, MP
Nyandarua County
UDA Party

Hon. Owen Baya Yaa, CBS, MP
Kilifi North Constituency
UDA Party

Hon. Timothy Wanyonyi Wetangula, CBS, MP
Westlands Constituency
ODM Party

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency
WDM-K Party

Hon. Samuel Moroto Chumel, CBS, MP
Kapenguria Constituency
UDA Party

Hon. Paul Abuor, MP
Rongo Constituency
ODM Party

Hon. James Onyango Oyoo, MP
Muhoroni Constituency
ODM Party

Hon. Susan Nduyo Ngugi, MP
Tharaka Nithi County
TSP Party

Hon. Hussein Abdi Barre, MP
Tarbaj Constituency
UDA Party

Hon. Agnes Mantaine Pareiyo, MP
Narok North Constituency
JUBILEE Party

Hon. Amina Abdullahi Dika, MP
Tana River County
KANU Party

Hon. Linet Chepkorir, MP
Bomet County
UDA Party

Hon. Zamzam Mohamed Chimba, MP
Mombasa County
ODM Party

I.4 COMMITTEE SECRETARIAT

6. The Committee is facilitated by the following Parliamentary staff:

Ms. Nuri Kitel Nataan
Lead Clerk/ Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Ms. Jemimah Waigwa
Senior Legal Counsel

Mr. Benard Adera
Fiscal Analyst I

Ms. Grace Maneno
Research Officer III

Mr. Benjamin Ochutsi
Hansard Officer III

Ms. Naomi Onsomu
Public Communications Officer

Mr. Derrick Kathurima
Media Relations Officer

Mr. Cosmas Akhonya
Audio Recording Officer

Ms. Eva Kaare
Serjeant-at-Arms

PART TWO

2 BACKGROUND OF SUPERANNUATION IN KENYA

2.1 PART A: SITUATIONAL ANALYSIS

2.1.1 Introduction

7. Since its operationalization on 1st January 2021, the Public Service Superannuation Scheme (PSSS) has enrolled public servants in a funded defined contribution (DC) scheme. While the transition from a pay-as-you-go (PAYG) system was a landmark reform, operational experience has revealed several structural and administrative gaps that impede the Scheme's efficiency and responsiveness to member needs. This situational analysis identifies the key challenges that necessitate the amendments proposed in the Bill.

2.1.2 Governance and Board Composition Challenges

8. The current composition of the Board of Trustees, as prescribed by Section 10 of the principal Act, has been a subject of contention among key stakeholders, particularly employee unions and the disciplined services.
 - i. **Representation Deficit:** The principal Act does not explicitly provide for representation from the National Police Service, Kenya Prisons Service, and National Youth Service (collectively, the Disciplined Services). Given that these services constitute a significant portion of the membership and operate under unique terms of service (including mandatory retirement ages), their exclusion from the governance structure creates a democratic deficit.
 - ii. **Independence Concerns:** The appointment of the Chairperson by the Cabinet Secretary, rather than through a more independent process, raises questions regarding the Board's autonomy from the Executive. Stakeholders have expressed concerns that this arrangement could compromise the Board's ability to act solely in the best interests of members, particularly in disputes involving employer (Government) compliance.
 - iii. **Appointment of Union Representatives:** The previous mechanism for appointing union representatives (through the Cabinet Secretary) was viewed as insufficiently participatory. Unions have advocated for a direct nomination process to ensure accountability to their members.

2.1.3 Employer Compliance and Contribution Remittances

9. A critical function of a defined contribution scheme is the timely remittance of contributions to the Custodian for investment. However, operational reports indicate challenges in this area.
 - i. **Delayed Remittances:** There have been instances where employer contributions (the 15 percent Government share) have been remitted late. Under the current Section 6 of the principal Act, the penalty for late payment (the "return of the Fund for the previous financial year") is triggered by Government failure. However, the language has been described as ambiguous, and enforcement has been inconsistent.

- ii. **Definition of "Employer":** The principal Act's interchangeable use of "Government" and "Cabinet Secretary" creates confusion regarding which entity (the National Treasury, the respective Commission, or the Ministry) bears the ultimate obligation to remit contributions. This ambiguity complicates accountability.

2.1.4 Member Rights: The Vesting and Portability Dilemma

10. The current vesting provisions under Section 25 of the principal Act have been identified as a major source of member discontent and a barrier to labour mobility.
 - i. **Staggered vesting:** The current provision requires a member to serve for ten years before fully owning the Government's contributions (vesting at 50 percent after five years, increasing incrementally). This structure is viewed as punitive to members who leave the public service prematurely for legitimate reasons (e.g., better opportunities, family relocation, health). It is out of step with modern pension practices which recognize employer contributions as deferred compensation.
 - ii. **Lack of portability:** The principal Act is silent on the transfer of benefits to other registered schemes. A member exiting public service currently has limited options, effectively locking their savings within the PSSS even if they join a different employer with a different scheme. This restricts member choice and the development of a competitive pension market.

2.1.5 Operational Inefficiencies Stemming from State Corporation Status

11. The classification of the PSSS as a State Corporation under the State Corporations Act (Cap. 446) has subjected its operations to public procurement and financial regulations that are ill-suited to a pension fund.
 - i. **Procurement delays:** The requirement to adhere to the Public Procurement and Asset Disposal Act for the appointment of service providers (Fund Managers, Custodians, Administrators) has led to lengthy procurement processes. In the fast-moving financial services industry, such delays can result in the Scheme missing optimal market opportunities or being stuck with underperforming managers.
 - ii. **Budgetary approvals:** The need for National Treasury approval for administrative budgets has constrained the Board's ability to respond swiftly to operational needs, potentially compromising service delivery to members.

2.1.6 Financial Transparency and Member Engagement

12. Members have expressed a desire for greater involvement in the affairs of the Scheme.
 - i. **Absence of an Annual General Meeting (AGM):** The principal Act does not mandate an AGM. Consequently, there is no statutory forum for members to receive reports directly from the Board, question the performance of Fund Managers, or vote on key issues affecting their retirement savings. This lack of direct accountability fosters mistrust.
 - ii. **Administrative expense concerns:** While the Scheme incurs legitimate administrative costs, there is no explicit statutory cap on these expenses.

Members are concerned that high administrative fees could erode the real value of their savings over time.

2.1.7 Legacy Benefit Administration

13. The administration of "legacy benefits" (pre-2021 service) has proven complex. Members who served before January 2021 are uncertain about the value of their preserved benefits under the old Pensions Act. The requirement for the Government to issue recognition letters and revalue these benefits (as currently implied in Section 50) has not been fully implemented, causing anxiety among the membership approaching retirement.

2.2 PART B: LEGAL FRAMEWORK

2.2.1 The Constitution of Kenya, 2010

14. The supreme law of the land provides the foundational basis for the Scheme and this Bill. **Article 40 (protection of right to property):** Retirement benefits accumulated in a member's account constitute property. Any legislative or administrative action affecting these benefits must not arbitrarily deprive a person of such property. The Bill's proposal for immediate vesting (Clause 16) strengthens this property right by recognizing full member ownership of all contributions. **Article 43 (economic and social rights):** Article 43(1)(e) guarantees every person the right to social security. The PSSS is a primary vehicle through which the State fulfils this obligation for public servants. Amendments that enhance the sustainability and governance of the Scheme directly contribute to the progressive realization of this right.

2.2.2 The Principal Act: Public Service Superannuation Scheme Act (Cap. 189A)

15. This is the statute that the Bill seeks to amend. The principal Act establishes the Scheme, defines its membership, sets out contribution rates, creates the Board of Trustees, and governs the payment of benefits. As detailed in the Situational Analysis above, specific provisions of the principal Act (Sections 6, 10, 25, 26, 39, etc.) have been identified as deficient or outdated, prompting the current omnibus amendment, Bill.

