

LEGAL NOTICE NO. 193

## THE RETIREMENT BENEFITS ACT

(No. 3 of 1997)

IN EXERCISE of the powers conferred by section 55 (8) Retirement Benefits Act, 1997, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

## THE RETIREMENT BENEFITS (UMBRELLA RETIREMENT BENEFITS SCHEMES) (AMENDMENT) REGULATIONS, 2020

31. These Regulations may be cited as the Retirement Benefits (Umbrella Retirement Benefits Schemes) (Amendment) Regulations, 2020.

Citation.

32. Regulation 2 of the Retirement Benefits (Umbrella Retirement Benefits Schemes) Regulations, 2017, hereinafter referred to as the principal Regulations, is amended—

L.N. 55/2017.

- (a) by deleting the definition of “contract of service” and replacing it with the following new definition—

“contract of service” means an agreement whether oral or in writing and whether expressed or implied, to employ or to serve as an employee for any period of time and includes a contract of apprenticeship and internship.

- (b) by deleting the definition of “deed of adherence” and replacing it with the following new definition—

“deed of adherence” means an instrument in writing between an employer, the trustees and the sponsor in which the employer irrevocably undertakes and binds itself to the trusts of the scheme upon which the sponsor and the trustees in reliance thereto have without other conditions admitted the employer to join and participate in the provisions of retirement benefits to its employees on the terms expressed in the scheme rules.

- (c) by deleting the definition of “existing scheme” and replacing it with the following new definition—

“existing scheme” means an umbrella scheme existing prior to the commencement of these Regulations.

- (d) by deleting the definition of “special rules” and replacing it with the following new definition—

“special rules” means the rules that are unique to a specific participating employer and are binding to employees of the participating employer who are members of the scheme.

- (e) by deleting the definition of “umbrella scheme” and replacing it with the following new definition—

“umbrella scheme” means a retirement benefits scheme established by a sponsor for the benefit of members employed by participating employers including schemes established under a written law.

- (f) by inserting the following new definition in proper alphabetical sequence—

“partial liquidation” - means transfer of all assets and liabilities attributable to the members related to a withdrawing employer to another registered scheme, but the scheme otherwise continues to function as a normal scheme to the continuing participating employers.

33. Regulation 3 of the principal Regulations is amended in paragraph (1) by deleting subparagraph (a) and replacing it with the following new subparagraph—

- (a) in case of an existing scheme, in Form I set out <sup>\*</sup> in the Schedule.

34. Regulation 5 of the principal Regulations is amended by deleting paragraph (1) and replacing it with the following new paragraph—

(1) A sponsor of a scheme shall at all times have in its board of directors and top management at least four persons who are academically and professionally qualified in matters relating to administration of schemes, insurance, law, accounting, actuarial science, economics, banking, finance or investment of scheme funds and a person possessing at least five years' experience in the administration of retirement benefits schemes.

35. The principal Regulations are amended by deleting regulation 6 and replacing it with the following new regulation—

Suitability of sponsor. 6. In order to determine the professional suitability of a sponsor, the Authority shall have regard to the following qualities, in so far as they are reasonably determinable—

- (a) the sponsor's general probity;
- (b) the sponsor's competence and soundness of judgment for the fulfilment of the responsibilities attached to marketing the umbrella scheme;
- (c) the diligence with which the sponsor is likely to fulfil the responsibilities attached to marketing the umbrella scheme;
- (d) qualifications and experience of the sponsor's top management or directors in administration and management of trusts;
- (e) the previous conduct and activities of the sponsor in business or financial matters

and, in particular, to any evidence that any of the directors or top management personnel of the sponsor—

- (i) has been convicted of the offence of fraud, or any other offence of which dishonesty is an element; or
  - (ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice by persons engaged in the provision of banking, insurance, investment or other financial services; and
- (f) any additional information as may be necessary in determining the professional suitability of a company proposing to establish or operate an umbrella scheme.

