



Retirement Benefits Authority

BUDGETARY CHANGES AFFECTING THE RETIREMENT BENEFITS INDUSTRY

The Retirement Benefits Authority is established under the Retirement Benefits Act No. 3 of 1997 to regulate and supervise the establishment and management of retirement benefits schemes, protect the interests of members and sponsors of the retirement benefits sector, approve trustees' remuneration approved by members during the annual general meeting after every three years, promote the development of the retirement benefits sector and advise government on relevant policy issues.

Following the presentation of the Budget Statement for 2021/2022 by the Cabinet Secretary for The National Treasury and Planning, the Authority would like to bring the following changes that affect the retirement benefits industry to the attention of stakeholders:

Issue	Change	Implications	Clause/ Effective date
AMENDMENTS TO THE RETIREMENT BENEFITS ACT (NO.3 OF 1997)			
Registration of Corporate Trustee	Section 2, 22, 23, 25, 27, 28, 29, 30, 31, 41, 42 of the Retirement Benefits Act is amended to introduce requirement for corporate trustees to be registered and file returns.	Where there is a Corporate Trustee providing essential trustee services to retirement benefit schemes as required by retirement benefits legislation, they will now be required to register with the authority as per the registration requirements provided under the Act.	Section 60,61,62,63,64,65, 66,67,68,70,71 Finance Act 2021 Effective date 1 st July 2021 except for Section 60; 1 st January 2022
Powers of the Authority	Section 34 of the Retirement Benefits Act to empower the Authority to extend the timeline for submission of audited accounts during extraordinary times, e.g., during pandemics or when there is no auditor general in office or any other justifiable cause.	The Authority may on the application of a trustee extend the timeline for submission of audited accounts for a period not exceeding ninety (90) days. Penalty shall not be paid for the period extended.	Section 69 Finance Act 2021 Effective date 1 st July 2021
Regulation of Post-Retirement Medical Funds established outside Retirement Benefit Schemes	Section 2 of the Retirement Benefits Act is amended to include post-retirement medical fund in the definition of retirement benefits scheme and to insert a definition of post-retirement medical fund in the Act.	This amendment allows the Authority to formulate regulations for registration and regulation of stand-alone and umbrella post-retirement medical funds. The funds can be established under irrevocable trust or written law for operations of post-retirement medical cover. The Authority shall oversee the accumulation of contributions and management of the fund whereas the payments phase through medical services providers shall be overseen	Section 60 Finance Act 2021 Effective date 1 st January 2022

Issue	Change	Implications	Clause/ Effective date
		<p>by the Insurance Regulatory Authority.</p> <p>The regulation of Stand-alone Post-Retirement Medical Funds will enhance confidence in the sector and ensure members are covered in retirement.</p>	
<p>Powers to recover unremitted contributions</p>	<p>Section 53B of the Retirement Benefits Act is amended by inserting a proviso to empower the Authority to appoint KRA to be an agent for the purposes of collection and recovery of unremitted contributions, interests, and penalties.</p>	<p>This amendment gives the Authority powers to grant approval to trustees upon applications or to directly appoint KRA as an agent to collect unremitted contributions, interests, and penalties owed to the scheme.</p> <p>Once appointed as an agent, KRA shall issue a 21-day notice to the defaulting employer to comply failure to which KRA shall serve such employer and the employers bank with an agency notice; attach the bank accounts of the defaulting employer; and remit the attached funds to the Scheme, within thirty days.</p> <p>The cost of the recovery of unremitted contributions shall be borne by the defaulting employer.</p>	<p>Section 72 Finance Act 2021</p> <p>Effective date 1st July 2021</p>

AMENDMENTS TO THE RETIREMENT BENEFITS REGULATIONS

The Retirement Benefits (Individual Retirement Benefits Schemes) (Amendment) Regulations, 2021

<p>Vesting of benefits.</p>	<p>Regulation 7 is amended by deleting paragraph (j) and substituting therefor the following new paragraph - (j) immediate vesting of contributions</p>	<p>This amendment provides for immediate vesting of benefits from both the member's and employer's contributions.</p> <p>Thus, the one year waiting period for employer's contributions to vest in a member in individual retirement benefits schemes is hereby lifted.</p>	<p>Legal Notice No. 163</p> <p>Effective date 12TH July 2021</p>
<p>Conflict of Interest</p>	<p>Regulation 9 is amended by inserting the following paragraph immediately after paragraph (4) - (4A) A trust corporation shall not appoint an administrator, fund manager, custodian or approved issuer who is related to the trust corporation by way of ownership, directorship, or employment</p>	<p>This amendment disallows Trust Corporations from appointing related parties to act as service providers for schemes they provide trustee services. This would enhance the principles of good governance and eliminate conflict of interest thus enhancing transparency and</p>	<p>Legal Notice No. 163</p> <p>Effective date 12TH July 2021</p>

