



**Retirement Benefits Authority**

**NOTICE TO THE RETIREMENT BENEFITS INDUSTRY**

**CHANGES CONTAINED IN THE 2016/2017 BUDGET**

Following the presentation of the Budget Statement for 2016/2017 by the Cabinet Secretary for the National Treasury, the Retirement Benefits Authority would like to bring the following changes that affect the Retirement Benefits Authority and the retirement benefits industry to the attention of stakeholders:

Issue	Change	Implications	Clause/ Effective date
<b><i>CHANGES TO THE RETIREMENT BENEFITS ACT</i></b>			
<b>Duration and Renewal of certificates</b>	Section 29 of the Retirement Benefits Act, 1997 is amended to provide for the following: <ol style="list-style-type: none"> <li>1. A certificate of registration issued to a manager, custodian or administrator shall be valid from the date of issue and shall, unless suspended or revoked remain valid.</li> <li>2. A manager, custodian or administrator shall pay such annual fee as may be prescribed by the Authority.</li> <li>3. A manager, custodian or administrator shall submit current audited financial statements, a list of the directors and top management, any changes in clientele and such further information as the Authority may request by the 30th September of every year.</li> <li>4. A manager, custodian or administrator shall communicate to the Authority any changes in shareholding, directorship or top management within thirty days after the change has occurred.</li> </ol>	Perpetual Licensing of fund managers, custodians and administrators  Annual Fees will not stop as a result of perpetual licensing.  Details of the top management to be submitted together with the audited accounts with any other information the Authority may request  RBA to be informed of any Changes to the directorship or top management.	The Finance Bill 2016  1 <sup>st</sup> January 2017
<b><i>PROPOSED CHANGES TO THE RETIREMENT BENEFITS REGULATIONS</i></b>			
<b>1. CHANGES TO THE RETIREMENT BENEFITS (INDIVIDUAL RETIREMENT BENEFIT SCHEMES) REGULATIONS</b>			
<b>Duties of Trustees</b>	Regulations 9 of the Individual	Protection of the trustees	<i>Legal Notice No.</i>

Issue	Change	Implications	Clause/ Effective date
<b>(Scheme)</b>	Retirement Benefits Schemes Regulations amended by inserting a new paragraph (4) to ensure that: A trustee shall not be victimized, removed from office of trustee or discriminated against for having performed the function of office in accordance with the Trust Deed and Rules of a scheme or any law without due process of the law.	against victimization or discrimination while performing their duties.	<i>99 of 2016</i> <i>Effective 9<sup>th</sup> June 2016</i>
<b>Constitution of the scheme fund</b>	Regulation 20 of the Individual Retirement Benefits Schemes Regulations amended to ensure that Contributions by or on behalf of a member together with interest and other accrued income thereon shall constitute the scheme fund and it shall vest in a member immediately	Immediate vesting of contributions to a member	<i>Legal Notice No. 99 of 2016</i> <i>Effective 9<sup>th</sup> June 2016</i>
<b>2. RETIREMENT BENEFITS (MINIMUM FUNDING LEVEL AND WINDING-UP OF SCHEMES) REGULATIONS</b>			
<b>Distribution of surpluses on winding up of the schemes</b>	Regulation 8A: The liquidator shall be required, in the preparation of the preliminary accounts, to provide for the distribution of surpluses identified which shall be on a 50-50 basis between the members and the sponsor	On winding up of schemes, surpluses will not have to be distributed based on the invested income, unvested benefits and the proportion of the contribution made by the employer and employee as was previously required.	Legal Notice No. 100 of 2016
<b>3. RETIREMENT BENEFITS (OCCUPATIONAL RETIREMENT BENEFITS SCHEMES) REGULATIONS</b>			
<b>Duties of Trustees</b>	Regulations 8 of the Occupational Retirement Benefits Schemes Regulations amended by inserting a new paragraph (3) to ensure that: A trustee shall not be victimized, removed from office of trustee or discriminated against for having performed the function of office in accordance with the Trust Deed and Rules of a scheme or any law without due process of the law.	Protection of the trustees against victimization or discrimination while performing their duties.	<i>Legal Notice No. 101 of 2016</i> <i>Effective 9<sup>th</sup> June 2016</i>
<b>Constitution of the scheme fund</b>	Regulation 20 of the Occupational Retirement Benefits Schemes Regulations amended to ensure that Contributions by or on behalf of a member together with interest and other accrued income thereon shall constitute the scheme fund and it shall	Immediate vesting of contributions to a member	<i>Legal Notice No. 101 of 2016</i> <i>Effective 9<sup>th</sup> June 2016</i>

Issue	Change	Implications	Clause/ Effective date
	vest in a member immediately		
<b>Post-Retirement Medical Scheme</b>	<p>1. Regulation 14 amended to provide for the schedule of rates of contributions to allow for additional voluntary contributions by a member in respect of funding of a medical fund to be accessed at retirement.</p> <p>2. Regulation 19 amended to ensure that the scheme rules provide for a member who may wish to transfer a portion of the member's benefits to medical-cover provider where the member has been unable to build a post-retirement medical fund from additional contributions</p>	<p>Additional contributions to be made for purposes of post-retirement medical cover.</p> <p>Allows for transfer of part of accumulated benefits for purposes of purchasing post-retirement medical cover.</p>	<p>Legal Notice No. 101 of 2016</p> <p>Effective 9<sup>th</sup> June 2016</p>
<b>2. RETIREMENT BENEFITS (FORMS AND FEES) REGULATIONS, 2000</b>			
<b>Investment Guidelines</b>	Table G has been substituted by a new table to explicitly include REITS, exchange traded derivatives and the separation of listed and un listed corporate bonds and commercial paper approved by the Capital Markets Authority	Retirement Schemes can now invest in all exchange traded derivatives contracts and all listed REITS incorporated in Kenya as long as they are registered with CMA	Legal Notice No. 107 Effective 9 <sup>th</sup> June 2016
<b>PROPOSED CHANGES TO THE TO THE INCOME TAX ACT</b>			
<b>Taxation of benefits</b>	Income from employment paid in the form of bonuses, overtime and retirement benefits: Provided that this paragraph shall only apply to employees whose taxable employment income before bonus and overtime allowances does not exceed the lowest tax band provided under Head B of the Third Schedule.	Exemption from tax of the retirement benefits for low income workers	The Finance Bill 2016  Effective 1 <sup>st</sup> July 2016

Stakeholders are advised to obtain full details of these changes from **Legal Notices Nos,99,100,101,107** , 9<sup>th</sup> June , 2016 and the **Finance Bill 2016**.