36. Regulation 9 of the principal Regulations is amended in paragraph (1)—

- (a) by deleting subparagraph (g) and replacing it with the following new subparagraph—
  - (g) conditions under which an employer may cease making contributions to the scheme.
- (b) by deleting subparagraph (h) and replacing it with the following new subparagraph—
  - (h) conditions under which an employer may terminate its participation in the scheme;
- (c) by deleting subparagraph (m) and replacing it with the following new subparagraph—
  - (m) the vesting of contributions immediately.
- (d) by deleting subparagraph (o) and replacing it with the following new subparagraph—
  - (o) provision for a member to defer benefits in the scheme or transfer to another scheme including an occupational or individual retirement benefits scheme.
- (e) by deleting subparagraph (s) and replacing it with the following new subparagraph—
  - (s) partial liquidation of the scheme where a participating employer ceases to remit member contributions or commits an act contrary to the provisions of the Act and the trust deed and rules.
- (f) by deleting subparagraph (z) and replacing it with the following new subparagraph—
  - (z) manner of receiving and accounting for the contributions made by or on behalf of each member in the scheme;

(g) by deleting subparagraph (aa) and replacing it with the following new subparagraph—

(aa) the manner in which participating employers are kept informed on a quarterly and annual basis.

37. Regulation 9 of the principal Regulations is amended by deleting paragraph (2) and replacing it with the following new paragraph—

(2) A participating employer may have special scheme rules which may make provision for the following—

- (a) the date of participation;
- (b) the rate of contribution which must not be below the limit of the rate in the trust deed and rules;
- (c) the normal retirement age which must not be less than prescribed in the trust deed and rules; and
- (d) the power of amendment of the special rules by the parties:

Provided that the special rules shall be an enhancement of the general rules of the fund.

38. Regulation 12 of the principal Regulations is amended by deleting paragraph (2) and replacing it with the following new paragraph—

(2) Where the sponsor elects not to appoint a trust corporation under regulation 16 as a sole trustee, the sponsor shall appoint nine trustees of a scheme of whom—

- (a) five shall be nominated by participating employers from amongst members of the management committee constituted under regulation 18; and
- (b) four shall be nominated by the sponsor, of whom two shall not be employees or directors or have any business relationship with the sponsor, and be in good standing in a relevant professional body and approved by the Authority.

39. Regulation 13 is amended in paragraph (1)—

(a) by deleting paragraph (f) and replacing it with the following new paragraph—

(f) ensuring that the agreed contributions have been remitted to the custodian or approved issuer as required by the law and the scheme rules.

(b) by deleting paragraph (k) and replacing it with the following new paragraph—

(k) notifying the sponsor and employer of the particulars of the manager and custodian of the scheme as may be sought by any or both which particulars shall include—

- (i) the full name of the manager and custodian;

- (ii) the physical and postal address of the registered office of the manager and custodian;
  - (iii) the dates of the first and subsequent financial years of the manager and custodian;
  - (iv) the contents of the agreement limited to duties owed by the trustees to the service provider, duties of the service provider to the scheme and any other fixed timelines; and
  - (v) any other particulars as the sponsor or the participating employer may request from the trustees.
- (c) by deleting paragraph (l) and replacing it with the following new paragraph—
- (l) submitting to the sponsor and participating employers at least once in every three months from the date of commencement of the financial year of the scheme—
    - (i) the valuation of the scheme fund representing all the assets of the scheme, and separately valuation together with the investment return thereof of contributions made by or on behalf of members of the scheme who are employees of each participating employer;
    - (ii) reports reviewing the investment activity and performance of the investment portfolios comprising the scheme fund since the last report date and containing the manager's proposals for the investment of the scheme fund; and
    - (iii) a record of all investment transactions of the scheme during the previous period.
- (d) by deleting paragraph (n) and replacing it with the following new paragraph—
- (n) furnishing the sponsor and participating employers with a copy of the most recent audited financial statements of the manager and custodian and with such other information as may be sought by the sponsor or participating employers.