2.2.3 Related Statutes

16. **The Retirement Benefits Act (Cap. 197):** This is the umbrella legislation for all retirement benefits schemes in Kenya. It establishes the Retirement Benefits Authority (RBA), which regulates and supervises the PSSS. The Bill explicitly seeks to align the PSSS Act more closely with the RBA's framework (e.g., on portability, governance, and investment guidelines). Clause 8 of the Bill, for instance, establishes the "Public Service Superannuation Scheme Fund" in a manner consistent with RBA requirements for separate trust funds.
17. **The Pensions Act (Cap. 189) and The Widows' and Children's Pensions Act (Cap. 195):** These Acts govern the legacy benefits for service rendered before 1st January 2021. The Bill (Clause 35) reaffirms that these Acts continue to apply to pre-

2021 service, preserving the rights of members who accrued benefits under the old regime. This creates a legally sound "two-pot" system.

18. **The State Corporations Act (Cap. 446):** This Act governs the establishment and operations of State corporations. Currently, the PSSS falls under its ambit. Clause 40 of the Bill is a consequential amendment seeking to exclude the PSSS from the definition of a State Corporation. This is a critical legal maneuverer to grant the Scheme operational autonomy, freeing it from procurement and budgetary controls that hinder its efficiency as a pension fund.
19. **The Unclaimed Financial Assets Act (Cap. 390B):** This Act provides for the vesting of unclaimed financial assets in the Unclaimed Financial Assets Authority. Clause 38 of the Bill (new Section 56B) proposes to exempt the Scheme from this Act. The legal rationale is that unclaimed retirement benefits should remain within the retirement benefits ecosystem, ultimately traceable to members or their beneficiaries, rather than being transferred to the Authority.
20. **The National Social Security Fund Act (Cap. 258):** This Act establishes the NSSF. Clause 41 of the Bill proposes a consequential amendment to exempt members of the PSSS from contributing to the NSSF (Tier I and Tier II). This prevents double contributions and ensures that public servants are not unfairly burdened by two mandatory social security deductions.

2.2.4 Subsidiary Legislation and Regulatory Guidelines

21. The Scheme is also subject to regulations and guidelines issued by the RBA, including: **The Retirement Benefits (Investment) Regulations:** Governing how the assets of the Scheme can be invested.; and **the RBA Corporate Governance Guidelines for Retirement Benefits Schemes:** These guidelines set standards for the composition, conduct, and duties of Boards of Trustees. The Bill's amendments to Section 10 (Board composition) are clearly influenced by these guidelines, particularly the principles of diversity, independence, and stakeholder representation.

2.2.5 Interaction of the Bill with the Legal Framework

22. The Bill operates on multiple levels within this legal framework. **It amends** the Principal Act (Cap. 189A) to correct internal deficiencies. **It aligns** the Principal Act with the superior framework of the Retirement Benefits Act (Cap. 197) and RBA guidelines. **It clarifies** the relationship with legacy statutes (Pensions Act, Cap. 189). **It creates exemptions** from general statutes (State Corporations Act, Unclaimed Financial Assets Act) to grant the Scheme specialized status appropriate for a pension fund.

PART THREE

3 OVERVIEW OF THE PUBLIC SERVICE SUPERANNUATION SCHEME (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2025)

3.1 INTRODUCTION

23. The Bill provides for the amendment of the Public Service Superannuation Scheme Act in order to streamline the governance and administration of the Scheme. Specifically, the Bill, among others,
- i. seeks to provide clarity on the membership of the Scheme;
 - ii. seeks to affirm the role of the employer on contributions to the Scheme;
 - iii. seeks to clarify the obligations of the employer in relation to members' monthly contributions;
 - iv. seeks to refine the Public Service Superannuation Scheme Fund;
 - v. seeks to streamline governance of its Board of Trustees including broadening qualifications of the Board's Chief Executive Officer;
 - vi. seeks to empower members to access accrued retirement savings on leaving employment before retirement, and
 - vii. seeks to provide clarity on the appointment, functions and terms of the Manager and Custodian of the Fund.

3.2 REVIEW OF THE BILL

24. The Public Service Superannuation Scheme (Amendment) Bill (*National Assembly Bill No. 33 of 2025*) is a Bill sponsored by the Hon. Kimani Ichung'wah, MP (The Leader of the Majority Party). The Bill was published on 16th July 2025.
25. **Objective of the Bill:** The Bill seeks to amend the Public Service Superannuation Scheme Act (Cap. 189A) to enhance the governance, efficiency, and member-centric nature of the Scheme. Its primary objectives are to restructure the Board of Trustees for greater professionalism and representation, strengthen the rights of members regarding their retirement savings, clarify the financial obligations of employers, and grant the Scheme greater operational autonomy.
26. **Analysis of Bill Provisions:** The Bill introduces 41 amendments to the principal Act, which can be grouped into the following thematic areas:
27. The Bill makes the following proposals that relate to **governance and composition of the Board of Trustees (Clauses 9-15, 34, 39)**.
- i. **Renaming the Board:** The Bill proposes to change the name of the governing body from the "Public Service Superannuation Fund Board of Trustees" to the "**Public Service Superannuation Scheme Board of Trustees**" to accurately reflect its role in overseeing the entire Scheme.

- ii. **Reconstitution of the Board (Clause 11):** Section 10 is repealed and replaced to create a larger, more inclusive Board.
 - a. **Chairperson:** The Chairperson will now be appointed by the **President** and must hold a bachelor's degree and possess at least 20 years of relevant experience, with 10 years in senior management. The Chairperson must also be independent of the employers' or workers' organizations represented on the Board.
 - b. **Membership:** The Board is expanded to include nominees from key trade unions (KNUT, KUPPET, Union of Kenya Civil Servants). A significant addition is a seat for a nominee from the "**Disciplined Services**" (National Police Service, Kenya Prisons Service, National Youth Service), with representation rotating among these services. Principal Secretaries and Commission Secretaries retain their positions or right to nominate representatives.
 - c. **CEO:** The Chief Executive Officer remains an ex-officio, non-voting member.
 - iii. **Tenure and Conduct:** The grounds for removal of a trustee are tightened. A trustee will now be removed for being absent from **two** (previously three) consecutive meetings without justifiable cause (Clause 12). Furthermore, a person convicted of an offence under the Act will automatically cease to be a Board member (Clause 34).
 - iv. **Transition (Clause 39):** Current Board members will serve until the end of their terms, ensuring a smooth transition.
28. The Bill makes the following proposals that relate to **enhancement of member rights and benefits (Clauses 16, 17, 21, 23, 36)**.
- i. **Immediate Vesting (Clause 16):** A new section 25 is proposed to state unequivocally that "**All retirement savings shall immediately vest in a member.**" This grants members full and immediate ownership of all contributions (both employee and employer) from the moment they are credited, replacing the previous staggered vesting schedule.
 - ii. **Early Access (Clause 17):** A new section 26 explicitly permits a member leaving public service before retirement to access their accrued retirement savings, in accordance with the Retirement Benefits Act.
 - iii. **Portability (Clause 23):** A new section 33A is introduced to allow a member who exits the public service to **transfer the balance of their retirement savings account to another registered Scheme**. This enhances labour mobility.
 - iv. **Death in Retirement (Clause 21):** The amendment clarifies that if a retired member dies, their beneficiaries are entitled to a pension equivalent to the **unutilized balance** of the retirement benefits, based on the annuity or drawdown plan the member had chosen.