40. Regulation 14 is amended in paragraph (b) by deleting paragraph (i) of the proviso and replacing it with the following new paragraph—

- (i) the trustees shall meet at least two times in every calendar year.

41. The principal Regulations are amended by deleting regulation 17 and replacing it with the following new regulation—

Engagement in professional services. 17. A trustee who is an advocate, accountant or person engaged in any other profession or business shall not be engaged to provide professional services done by the trustee or trustee's firm in connection to the scheme.

42. The principal Regulations are amended by deleting regulation 18 and replacing it with the following new regulation—

Management committees.

18. (1) Each participating employer together with its employees who are members of the scheme shall nominate not more than three representatives to form a management committee.

(2) The management committee shall keep its corresponding participating employer and members informed regarding matters and activities of the scheme.

(3) The scheme rules shall provide for—

- (a) the procedure of and grounds for the removal from office of management committee members; and
- (b) the procedure for convening meetings.

43. The principal Regulations are amended by deleting regulation 21 and replacing it with the following new regulation—

Suitability of scheme.

21. (1) In determining whether to participate in an umbrella scheme, an employer shall consider, among other things, whether the scheme—

- (a) is registered under the Act;
- (b) has appointed an administrator, custodian, manager, as the case may be, who has the professional and technical capacity and adequate operational systems to manage the scheme;
- (c) has developed a prudent investment policy for the investment of the scheme fund;
- (d) is fully funded;
- (e) has the professional and technical capacity and adequate operational systems to manage a multi-employer scheme;
- (f) consists only of scheme funds maintained separately at all times from any other funds under the control of the trustees; and
- (g) keeps or has caused to be kept a designated account for the employees of each employer in the scheme.

44. Regulation 23 is amended in paragraph (1) by deleting paragraph (10) and replacing it with the following new paragraph—

(10) An employer shall, in the deed of adherence, state the rate of contributions by the employer and the employees who are members of the scheme:

Provided that the rate of the contributions shall not be less than what is specified in the scheme rules.

45. Regulation 26 is amended by deleting paragraph (a) and replacing it with the following new paragraph—

- (a) restrict eligibility to membership of a scheme on the basis of gender, race, grade, cadre, age, differences in the employees' salary, wages, rank, seniority at the work place, association, religion or in any manner which is discriminatory.

46. Regulation 28 is amended by deleting paragraph (2) and replacing it with the following new paragraph—

(2) Where a member elects in writing to have the retirement benefits referred to in paragraph (1) (c) transferred to another scheme for the purpose of securing a retirement benefit, the basis of paying transfer value where the scheme has a reserve fund shall be reviewed and certified by the actuary as required by the law and the member shall get a proportionate share of the reserve fund at the end of the financial year.

47. Regulation 30 is amended by deleting paragraph (4) and replacing it with the following new paragraph—

(5) Where the scheme rules provide for the purchase of an annuity and income drawdown for members at retirement age, the members shall have the option of selecting the annuity and/or income draw down provider from whom to purchase the annuity and/or income draw down.

48. The principal Regulations is amended deleting regulation 32 and replacing it with the following new regulation—

Cessation of participation by an employer 32. (1) A scheme shall be partially liquidated where a participating employer ceases to remit members' contributions, contravenes the provisions of the Act or contravenes the provisions of the scheme's trust deed and rules.

(2) For the avoidance of doubt, the partial liquidation of a scheme shall not affect the members' benefits which shall be treated in accordance with the rules of the scheme.

49. Regulation 36 is amended—

(a) in paragraph (3) by deleting subparagraph (b) and replacing it with the following new subparagraph—

(b) send to the sponsor and employer a copy of the audited accounts and to each member a summary of the audited accounts of the scheme together with the member's benefit statement by appropriate means.

(b) by deleting paragraph (5) and replacing it with the following new paragraph—

(5) The auditor shall further be required to examine the systems and controls to monitor the receipt of contributions and the reporting of late payments to the fund and render an opinion thereof as to their adequacy for purposes of determining un-remitted contributions.

50. The principal Regulations are amended by deleting regulation 38 and replacing it with the following new regulation—

Distribution of surplus of scheme fund.

38. The surplus of a scheme fund shall not be directly or indirectly refunded to the sponsor of the scheme:

Provided that—

- (a) a contribution holiday for both the employer and the member as shall be determined by an actuary shall not be construed to mean a refund of the surplus of a scheme fund, and shall be limited to the surplus above 10% of the scheme's accrued liability;
- (b) if the total accrued liabilities are being transferred to a different scheme, any surplus shall be allocated equally between the members and the employer;
- (c) the portion of the surplus due to the employer may be used as a contribution holiday by the sponsor in the new scheme; and
- (d) subject to the surplus being sufficient for the purpose, where partial liability is being transferred to a scheme, a portion of surplus proportionate to the value of the liability may be transferred.

51. The principal Regulations are amended by deleting regulation 48 and replacing it with the following new regulation—

Amalgamation of schemes.

48. (1) An amalgamation of schemes shall not take place unless the following conditions have been satisfied and approved by the Authority in writing—

- (a) the arrangements and particulars for the proposed amalgamation, including copies of current actuarial reports, in respect of the schemes and other statements taken into account for the purposes of the amalgamation, have been submitted to and approved by the Authority;
- (b) the Authority has been furnished with such additional particulars, or such specific reports by an actuary or auditor, as it may deem necessary for the purposes of this regulation;



- (c) the Authority is satisfied that the arrangements referred to in subparagraph (a) accords full recognition to the reasonable expectations of the members of the schemes concerned, and that the proposed transaction would not render any scheme which is a party thereto and which will continue to exist if the proposed transaction when completed is unable to—
- (i) meet the requirements of the Act and these regulations;
  - (ii) remain in a sound financial condition; or
  - (iii) in the case of a scheme which is not in a sound financial condition, to attain a sound condition within the period of time deemed by the Authority to be satisfactory;
- (d) the Authority has been furnished with such evidence as it may require to show that the provisions of the scheme rules of the concerned schemes in so far as they are applicable, have been carried out or that adequate arrangements have been made to carry out such provisions at such intervals as may be required by the concerned schemes; and
- (e) the approval referred to herein shall be given within thirty days of receipt of all the information required under paragraph (d).
- (2) An amalgamation of a scheme fund shall not be approved if its intent, purpose or effect will—
- (a) diminish the retirement benefits of the members of such scheme; and
  - (b) reduce the accrued benefits of its members.
- (3) Whenever any transaction comes into force in accordance with the provisions of this regulation, the relevant assets and liabilities of the schemes so amalgamated shall respectively vest in and become binding upon the resultant scheme.
- (4) A transaction effected in terms of this regulation shall not deprive any creditor of any scheme thereto, except in his capacity as a member, of any right or remedy which he had immediately prior to that date against any scheme to the transaction or against any member of such scheme.

52. The principal Regulations are amended by deleting regulation 49 and replacing it with the following new regulation—

Existing schemes to amend scheme rules. 49. All existing schemes shall within ninety days from the date of commencement of these Regulations amend their scheme rules to comply with the provisions of the Act and these Regulations.

53. The principal Regulations are amended by deleting the Schedule and replacing it with the following new Schedule—

SCHEDULE

(r. 3 (1)(a))

Form I

RETIREMENT BENEFIT AUTHORITY  
REGISTRATION OF EXISTING SCHEMES

APPLICATION FOR THE PURPOSE OF REGISTRATION UNDER s. 23 (2) OF THE  
RETIREMENT BENEFITS ACT, 1997

(read attached notes before completing the form)