- v. **Post-Retirement Medical Fund (Clause 36):** The Bill empowers the Cabinet Secretary to make regulations for the **establishment of a post-retirement medical fund** within the Scheme, paving the way for a crucial new benefit.
29. The Bill makes the following proposals that relate to **employer obligations and contribution remittances (Clauses 4, 5, 6, 7):**
- i. **Definition of Employer:** The definition of "employer" is expanded to explicitly include the TSC, NPSC, and PSC, clarifying their direct responsibility.
 - ii. **Penalties for Default (Clause 4):** The Bill strengthens enforcement. Where an employer (replacing the word "Government") fails to remit its contributions on time, it is liable for a **penalty at the rate of the Scheme's return for the previous financial year.**
 - iii. **Explicit Duty to Remit (Clause 7):** A new section 8A is inserted, placing a direct and unequivocal **obligation on the employer** to deduct and remit both employee and employer contributions to the Custodian within ten working days.
30. The Bill makes the following proposals that relate to **financial management and operational autonomy (Clauses 8, 24-33, 37, 38, 40).**
- i. **Capping Administrative Expenses (Clause 28):** A new section 39 caps the administrative expenses of the Scheme at **one per cent of the total Scheme assets**, a key fiscal control measure.
 - ii. **Annual General Meeting (Clause 27):** The Board is mandated to convene an **Annual General Meeting for members** within six months of the end of each financial year, promoting transparency and accountability.
 - iii. **Service Provider Terms (Clauses 24-26):** The terms of appointment for the Administrator, Fund Manager, and Custodian will be set by the Board. For the Fund Manager and Custodian, the term is limited to a maximum of three years, renewable based on performance.
 - iv. **Exemptions:** The Bill proposes to grant the Board two key exemptions.
 - a. **From the State Corporations Act (Clause 40):** The Scheme is explicitly excluded from the definition of a "State Corporation," granting it significant operational and financial autonomy.
 - b. **From the Unclaimed Financial Assets Act (Clause 38):** Unclaimed benefits will remain within the Scheme's framework and not be transferred to the Unclaimed Financial Assets Authority.
 - v. **Exemption Power (Clause 37):** The Cabinet Secretary, with the RBA's concurrence, may exempt the Board from specific provisions of the Act (excluding benefit payments), providing administrative flexibility.
31. The Bill makes the following proposals that relate to **preservation of legacy benefits (Clause 35):**
- i. **Transitional Provisions for Past Service:** A new section 50 comprehensively addresses benefits for service before 1st January 2021. It confirms that these

benefits will be paid by the Director of Pensions under the old Pensions Acts. The Government is obligated to determine their value through an actuarial valuation, revalue them at 5% per year, and issue a recognition letter to each affected member.

32. The Bill has the **legal and policy implications**.

- ii. **Alignment with Best Practice:** The Bill brings the Scheme closer to international pension best practices by introducing immediate vesting, portability of benefits, and a cap on administrative expenses.
- iii. **Enhanced Accountability:** The requirement for an Annual General Meeting, the tighter rules on trustee attendance, and the automatic removal upon conviction strengthen accountability mechanisms.
- iv. **Operational Independence:** Excluding the Scheme from the State Corporations Act is a significant policy shift, intended to free it from bureaucratic constraints and allow it to operate with the agility of a private sector fund manager. This will require careful oversight to ensure it meets its fiduciary duties.
- v. **Clarity for Members and Employers:** The Bill resolves ambiguities by clearly defining "employer," outlining the consequences of non-remittance, and simplifying the rules on benefit access and transfer.

33. **Financial Implications:** The Memorandum of Objects and Reasons state the Bill will not occasion additional expenditure of public funds. While it does not establish a new direct charge on the Consolidated Fund, it solidifies the Government's liability for employer contributions and associated penalties for late payment. The revaluation of pre-2021 benefits at 5% per year (Clause 35) represents a crystallized and growing liability for the Director of Pensions. The 1% cap on administrative expenses is a protective measure for members' savings.

34. **Conclusion/Recommendation Points:** The Public Service Superannuation Scheme (Amendment) Bill, 2025, is a comprehensive and progressive piece of legislation that seeks to modernize the public service pension scheme. It balances the interests of members, employers, and the government by enhancing rights, clarifying obligations, and promoting professional governance.

PART FOUR

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

35. Following the call for memoranda from the public through placement of adverts in the print media on 17th October 2025 and vide letters NA/DDC/SP/CORR/2025/062, NA/DDC/SP/CORR/2025/064, both dated 22nd August 2025, inviting stakeholders for a meeting and requesting for their written submissions on the Bill.
36. The Committee received memoranda from the following stakeholders:
- i. The Public Service Superannuation Scheme
 - ii. The National Treasury
 - iii. Retirement Benefits Authority (RBA)
 - iv. National Social Security Fund (NSSF)
 - v. Public Service Commission
 - vi. The Salaries and Remuneration Commission (SRC)
37. The stakeholders submitted as follows:

4.1 THE PUBLIC SERVICE SUPERANNUATION SCHEME

38. The Public Service Superannuation Scheme Act, Cap 189A (formerly No. 8 of 2012) of the Laws of Kenya (hereafter referred to as 'the PSSS Act') was enacted on 9th May 2012 but commenced on 1st January 2021 following the gazette of the commencement date by the then Cabinet Secretary, National Treasury and Economic Planning (hereafter 'Cabinet Secretary').
39. The PSSS noted that in 2022, the Board of Trustees of PSSS invoked section 55 of the Act, recommended to the Cabinet Secretary that the PSSS Act be amended to harmonize it with the Retirement Benefits Act and other relevant legislations, demographic and socio-economic realities, and best practices in the retirement benefits industry. This culminated in the establishment of a Multi-Agency Committee that was tasked with identifying gaps in the Act and preparing proposed amendments to it. The Public Service Superannuation Scheme (Amendment) Bill, 2025 is a culmination of a comprehensive review by the Multi-Agency Committee and incorporates feedback from various stakeholders and members of the public who were engaged in a public participation exercise.
40. The Public Service Superannuation Fund made below proposals on the PSSS Amendment Bill, 2025 —
- i. Clause 2 had been incorrectly written as "principal Act" instead of "Principal Act".
 - ii. Still on clause 2, the definition of administrator ought to have come first in respect of the rule on alphabetical ordering of the definitions.
 - iii. It was proposed that section 3 be titled "Establishment of the Fund". The subsections thereunder then state as follows —
 - (I) There is established a fund to be known as the Public Service Superannuation Fund which shall be vested in, operated and managed by the Board.

- (2) The Fund shall be a retirement benefits scheme within the meaning of the Retirement Benefits Act (Cap. 197).
- (3) There shall be-
 - a) paid into the Fund, all contributions and other payments required by this Act to be paid into the Fund;
 - b) prudent investments of all contributions and other payments therein; and
 - c) paid out of the Fund, all benefits and other payments required by the Act to be paid out of the Fund,
- iv. All references to "Scheme" in the Bill should be substituted with the term "Fund".
- v. In clause 7, the proviso to section 8A, the word "Government" should be changed to employer to be in tandem with the referenced section 6(2).
- vi. The alignment of section 28 under Clause 19 should be corrected. The Principal Act is numbered as (a) while the Bill numbers it as (i).
- vii. In clause 32, the deleted subsection (2) is to be substituted. The Bill, however, numbers it as subsection (3) instead of (2).

4.2 THE NATIONAL TREASURY

- 4.1. The National Treasury and the Retirement Benefits Authority, noted that the amendments proposed in the Bill come at a time when the country continues to deepen the transition from a Defined Benefits (DB) framework to a modern, fully-funded Defined Contribution (DC) pension system. The Bill, therefore, provided an important opportunity to align the Public Service Superannuation Scheme with the Retirement Benefits Act, enhance governance, reinforce accountability, and address operational gaps that have been identified since the Scheme's operationalization in 2021.
- 4.2. **On alignment with the Retirement Benefits Act and modern pension practice**, the National Treasury noted that a significant number of the proposed amendments were seeking to align the Scheme with industry-wide standards established under the Retirement Benefits Act (Cap 197). The amendments were crucial for enhancing compliance, improving member portability, and ensuring competitive benefits that reflect the nature of modern Defined Contribution schemes. Other alignments included introducing clear and complete definitions such as beneficiary, deferred member, and administrator; clarifying the roles of the employer, administrator, fund manager, and custodian; and providing for flexible adjustments to contribution rates through gazettelement after consultation.
- 4.3. The National Treasury supported these proposals as they enhance administrative clarity, strengthen compliance, and embed national best practice across all public sector retirement arrangements.
- 4.4. **On Governance, Board Structure and Professionalization**, the Bill proposed a strengthened governance framework for the Board of Trustees of the Public Service Superannuation Fund. These improvements are designed to enhance accountability, reduce fiduciary risk, and ensure that the Scheme's leadership is fully aligned with modern regulatory expectations. The amendments included increased member representation, Trustee Qualification and standards accountability measures