PART I – DETAILS OF THE SCHEME

- A. (i) Name of the scheme .....
- (ii) Income Tax PIN Number.....
- B. Any other names under which the scheme has been known previously:  
.....  
.....
- C. Any other names under which the scheme has been known together with the names  
of the schemes which have in whole or part been merged with or replaced by the scheme  
in the past five years:  
.....  
.....
- D. Provide the following particulars regarding the scheme:
  - (i) Is it a provident or pension fund? Yes/No
  - (ii) Is it employee based? Yes/No
  - (iii) Is the scheme contributory on non-contributory?
  - (iv) If other specify.....
  - (v) Current status of the scheme:
    - 1. Is it an open scheme? Yes/No
    - 2. Is it a paid-up scheme? Yes/No
    - 3. Is it a closed scheme? Yes/No
    - 4. If other, specify .....
  - (vi) State whether the scheme is a defined contribution or a defined benefit scheme
  - (vii) If other, specify .....
- E. Give the following information as at the end of the last financial year from  
.....20..... to .....20.....
  - (i) State number of members of the scheme.
  - (ii) State the number of members of the scheme who were active members in this  
service
  - (iii) State the numbers in whom the scheme benefits have been fully vested
  - (iv) Scheme vesting formula .....
  - (v) State the number of members who are drawing pension, if any
  - (vi) State the numbers of members whose retirement benefits are deferred

- (vii) State the number of the total permanent workforce of the sponsoring employers
- (viii) Is the membership of the scheme compulsory or voluntary?
- (ix) Do permanent employees of the sponsoring employers who are not members of the scheme belong to any scheme? Yes/No  
If Yes, give details of the scheme

.....  
 .....  
 .....

F. Give the following information as at the end of the last financial year from .....20..... to .....20.....

- (i) Where applicable, state the contribution formula for the employee and the employer, and in the case of an individual based scheme, the individual contribution formula

Employee.....  
 Employer.....  
 Individual contribution.....

- (ii) State the amount contributed:

Employee's contribution:  
 Kshs .....  
 Employer's contribution  
 Kshs .....

- (iii) State the total benefits as follows:

Lump sum payments:  
 Kshs.....  
 Commuted payments:  
 Kshs.....  
 Death benefits payments:  
 Kshs.....  
 Disability benefits payments:  
 Kshs.....  
 Deferred benefits:  
 Kshs.....  
 Others specify:  
 .....

- (iv) State the total value of the scheme fund. Kshs.....

- (v) State the basis of valuation of the scheme fund e.g. Market value, Historical cost, etc. ....

G. (i) Provide the following particulars of the schemes:

Country.....  
 Date of establishment.....  
 Registered office of the scheme:  
     Building.....  
     Road.....  
     Postal address.....  
     Telephone.....  
     Telex.....  
     Fax/email

(ii) Is the scheme established under an irrevocable trust? Yes /No.

If No, state the basis of the establishment .....

(iii) Is the scheme approved under the Income Tax (Retirement Benefits Scheme) Rules? Yes/ No

If Yes, state the income Tax Reference Number.....

H. Provide details for the following:

(i) Members of the Board of Trustees (Appendix A)

(ii) Fund Managers, if any (Appendix B)

(iii) Auditors, Legal Advisors, Actuary, Managers, Custodian and Administrators (Appendix C)

*(please complete the tables in the above-mentioned appendices)*

I. If the scheme does not engage in the services of trustees, a scheme administrator or fund manager, then the following particulars:

(i) Who administers the scheme?

.....  
 .....

(ii) Who makes decisions on the investment of the scheme funds?

.....  
 .....

(iii) Are the funds separated from those of the sponsors? Explain

.....  
 .....

(iv) Are the scheme funds separated from those of the fund manager? Yes/No

(v) Provide the list of investment portfolio as per the latest audited or management accounts for the period from.....20.... to .....20.... showing the cost, market and book values and the respective percentages in relation to the total fund of the scheme as in appendices D1 and D2 annexed

NOTES:

1. In case the assets of the scheme are managed by an Insurance Company/ Bank/ Asset Manager on a pooled basis, such

2. The said manager in completing appendix D2 to provide the investments of

the pool and submit on a separate list all the schemes which form the pool together with their respective shares of the pooled investment

- (vi) Where applicable, state the ratio of fund assets in relation of actuarial liabilities as per the latest actuarial report

.....  
 .....  
 .....