45. The National Treasury supported these governance improvements as they will significantly reduce fiduciary risk, enhance professionalism, and protect members' interests.
46. **On financial Management, Administration and Investment Provisions**, the Bill also proposed critical reforms to the Scheme's financial operations, focusing on maximizing returns for members by optimizing cost management and aligning cost structures with industry best practice. Key amendments included capping of administrative expenses and other financial measures.
47. **On treatment of Accrued Benefits for Service Prior to 1st January 2021**, the Bill appropriately clarified how pension liabilities relating to service prior to the commencement of the PSSS should be managed. Specifically, benefits relating to the period before 1st January 2021 shall remain under the Pensions Act and the Widows and Children Pensions Act, payable by the Director of Pensions.
48. **The Principal Act's Provision**; The current Section 50(1) of the Public Service Superannuation Scheme Act, Cap 189A, concisely addressed the transition: "Government of Kenya Public Service Superannuation Bond (1) The right to retirement benefits of any member who at the commencement of this Act is— (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 (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."
49. **The Need for Amendment**: While this principal section preserved the legal obligation for recognition, it lacked the detailed administrative and enforcement mechanisms required for effective transition, particularly concerning the payment obligation. Specifically, it did not clearly define the process of actuarial determination and the explicit responsibility for paying the accrued liability upon retirement, leading to potential uncertainty for members and administrative ambiguity.
50. The Bill, therefore, proposes to delete the entire existing Section 50 and replace it with a comprehensive provision that formalizes the management of these liabilities.
51. The Clarification under the Proposed New Section 50; The proposed new Section 50 (which replaces the principal) addresses this by introducing mandatory steps and detailed legal obligations, which include clear Payment Responsibility, Mandatory Formal Recognition and Clear Payment Determination.
52. The National Treasury supports this detailed approach because it —
- i. Eliminates administrative ambiguity and potential legal confusion regarding who is responsible for the payment of the accrued DB benefits by explicitly referencing the principal statutory framework.
 - ii. Provides members with formal, legal documentation (the recognition letter) of their DB entitlements.

iii. Maintains the necessary firewall to prevent cross-subsidization between the Defined Benefit (DB) and Defined Contribution (DC) systems.

53. In conclusion, The National Treasury views the Public Service Superannuation Scheme (Amendment) Bill, 2025 as a timely and necessary step in modernizing Kenya's public service pension architecture. The proposed amendments strengthen governance, enhance compliance with national retirement benefit standards, clarify administrative roles, protect members' rights, and support the continued evolution of the Scheme in line with global DC best practice.

4.3 NATIONAL SOCIAL SECURITY FUND

54. The National Social Security Fund Act, Cap 258 Laws of Kenya was enacted as part of the legislative measures that the Government of Kenya has put in place to provide basic social security for members and their dependents for various contingencies as provided under the Act. NSSF serves as the first pillar retirement benefits scheme which is mandatory, universal and non-discriminatory. All employers and employees are required under Section 20 of the Act to remit Tier I contributions being 12% of the employee's monthly pensionable earnings (6% employer contribution and 6% employee contribution).

55. The Public Service Superannuation Scheme Amendment Bill, 2025 seeks to amend various sections of the Public Service Superannuation Scheme Act, Cap 189A. The Bill was tabled before National Assembly for the first reading and thereafter referred the Committee for consideration and reporting to the National Assembly.

56. NSSF proposed that Amendment of First Schedule of NSSF Act, Cap 258 paragraph 3 to read as follows —

Sub-heading/Title	Current Provision	Proposed Amendment	Submission
Amendment of Para 3, First Schedule of NSSF Act, Cap. 258	A person who is a beneficiary of a pension scheme funded out of the Consolidated Fund shall be exempt from Tier II contributions under this Act	A person who is a beneficiary of a pension scheme funded out of the Consolidated Fund shall be exempt from Tier I and Tier II contributions under this Act.	The proposed amendment should be dropped for the following reasons; It seeks to undermine the constitutional mandate vested in the NSSF which operates as the Pillar I National public scheme. In contrast, the Public Service Superannuation Scheme (PSSS) is an occupational scheme falling under Pillar II. As such, it cannot assume functions or responsibilities beyond its current mandate. NSSF is fulfilling a constitutional mandate in line with Article 43(1)(e) which makes it a right for all Kenyans to enjoy social security and has been established as the first pillar retirement benefits

			<p>scheme.</p> <p>This position is also reinforced under Clause 2 of the National Retirement Benefits Policy, 2023.</p> <p>Clause 3.6.4 of the 1st MTP (2008-2012) and Clause 3.6.3 of the 2nd MTP (2013- 2017), Kenya Vision 2030 identified NSSF as the vehicle through which the country shall achieve the goal of providing decent livelihoods through retirement savings. The proposed amendment does not align with country's legal and regulatory framework and international Treaties as explained.</p>
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57. As a social security scheme NSS's mandate extends to supporting the social-economic development of the country. Allowing occupational schemes to assume functions beyond their Pillar II mandate would therefore not only weaken social protection coverage but also disrupt long-term investments, compromise fiscal stability, and reduce the Fund's competitiveness regionally and internationally. Maintaining the integrity of NSS's mandate is therefore essential to safeguard members' benefits, ensure sustainable national savings, and uphold Kenya's broader social and economic development objectives.

4.4 PUBLIC SERVICE COMMISSION

58. The Commission was in support of the amendments proposed in the Bill except the following Clauses —

- i. Clause 8B which provides for the establishment of the Public Service Superannuation Scheme Fund should be under Part III of the Act rather than a section under Part II. Therefore, the proposed Clause 8B should replace the current Section 9 of the Act.
- ii. In view of (a) above, Clause 9 of the Bill should not be adopted as the title for Part III should be amended to read "The Public Service Superannuation Scheme Fund and Board of Trustees".
- iii. Clause 11 seeks to amend Section 10 of the Act in respect of the composition of the board of trustees. Currently, Section 10 provides that the Fund Board of Trustees, which shall consist of—
 - (a) the Secretary to the Teachers Service Commission or a representative;
 - (b) the Secretary to the Public Service Commission or a representative;
 - (c) the Inspector-General of the National Police Service or a representative,
- iv. Clause 11 of the Bill proposes to amend the Act to provide that the membership shall comprise of —
 - (a) one person nominated by the Secretary to the Teachers Service Commission;
 - (b) one person nominated by the Secretary to the Public Service Commission;
 - (c) one person nominated by the Secretary to the National Police Service.

- v. The Public Service Commission was of the view, the persons nominated as trustees of the Board should be nominated by the Commission rather than the Secretary of the Commissions, thus proposing that Clause 11 should read —
- (a) one person nominated by Teachers Service Commission;
 - (b) one person nominated by Public Service Commission;
 - (c) one person nominated by the National Police Service Commission

4.5 THE SALARIES AND REMUNERATION COMMISSION (SRC)

59. The Salaries and Remuneration Commission (SRC) reviewed the Public Service Superannuation Scheme (Amendment) Bill, 2025 and noted that the Bill was seeking to amend the Public Service Superannuation Scheme Act (Cap 189A) in order to streamline the governance and administration of the Scheme.

SRC examined the Bill and submitted its specific comments as below —

No.	Proposed Amendments	SRC Observations
1.	Clause 4 - Amendment of Section 6 Section 6 of the principal Act is amended - ii) by inserting the following new subsection immediately after subsection (2) (2A) The Cabinet Secretary may, by notice in the Gazette, vary the rates in the subsection (1) and (2) after consultations with the members of the Board.	The proposed amendment seeks to provide the Cabinet Secretary with powers to vary both the member and employer contributions. The amendment should provide that varying of the employer contribution should be done in consultation with SRC as provided under Article 230 of the Constitution.
2.	Clause 40b- consequential 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 paragraph immediately after sub paragraph (b) viii: (ix) the Public Service Superannuation Scheme established under the Public Service Superannuation Scheme Act.	The section seeks to exempt the Public Service Superannuation Scheme from the definition of 'State Corporation' as provided in the State Corporations Act. From the manner the scheme is constituted it is clear that it is a public body. Exempting it from the State Corporations Act would exclude it from Government control in terms of financial management and status of their staff.

PART FIVE

5 COMMITTEE OBSERVATIONS

60. The Committee, having considered the Bill, reviewed stakeholder submissions, and deliberated on the proposed amendments, makes the following observations:

A. Governance and Board Composition

61. **Representation of the disciplined services.** The Committee observed that the current composition of the Board of Trustees under Section 10 of the principal Act does not explicitly provide for representation from the National Police Service, Kenya Prisons Service, and National Youth Service (the Disciplined Services). Given the unique terms of service and the significant number of members from these services, this exclusion constitutes a democratic deficit. The proposed amendments in Clause 11 of the Bill, which introduce a nominee from the Disciplined Services on a rotational basis, are a necessary correction to this anomaly.
62. **Nomination authority for commission representatives.** The Committee noted that there was a submission by the Public Service Commission (PSC) regarding Clause 11 of the Bill. The PSC observed that the Bill proposes that nominees to the Board be appointed by the “Secretary” to the respective Commissions. The Committee agrees with the PSC that nominations should be made by the Commissions themselves (that is, the corporate bodies) rather than by individual Secretaries, in order to preserve the institutional autonomy of the nominating bodies and uphold the principle of collective responsibility.
63. **Independence of the chairperson.** The Committee observed that elevating the appointment of the Board Chairperson from the Cabinet Secretary to the President, as proposed in Clause 11, enhances the independence and stature of the office. This change insulates the Chairperson from direct executive influence and aligns with governance standards applicable to public pension funds.
64. **Trustee accountability.** The Committee noted that there was a proposal in Clause 12 to reduce the absenteeism threshold for trustees from three consecutive meetings to two. The Committee observes that this stricter standard is necessary to ensure active participation and diligence by trustees who bear significant fiduciary responsibilities over members’ savings.

B. Member Rights and Benefits

65. **Immediate vesting of benefits.** The Committee observed that the current staggered vesting of employer contributions under Section 25 of the principal Act is out of step with modern pension practices and is perceived as punitive to members who leave public service prematurely. The proposal for immediate vesting, as provided in Clause 16, represents a fundamental shift that recognizes employer contributions as deferred compensation and strengthens the property rights of members under Article 40 of the Constitution. The Committee supports this progressive reform.

66. **Portability of savings.** The Committee observed that the principal Act is silent on the transfer of benefits to other registered schemes. The introduction of portability under Clause 23 (new Section 33A) is a welcome development that enhances labour mobility and aligns the PSSS with the Retirement Benefits Act. This provision gives members greater control over their retirement savings.
67. **Conversion of gratuities for contract staff.** The Committee noted the proposal to allow contract employees to remit monthly accrued gratuities into their pension accounts. The Committee observes that this aligns with Treasury Circular No. 9 of 2024 and provides a mechanism for non-pensionable staff to benefit from the compounding returns of the Fund rather than receiving a one-off taxable payment upon contract completion. This promotes a culture of saving and financial inclusion.

C. Employer Obligations and Contributions

68. **Definition of “employer” and remittance obligations.** The Committee observed that the principal Act’s interchangeable use of the terms “Government” and “Cabinet Secretary” creates ambiguity regarding which entity bears the ultimate responsibility for remitting contributions. The amendments in Clause 4, which strengthen penalties for late remittance, and Clause 7, which inserts a new Section 8A on the obligation of the employer, clarify these roles. The Committee particularly supports the proposal that the penalty for late remittance should be pegged to the rate of return of the Fund for the previous year, thereby ensuring that members are compensated for the loss of investment growth.
69. **Participating employers.** The Committee observed that the current Act limits membership to specific government commissions. The proposed amendments to Clause 2, introducing the definitions of “participating employer” and “adherence agreement,” will allow other public entities and State corporations to join the Fund. This expansion will increase the asset base of the Fund, leading to economies of scale and potentially higher returns for all members.

D. Financial Management and Operational Autonomy

70. **Exemption from the State Corporations Act.** The Committee carefully considered the submission by the Salaries and Remuneration Commission (SRC), which expressed concern that exempting the Scheme from the State Corporations Act would remove it from government control. The Committee also considered the National Treasury’s view that such exemption is necessary for operational agility. The Committee observes that while the SRC’s concern regarding accountability is valid, the Scheme will remain subject to robust oversight by the Retirement Benefits Authority (RBA) and the proposed Annual General Meeting (AGM). The unique nature of a pension fund, which requires swift investment decisions, necessitates freedom from the procurement and budgetary constraints of the State Corporations Act. The Committee therefore supports the exemption as proposed in Clause 40.
71. **Nomenclature: “Fund” versus “Scheme”.** The Committee noted the submissions from the Public Service Superannuation Fund and the justification in the Schedule of Amendments regarding the consistent use of the term “Fund” instead of “Scheme.” The

PART SIX

6. COMMITTEE RECOMMENDATIONS

Pursuant to the observations made under **PART V** of this Report, the Committee recommends to the National Assembly as follows:

76. The Committee recommends that the House adopts Clause 11 of the Bill with an amendment to provide that nominees to the Board from the Teachers Service Commission, Public Service Commission, and National Police Service Commission shall be nominated by the Commissions themselves rather than by their respective Secretaries, in order to ensure institutional representation.
77. The Committee recommends that the House adopts the proposed amendments to Clause 2 of the Bill to:
 - (a.) Introduce the definitions of “participating employer” and “adherence agreement”; and
 - (b.) Clarify the categories of “employer”. These amendments will expand the membership base of the Fund and provide a legal framework for new entities to join.
78. The Committee recommends that the House adopts the amendments to Part II of the Bill to: a. rename the entity consistently as the Public Service Superannuation Fund throughout the Act; and establish the Fund with clear provisions for contributions, investments, and payments as set out in the new Part II in the Schedule of Amendments.
79. The Committee recommends that the House adopts the amendments to Clause 4 of the Bill to:
 - (a.) strengthen the penalty for late remittance of contributions by pegging it to the Fund’s rate of return for the previous financial year; and
 - (b.) clarify that employer contributions are a charge on the Consolidated Fund for members whose salaries are so charged, or a direct payment for self-financing entities.
80. The Committee recommends that the House adopts New Clause 4A introducing Section 6A, which allows contract employees to remit monthly accrued gratuities into the Fund.
81. The Committee recommends that the House adopts the amendment to Clause 7 of the Bill to provide members with flexible methods of remitting additional voluntary contributions beyond payroll deductions.
82. The Committee recommends that the House adopts Clause 16 and Clause 23 of the Bill to provide for immediate vesting of all retirement savings and the portability of benefits to other registered schemes.
83. The Committee recommends that the House adopts the amendment to Clause 19 of the Bill to align Section 30 of the principal Act with Section 36 of the Retirement Benefits Act, prohibiting the attachment or assignment of retirement benefits except as approved by the Retirement Benefits Authority.

Committee observes that “Fund” more accurately describes a pooled corpus of assets requiring active investment and fiduciary management. This aligns with regional nomenclature such as NSSF and LapFund and has been confirmed as acceptable by the Retirement Benefits Authority.

72. **Capping of administrative expenses.** The Committee observed that the proposal to cap administrative expenses at one per cent of total Scheme assets under Clause 28 is a critical consumer protection measure. It provides certainty to members that their savings will not be eroded by excessive administrative fees and aligns with global best practices for pension fund governance.
73. **Internal management of assets.** The Committee considered the proposal in the Schedule of Amendments (Clause 25) to allow the Board to internally manage up to fifteen per cent of the Fund’s assets. The Committee observes that this provision, already practiced by large funds such as the National Social Security Fund, will enable the Fund to reduce reliance on external managers and save on management fees, thereby increasing net investment income available to members.