- J. List all Bankers of scheme funds showing the branches and address for such branches:

.....  
 .....

- K. Custodian of scheme assets

- (i) Is the custodian of the scheme assets registered under the Capital Markets Authority Act? Yes/No

- (ii) If the custodian is registered by any other authority provide the following:

Full Name.....

Physical Address.....

Building.....

Road.....

Town.....

Postal Address.....

Telephone..... Fax.....

- (iii) State in whose name the title documents for the assets of the scheme are registered?

.....  
 .....

- (iv) Give full details of the person who keeps scheme's assets and documents:

Full Name.....

Physical Address.....

Building.....

Road.....

Town.....

Postal Address.....

Telephone..... Fax.....

**PART II – PARTICULARS OF SPONSORS**

*(In case of more than one sponsor, provide the following particulars for each on a separate attachment)*

- A. Names of Sponsors

.....

- .....  
 .....  
 B. Contact information of sponsors:  
 Full Name.....  
 Physical Address.....  
 Building.....  
 Road.....  
 Town.....  
 Postal  
 Address.....  
 Telephone..... Fax.....  
 C. Tax information of sponsor:  
 Income Tax PIN Number .....  
 Income Tax Reference Number .....  
 D. Number of Members in service of the sponsor.....

**PART III – PARTICULARS OF EMPLOYERS**

*(Provide the following particulars for each on a separate attachment)*

- A. Name of sponsor:  
 .....  
 .....  
 .....  
 B. If a company, certificate of incorporation number: .....  
 C. If not a company state the number of the certification of registered under the  
 Business Names Act: .....  
 D. Contact information:  
 Full Name.....  
 Physical Address.....  
 Building.....  
 Road.....  
 Town.....  
 Postal Address.....  
 Telephone..... Fax.....  
 E. Tax information:  
 Income Tax PIN Number .....  
 Income Tax Reference Number .....

**PART IV – ATTACHMENTS**

Please attach copies of the following:

- (i) Trust deed and rules
- (ii) Latest actuarial report





|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

If any of the officers has been convicted of a criminal offence, please give the name of the officer, the date and particulars of the offence.

.....  
 \*(The Chief Executive and his/her core team)

#### APPENDIX C

|                | <i>Name of firm</i> | <i>Income Tax P.I.N Number</i> | <i>Address, Telephone No. or Email</i> | <i>Professional body to which partners are members</i> | <i>Date of appointment</i> |
|----------------|---------------------|--------------------------------|--|--|----------------------------|
| Actuaries      |                     |                                |  |  |                            |
| Administrators |                     |                                |  |  |                            |
| Auditors       |                     |                                |  |  |                            |
| Custodians     |                     |                                |  |  |                            |
| Legal Advisors |                     |                                |  |  |                            |

#### APPENDIX D1

#### LIST OF INVESTMENT PORTFOLIO

Income Tax P.I.N Number.....

| INVESTMENTS                    | AMOUNT IN KSHS |   |               |   |               |   |               |   |
|--------------------------------|----------------|---|---------------|---|---------------|---|---------------|---|
|                                | Original cost  | % | Original cost | % | Original cost | % | Original cost | % |
| (a) Real Estate: *             |                |   |               |   |               |   |               |   |
| (i) Land (underdeveloped)      |                |   |               |   |               |   |               |   |
| (ii) Residential               |                |   |               |   |               |   |               |   |
| (iii) Commercial               |                |   |               |   |               |   |               |   |
| (iv) Agricultural              |                |   |               |   |               |   |               |   |
| (v) Any other                  |                |   |               |   |               |   |               |   |
| (b) Quoted Equity*             |                |   |               |   |               |   |               |   |
| (i) Agricultural               |                |   |               |   |               |   |               |   |
| (ii) Commercial and allied     |                |   |               |   |               |   |               |   |
| (iii) Financial and Investment |                |   |               |   |               |   |               |   |
| (iv) Industrial and allied     |                |   |               |   |               |   |               |   |
| (v) Others                     |                |   |               |   |               |   |               |   |