E. Legacy Benefits and Transitional Provisions

74. **Clarity on Pre-2021 Benefits.** The Committee observes that the current Section 50 of the principal Act is ambiguous regarding the administration and payment of benefits for service rendered before 1st January 2021. Submissions from the National Treasury highlighted this ambiguity. The Committee supports the comprehensive replacement of Section 50 as proposed in the Schedule of Amendments (Clause 35), which will—**a.** explicitly obligate the National Treasury to determine, revalue, and issue recognition letters for these benefits; **b.** provide a mechanism for the National Treasury to transfer these accrued benefits to the Fund for consolidated administration; and **c.** ensure that the five per cent annual revaluation is a minimum threshold rather than a ceiling, thereby protecting members against inflation.

F. Stakeholder Concerns Not Addressed by the Bill


75. **NSSF Exemption.** The Committee noted the strong opposition from the National Social Security Fund (NSSF) regarding Clause 41 of the Bill, which seeks to exempt PSSS members from both Tier I and Tier II NSSF contributions. The NSSF argued that this undermines its constitutional mandate as the first pillar social security scheme and contravenes the National Retirement Benefits Policy, 2023. The Committee observes merit in this argument. While the Schedule of Amendments does not explicitly include an amendment to Clause 41, the Committee recommends that this matter be addressed to avoid double contributions and legal ambiguity regarding the pensionable earnings cap.

84. The Committee recommends that the House adopts the amendment to Clause 25 of the Bill to permit the Board to internally manage up to fifteen per cent of the Fund's assets.
85. The Committee recommends that the House adopts Clause 28 of the Bill to cap administrative expenses at one per cent of the total assets of the Fund.
86. The Committee recommends that the House adopts the comprehensive replacement of Clause 35 (new Section 50) as set out in the Schedule of Amendments.
87. The Committee recommends that the House adopts the amendment to Clause 36 of the Bill to empower the Board to establish a post-retirement medical fund, a mortgage facility, and other retirement products, subject to approval by the Retirement Benefits Authority.
88. The Committee recommends that the House further interrogates Clause 41 of the Bill regarding the exemption of PSSS members from NSSF contributions. The Committee recommends that the National Treasury, the Retirement Benefits Authority, and the National Social Security Fund undertake further consultations to resolve the conflict between the proposed exemption and the NSSF's mandate as a first-tier social security scheme.
89. Pursuant to Standing 127, the Committee recommends that the Bill **proceeds** for Second Reading subject to incorporating the recommendations under Part Seven of this Report.

SIGNED: Wambui DATE: 12/03/2026

HON. ALICE WAMBUI NG'ANG'A, CBS, M.P.

(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION)

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PART SEVEN

7. SCHEDULE OF PROPOSED AMENDMENTS

90. The Committee proposed the following amendments to be considered by the House in the Committee Stage:

CLAUSE 2

91. THAT clause 2 of the Bill be amended

(a) in the definition of “employer” by deleting paragraph (d) and substituting therefor the following paragraph —

“(d) participating employer;

(e) any other entity that the Cabinet Secretary may, on the recommendation of the Board of Trustees, determine to be an eligible employer for the purposes of this Act.”

(b) in the definition of “Scheme” by deleting the word “Scheme” appearing immediately after the word “Superannuation” and substituting therefor the word “Fund”.

(c) inserting the following new definitions—

“Adherence agreement” means an agreement in writing between a participating employer and the Board in which the participating employer irrevocably undertakes and binds itself to the provisions of this Act upon which the Cabinet Secretary and the Board in reliance thereto have without other conditions admitted the employer to join and participate in the provision of retirement benefits to its employees;

“Participating Employer” means any public entity, state corporation or other entity that applies to the Board and, with the determination of the Cabinet Secretary, is admitted to the Scheme through an Adherence Agreement.”

Justification

- i. **Makes provision for an additional category of employers.** Currently, the definition of “employer” in the Act does not include a category for employers beyond specific public entities. By deleting the existing paragraph (d) and replacing it with new paragraphs (d) and (e), the amendment creates two new categories: (d) participating employer: This establishes a formal category for employers who join the scheme. and (e) any other entity that the Cabinet Secretary may... determine: This creates a flexible category allowing new types of employers (beyond those originally listed in the Act) to be added in the future.
- ii. **Allows other employers who were not initially provided for in the Act to join and participate in the Fund (PSSF).** The insertion of a new definition of a “participating Employer” creates a clear pathway through an application and determination process for any “other entity” to join, provided they follow the ruleset under the Act.

- iii. **Provides a legal mechanism through which participating employers may join the Fund (PSSF). The proposal seeks to insert a new definition of an "adherence agreement."** The Agreement is a written contract between the employer and the Board where the employer "irrevocably undertakes and binds itself" to the rules of the Act, and, ensures that the membership of the employer is formal, legally binding, and cannot be easily withdrawn.

PART II

92. THAT PART II of the Bill be deleted and substituted therefor with following NEW PART

PART II – ESTABLISHMENT, MEMBERSHIP AND CONTRIBUTIONS TO THE FUND

93. **Establishment of the Public Service Superannuation Fund**

3A. (1) There is established a fund, to be known as the Public Service Superannuation Fund, which shall be vested in, operated and managed by the Board.

(2) The Fund shall be a retirement benefits scheme within the meaning of the Retirement Benefits Act (Cap. 197).

(3) There shall be—

- (a) paid into the Fund, all contributions and other payments required by this Act to be paid into the Fund;
- (b) prudent investments of all contributions and other payments therein; and
- (c) paid out of the Fund, all benefits and other payments required by the Act to be paid out of the Fund.

Justification

The proposed amendment: **first**, changes the name from "Scheme" to "Fund" and adds clear language about prudent investment, which together signal that the entity is a professionally managed pool of assets with fiduciary duties, and, **second**, changes the name to "Fund" to match what other similar institutions in East Africa are called, making the terminology familiar and consistent. The proposed use of the word "Fund" is in keeping with local and regional nomenclature, for example, the Public Service Social Security **Fund** (Tanzania), the Public Service Pension **Fund** (Uganda), the National Social Security **Fund** (Kenya), and the Local Authorities Provident **Fund** (LapFund Kenya).

CLAUSE 4

94. **THAT** the Bill be amended in clause 4 under the proposed amendment to section 6 by deleting the proviso and substituting therefor the following new proviso appearing in paragraph (i)—

"Provided that where the employer fails to deduct or remit a member's contribution, the sum shall be recovered and a penalty at the rate of return of the Fund for the previous financial year shall be payable by the employer."

- (a) inserting the following new paragraph immediately after subsection (5A)—

“(5B) Employer contributions shall be—

- (a) a charge on the Consolidated Fund for members whose remuneration is so charged; or
- (b) paid directly from the funds of the employer where that entity is self-financing.”

Justification

The amendment fixes a gap in the existing Act by making sure that if an employer does not pay over a member’s contribution, the employer must pay a penalty equal to what that money would have earned in the Fund. This puts the member in the same financial position as if the contribution had been made on time.

NEW CLAUSE 4A

95. The principal Act is amended by inserting the following new section immediately after section 6 —

Gratuity
remittance.

“6A. An employer may, upon the written request of the employee, remit monthly accrued gratuities into the member's retirement savings account on behalf of contract employees.”

Justification

The proposed new section 6A creates a simple, legal way for contract employees to turn their gratuity into ongoing pension savings, helping them build retirement benefits instead of receiving a taxable lump sum. This proposed amendment aligns with the Treasury Circular No. 9 of 2024 allowing contract staff to convert lump-sum gratuities into pension savings. It provides a mechanism for contract employees to benefit from the compounding interest of the pension fund rather than receiving a one-off taxable payment from the employer.

CLAUSE 5

96. THAT clause 5 of the Bill be amended in section 7 of the principal Act by deleting subsection (2) and substituting the following new subsection—

“(2) Subject to any guidelines issued under subsection (1), a member may instruct the employer —

- (a) to deduct the additional voluntary contribution from his monthly pensionable emoluments; or
- (b) to remit additional voluntary contribution directly to the scheme.”

Justification

The amendment gives members more ways to pay extra into their pension, making it easier and more convenient to save. This puts the Fund on par with other pension schemes that already allow similar flexibility. The amendment provides flexibility in the methods of remitting contributions by allowing members to top up savings through diverse channels beyond traditional payroll check-offs (such as direct transfers, mobile money, electronic or other prescribed means). This aligns with the objective of encouraging a proactive culture

of saving, following the example of NSSF, KNEST and Individual Pension Schemes and other schemes allow direct individual remittance

CLAUSE 8

97. THAT clause 8 of the Bill be deleted. The Board is established under section 9 of the Act.

Justification

The provision has been moved to new clause 3 under New Part II establishing the Public Service Superannuation Fund

PART III

98. THAT PART II of the Bill by deleting the word “SCHEME” and substituting therefor the word “FUND” appearing in the heading.

Justification

The proposed amendment: **first**, changes the name from “Scheme” to “Fund” to match what other similar institutions in East Africa are called, making the terminology familiar and consistent. The proposed use of the word “Fund” is in keeping with local and regional nomenclature, for example, the Public Service Social Security **Fund** (Tanzania), the Public Service Pension **Fund** (Uganda), the National Social Security **Fund** (Kenya), and the Local Authorities Provident **Fund** (LapFund Kenya).

CLAUSE 20

99. THAT clause 20 of the Bill be amended in the proposed amendment to section 30 of the principal Act under subsection (3)—

(a) by deleting in paragraph (a) and substituting the following paragraph—

“(a) assignable or transferable except for the purpose of satisfying a cause for assignment approved by the Retirement Benefits Authority; or”

Justification

The amendment makes the rules of the Fund match the main law regulating pensions under section 36 of Retirement Benefits Act, which protects retirement benefits from being taken away or transferred except when the regulator gives special permission

CLAUSE 25

100. THAT clause 25 of the Bill be amended in the proposed amendment to section 36 of the principal Act, by inserting the following new subsection immediately after subsection (2)—

“(3) Notwithstanding subsection (1) and (2), the trustees shall internally manage assets not exceeding fifteen percent of the total assets of the Fund.”

Justification

The amendment allows the trustees of the Fund to manage up to 15% of total assets themselves instead of hiring external managers. Consequently, management fees will reduce, meaning more investment income stays in the Fund for members. This approach is already used by other large pension schemes like NSSF, and the amendment brings PSSF in line with that industry practice.

CLAUSE 31

101. THAT clause 31 of the Bill be amended in the proposed amendment to section 43 of the principal Act under subsection (1) by deleting in paragraph (a).

Justification

The proposed amendment: first, changes the name from “Scheme” to “Fund” to match what other similar institutions in East Africa are called, making the terminology familiar and consistent. The proposed use of the word “Fund” is in keeping with local and regional nomenclature, for example, the Public Service Social Security Fund (Tanzania), the Public service Pension Fund (Uganda), the National Social Security Fund (Kenya), and the Local Authorities Provident Fund (LapFund Kenya).

CLAUSE 32

102. THAT clause 32 of the Bill be amended in the proposed amendment to section 44 of the principal Act under subsection (1) by deleting in paragraph (a).

Justification

The proposed amendment: first, changes the name from “Scheme” to “Fund” to match what other similar institutions in East Africa are called, making the terminology familiar and consistent. The proposed use of the word “Fund” is in keeping with local and regional nomenclature, for example, the Public Service Social Security Fund (Tanzania), the Public service Pension Fund (Uganda), the National Social Security Fund (Kenya), and the Local Authorities Provident Fund (LapFund Kenya).

CLAUSE 35

103. That clause 35 of the Bill be deleted and substituted with the following clause—

The right to retirement benefits of members before commencement of this Act.
Cap. 189.
Cap. 195.

50. (1) The right to retirement benefits of a member who was, as at 1st January 2021, already covered under any other pension scheme existing before 1st January 2021 and whose benefits were payable under the Pensions Act and the Widows and Children Pensions Scheme Act, for the duration of pensionable service before 1st January 2021, shall accrue under that pension scheme;

(2) The National Treasury shall—

(a) determine the value of benefits relating to

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service before the commencement of the Fund through an actuarial valuation as at the date of joining the Fund;

(b) revalue the benefits determined under paragraph (a) at a rate of five percent per year or such other rate as may be determined by an actuary from 1st January 2021 up to the date of payment or transfer to the Fund, provided that such rate shall not disadvantage the member or reduce the accrued benefits;

(c) within six (6) months of the commencement of this Act, issue a letter recognizing accrued benefits as at 31st December 2020.

(3) Notwithstanding subsection (1) and (2) above or the provisions of any other law, the National Treasury may transfer the accrued benefits to the Fund to be administered and paid to the member in accordance with the provisions of Section 27 and Section 28 of this Act.

(4) Where a transfer is made under subsection (3), the transferred benefits shall be credited to the member's retirement savings account and the National Treasury may phase such transfer, during which any outstanding balance shall continue to be revalued at the rate prescribed in subsection (2)(b).

Justification

The proposed new section gives the Treasury clear power to move old pension benefits into the new Fund, guarantees that past benefits of members keep their value, and lets those benefits start growing through investment as soon as they are transferred. Members then receive everything from one place. The proposed new subsection (1) confirms that pre-2021 benefits remain under the old Acts, giving the Treasury the mandate to handle them. The proposed new Subsection (3) uses “notwithstanding” to give the Treasury overriding power to transfer those benefits to the new Fund, even if other laws conflict. The proposed new Subsection (2)(b) makes 5% the minimum revaluation rate, allowing an actuary to set a higher rate to protect members from inflation. The proposed new Subsections (3) and (4) allow early transfer into the Fund, where the money can be invested and grow with compound interest. Together, the proposed new subsections (3) and (4) ensure that after a transfer, the member gets one consolidated benefit from the Fund instead of dealing with two separate sources.

CLAUSE 36

104. That clause 36 of the Bill be amended by deleting the proposed amendment to paragraph (c) to section 55 of the principal Act and substituted with the following paragraph—

“(c) the establishment of a post-retirement medical fund, a mortgage facility, and such other retirement products or benefits as may be provided by the Fund subject to approval of the Authority.”

Justification

The proposed amendment builds flexibility into the law so the Fund can offer a range of retirement products now and in the future without having to go back to Parliament for every new benefit. The amendment adds **post-retirement medical fund, mortgage facility**, and a general category of **other retirement products** to the list of benefits the Fund may provide. Naming specific benefits like the mortgage facility ensures they are clearly authorised from the start. Including the catch-all “other products” allows the Fund to introduce new benefits in the future without needing further legislative amendments. This approach saves time and avoids delays, as only RBA approval will be required for new products.

CLAUSE 4

105. **THAT** the Bill be amended in clause 4 under the proposed amendment to section 6 by deleting the proviso and substituting therefor the following new proviso appearing in paragraph (i)—

"Provided that where the employer fails to deduct or remit a member's contribution, the sum shall be recovered and a penalty at the rate of return of the Fund for the previous year shall be payable by the employer."

(b) inserting the following new paragraph immediately after subsection (5A)—

“(5B) Employer contributions shall be—

- (a) a charge on the Consolidated Fund for members whose remuneration is so charged; or
- (b) paid directly from the funds of the employer where that entity is self-financing.”

Justification

This closes the loophole where an employer fails to deduct or deducts from a member's salary but fails to remit it to the Fund. It ensures that the member is compensated for lost investment growth using the Fund's actual rate of return from the previous year.