|   |  |     |  |     |  |     |  |     |
|---|--|-----|--|-----|--|-----|--|-----|
| (c) Unquoted Equity*<br>.....<br>(i) Agricultural<br>.....<br>(ii) Commercial and allied<br>.....<br>(iii) Financial and Allied<br>.....<br>(iv) Industrial and allied<br>..... |  |     |  |     |  |     |  |     |
| (d) Government paper<br>(i) Bonds<br>(ii) Stock<br>(iii) Treasury Bills<br>(iv) Any other (specify)<br>.....  |  |     |  |     |  |     |  |     |
| (e) Cash and Deposits in Banks (state the name(s) of the Bank(s)<br>.....   |  |     |  |     |  |     |  |     |
| (f) Offshore investments<br>.....   |  |     |  |     |  |     |  |     |
| (g) Listed REITS  |  |     |  |     |  |     |  |     |
| (h) Others (as applies per investment guidelines)<br>.....  |  |     |  |     |  |     |  |     |
| <b>TOTAL</b>  |  | 100 |  | 100 |  | 100 |  | 100 |

*\*Provide on a separate paper a list of land reference title numbers in which scheme funds are invested*

*\*Provide on a separate paper a list of companies in which investments are held.*

#### NOTES FOR APPLICATION FOR REGISTRATION

The following words and phrases as used in the application form have the following respective meanings:

(1) Actuarial liabilities: A debt or an obligation of a retirement benefits scheme arrived at using actuarial principles and assumptions

(2) Administrator: A person charged with the responsibility of day to day management of a scheme such as keeping records, paying benefits to and providing members with information relating to their benefits

- (3) Banks: Bank of financial institution licensed under the Banking Act and registered as custodian by the Authority in which schemes accounts are operated or held.
- (4) Commuted payment: Whole or part of a pension entitlement paid to a member on retirement subject to scheme rules and/ or Income Tax regulations.
- (5) Contribution formula: The rate(s) of contribution of the fund by members and/or employers.
- (6) Contributory scheme: A retirement benefit scheme in which both the employer and the members contribute to the fund.
- (7) Non-contributory scheme: A retirement benefit scheme in which only the employers contributes to the fund.
- (8) Custodian: A person who has custody of scheme assets including cash and title documents, as an agent of the scheme.
- (9) Defined Benefit Scheme: A scheme in which benefits to be provided or paid are specific based on a specified criterion such as service, earnings e.t.c.
- (10) Defined Contribution (money purchase) scheme: A scheme which specified the contributions to be made whether by employer and or employee. The accumulated contributions and interest earned determine the value of the benefit.
- (11) Financial year: Financial year of the scheme.
- (12) Fund manager: A person charged with the responsibility of investing scheme funds.
- (13) Lump sum: Full and final payment of retirement benefit upon cessation of employment on attaining the normal retirement age.
- (14) Open scheme: A running scheme which is open to new members to join.
- (15) Paid up scheme: A scheme where contributions to the scheme have ceased e.g. due to winding up.
- (16) Closed scheme: A scheme which is closed to new members but which otherwise function as a normal scheme for its continuing members.
- (17) Scheme: Any scheme or arrangement (other than a contract for life assurance) whether established by a written law for the time being in force or by any other instrument, under which persons are entitled to benefits in the form of payments, determined by age, length of service, amount of earnings or otherwise and payable primarily upon the retirement, or upon death, termination of service, or upon the occurrence of such other event as may be specified in such written law or other instrument.
- (18) Vested benefit: Any accrued benefit to which a member would be immediately entitled to on withdrawal from service of the sponsor from the scheme or at retirement.
- (19) Vesting formula: The method of determining the benefits to be vested.

*\*person includes a body corporate or a company.*

Dated the 10th September, 2020.

**UKUR YATANI,**  
*Cabinet Secretary for the National Treasury and Planning.*