NEW CLAUSE 4A

106. **The** principal Act is amended by inserting the following new section immediately after section 6 —

“6A. An employer may, upon the written request of the employee, remit monthly accrued gratuities into the member's retirement savings account on behalf of contract employees.”

Justification

This aligns with the Treasury Circular No. 9 of 2024 allowing contract staff to convert lump-sum gratuities into pension savings. It provides a mechanism for contract employees to benefit from the compounding interest of the pension fund rather than receiving a one-off taxable payment from the employer.

CLAUSE 7

107. **THAT** clause 7 of the Bill be amended in section of the principal Act by deleting subsection (2) and substituting the following new subsection—

“(2) Subject to any guidelines issued under subsection (1), a member may instruct the employer —

- (a) to deduct the additional voluntary contribution from his monthly pensionable emoluments; or
- (b) to remit additional voluntary contribution directly to the scheme.”

Justification

To provide flexibility in the methods of remitting contributions by allowing members to top up savings through diverse channels beyond traditional payroll check-offs (such as direct transfers, mobile money, electronic or other prescribed means). This aligns with the objective of encouraging a proactive culture of saving, following the example of NSSF, KNEST and Individual Pension Schemes and other schemes allow direct individual remittance

CLAUSE 8

108. **THAT** clause 8 of the Bill be deleted.

PART III

109. **THAT** PART II of the Bill by deleting the word “SCHEME” and substituting therefor the word “FUND” appearing in the heading.

Justification

The term “Fund” better describes the entity, i.e. a pooled corpus of assets that must be actively invested, prudently managed and preserved to meet long-term liabilities. “Fund” sets expectations about fiduciary duty, investment governance and professional asset management, not just administrative record-keeping. “Fund” is in keeping with local and regional nomenclature e.g. Public Service Social Security **Fund** (Tanzania), Public service Pension **Fund** (Uganda), National Social Security **Fund** (Kenya), and Local Authorities Provident **Fund** (LapFund Kenya). The Regulator (RBA) confirmed that the use of the name

CLAUSE 19

110. **THAT** clause 19 of the Bill be amended in the proposed amendment to section 30 of the principal Act under subsection (3)—

- (b) by deleting in paragraph (a) and substituting the following paragraph—

“(a) assignable or transferable except for the purpose of satisfying a cause for assignment approved by the Retirement Benefits Authority; or”

Justification

This will align with the Retirement Benefits Act, section 36 of which prohibits the attachment of retirement benefits.

CLAUSE 25

111. THAT clause 25 of the Bill be amended in the proposed amendment to section 36 of the principal Act, by inserting the following new subsection immediately after subsection (2)—

“(3) Notwithstanding subsection (1) and (2), the trustees shall internally manage assets not exceeding fifteen percent of the total assets of the Fund.”

Justification

1. Allows the Fund to save on management fees, which increases the net investment income available to members.

2. Aligns PSSF with other schemes like NSSF that manage a portion of assets internally to reduce operational costs.

CLAUSE 31

112. THAT clause 31 of the Bill be amended in the proposed amendment to section 43 of the principal Act under subsection (1) by deleting in paragraph (a).

Justification

The word “Fund” should be used in place of “Scheme” as per the explanation under section 3 above. “Fund” is in keeping with local and regional nomenclature e.g. Public Service Social Security **Fund** (Tanzania), Public service Pension **Fund** (Uganda), National Social Security **Fund** (Kenya), and Local Authorities Provident **Fund** (LapFund Kenya). The Regulator (RBA) confirmed that the use of the name

CLAUSE 32

113. THAT clause 21 of the Bill be amended in the proposed amendment to section 44 of the principal Act under subsection (1) by deleting in paragraph (a).

Justification

The word “Fund” should be used in place of “Scheme” as per the explanation under section 3 above. “Fund” is in keeping with local and regional nomenclature e.g. Public Service Social Security **Fund** (Tanzania), Public service Pension **Fund** (Uganda), National Social Security **Fund** (Kenya), and Local Authorities Provident **Fund** (LapFund Kenya). The Regulator (RBA) confirmed that the use of the name

CLAUSE 35

114. That clause 35 of the Bill be deleted and substituted with the following clause—

The right to retirement benefits of members before commencement of this Act. Cap. 189. Cap. 195.

50. (1) The right to retirement benefits of a member who was, as at 1st January 2021, already covered under any other pension scheme existing before 1st January 2021 and whose benefits were payable under the Pensions Act and the Widows and Children Pensions Scheme Act, for the duration of pensionable service before 1st January 2021, shall accrue under that pension scheme;

(2) The National Treasury shall—

- (a) determine the value of benefits relating to service before the commencement of the Fund through an actuarial valuation as at the date of joining the Fund;
- (b) revalue the benefits determined under paragraph (a) at a rate of five percent per year or such other rate as may be determined by an actuary from 1st January 2021 up to the date of payment or transfer to the Fund, provided that such rate shall not disadvantage the member or reduce the accrued benefits;
- (c) within six (6) months of the commencement of this Act, issue a letter recognizing accrued benefits as at 31st December 2020.

(3) Notwithstanding subsection (1) and (2) above or the provisions of any other law, the National Treasury may transfer the accrued benefits to the Fund to be administered and paid to the member in accordance with the provisions of Section 27 and Section 28 of this Act.

(4) Where a transfer is made under subsection (3), the transferred benefits shall be credited to the member's retirement savings account and the National Treasury may phase such transfer, during which any outstanding balance shall continue to be revalued at the rate prescribed in subsection (2)(b).

Justification

- i. This gives the National Treasury the legal mandate to pay benefits accruing under the Pensions Act and WCPS Act.
- ii. It also ensures that the power of the National Treasury to transfer assets to the Fund overrides any conflicting provisions in the Pensions Act or earlier subsections, providing a clear path for consolidation.

- iii. Inclusion of "any such other rate as determined by an actuary" ensures the 5% revaluation is a floor, not a ceiling, covering for inflation and protecting the members' purchasing power or reducing their legitimate expectation.
- iv. Direct transfer to the Fund allows these accrued sums to be invested early, benefiting the member through compound interest.
- v. Where a transfer is made, the members will receive their total retirement package from the Fund, eliminating the need for separate claims to the National Treasury for the pre-2021 portion.

CLAUSE 36

115. That clause 36 of the Bill be deleted and substituted with the following clause—

“(c) the establishment of a post-retirement medical fund, a mortgage facility, and such other retirement products or benefits as may be provided by the Fund subject to approval of the Authority.”

Justification

To consolidate and future-proof the Scheme's ability to offer a variety of retirement products in line with market trends and RBA approvals. By including "mortgage facility" and "other products" in the Act now, the Scheme avoids future legislative delays when developing specific regulations for those benefits.



THE REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FIFTH SESSION – 2026
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

REPORT ADOPTION SCHEDULE

ADOPTION OF REPORT ON THE PUBLIC SERVICE SUPERANNUATION SCHEME (AMENDMENT) BILL (NATIONAL ASSEMBLY SENATE BILL NO. 33 OF 2025)

Date: Thursday, 12th March 2026

NO.	NAME	SIGNATURE
1	Hon. Alice Wambui Ngángá, CBS, MP Chairperson	
2	Hon. Hilary Kiplangat Kosgei, MP Vice-Chairperson	
3	Hon. Faith Wairimu Gitau, CBS, MP	
4	Hon. Owen Baya Yaa, CBS, MP	
5	Hon. Edith Nyenze, MP	
6	Hon. Timothy Wanyonyi Wetangula, MP	
7	Hon. Samuel Moroto, MP	
8	Hon. Paul Abuor, MP	
9	Hon. James Onyango Oyoo, MP	
10	Hon. Susan Nduyo, MP	
11	Hon. Agnes Mantaine Pareyio, MP	
12	Hon. Hussein Abdi Barre, MP	
13	Hon. Amina Dika, MP	
14	Hon. Zamzam Mohamed Chimba, MP	
15	Hon. Linet Chepkorir, MP	