Issue	Change	Implications	Clause/ Effective date
		accountability for each service provider.	
Preservation of Benefits	<p>Regulation 16 is amended in paragraph (2) by deleting subparagraph (a) and substituting therefor the following new subparagraph –</p> <p>(a) where a member of an occupational retirement benefits scheme leaves employment before attaining the specified retirement age and transfers his accrued retirement benefits to an individual retirement benefits scheme, that member may opt for payment of not more than fifty per cent of his total accrued benefits and the investment income that has accrued in respect of those contributions.</p>	This amendment reinforces need for a member to have adequate benefits in retirement through preservation. It allows members in Individual retirement benefits schemes to access only 50% of accrued benefits where an employer is contributing or 100% where it is only the member contributing.	<p>Legal Notice No. 163</p> <p>Effective date 12TH July 2021</p>
Vesting and Preservation of benefits	<p>The principal Regulations are amended by deleting regulation 17 and substituting therefor the following new regulation – 17.</p> <p>The scheme rules shall provide that –</p> <p>(a) where an employer makes contributions on behalf of an employee, the benefits shall vest immediately;</p> <p>(b) where the employee leaves employment before attaining the retirement age, that employee shall not be entitled to more than fifty per cent of his total accrued benefits and the investment income that has accrued in respect of those contributions; and</p> <p>(c) where a member makes his own contributions to the scheme, the member may opt for payment of the member’s total accrued benefits and the investment income that accrued in respect of those contributions.</p>	This amendment provides for immediate vesting of benefits from both the member’s and employer’s contributions. Equally, the amendment reinforces need for a member to have adequate benefits in retirement through preservation by allowing access to only 50% of accrued benefits where an employer is contributing or 100% where it is only the member contributing to an individual retirement benefits scheme.	<p>Legal Notice No. 163</p> <p>Effective date 12TH July 2021</p>
<i>The Retirement Benefits (Umbrella Retirement Benefits Schemes) (Amendment) Regulations, 2021</i>			
Conflict of Interest	<p>Regulation 12 is amended by adding the following new paragraph immediately after paragraph (5) –</p> <p>6) A trust corporation shall not appoint an administrator, fund manager, custodian or approved issuer who is</p>	This amendment disallows Trust Corporations from appointing related parties to act as service providers for schemes they provide trustee services. This would enhance the principles of good governance and eliminate	<p>Legal Notice No. 165</p> <p>Effective date 12TH July 2021</p>

Issue	Change	Implications	Clause/ Effective date
	related to the trust corporation by way of ownership, directorship, or employment.	conflict of interest thus enhancing transparency and accountability for each service provider.	
Withdrawal of membership or benefits	Regulation 27 of the principal Regulations is amended by deleting paragraph (a).	This amendment brings clarity by restricting access to benefits by members when a scheme closes, and another is registered with a different name by the same sponsor.	Legal Notice No. 165 Effective date 12 TH July 2021
Preservation of Benefits	Regulation 28 is amended in paragraph (1) by deleting subparagraph (a) and substituting therefor the following new subparagraph – (a) that member shall, upon request in writing to the trustees, opt for payment of not more than fifty per cent of his total accrued benefits and the investment income that has accrued in respect of those contributions;	This amendment reinforces need for a member to have adequate benefits in retirement through preservation. It allows members in Umbrella retirement benefits schemes to access only 50% of total accrued benefits both from employer and employee contributions.	Legal Notice No. 165 Effective date 12 TH July 2021
<i>The Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2021</i>			
Conflict of Interest	Regulation 8 is amended – (a) by deleting paragraph (4) and substituting therefor the following new paragraph – (4)A trustee shall not be victimized, removed from office of trustee, or discriminated against for having performed the functions of a trustee in accordance with the trust deed and rules of a Scheme or this Act without due process of the law. (b) by inserting the following new paragraph immediately after paragraph (4) – (4A) A trust corporation shall not appoint an administrator, fund manager, custodian or approved issuer who is related to the trust corporation by way of ownership, directorship, or employment.	This amendment shields trustees from victimization for performing the function of the office of a trustee. This amendment disallows Trust Corporations from appointing related parties to act as service providers for schemes they provide trustee services. This would enhance the principles of good governance and eliminate conflict of interest thus enhancing transparency and accountability for each service provider.	Legal Notice No. 164 Effective date 12 TH July 2021
Withdrawal of benefits	Regulation 18 is amended in paragraph (3) by deleting subparagraph (a).	This amendment brings clarity by restricting access to benefits by members when a scheme closes, and another is registered with a different name by the same sponsor.	Legal Notice No. 164 Effective date 12 TH July 2021
Preservation of Benefits	Regulation 19 is amended in paragraph (5) by deleting subparagraph (a) and substituting therefor the	This amendment reinforces need for a member to have adequate benefits in retirement through	Legal Notice No. 164 Effective date

Issue	Change	Implications	Clause/ Effective date
	following new subparagraph – (a) where a member leaves employment before attaining the specified early retirement age, that member may opt for payment of not more than fifty per cent of his total accrued benefits and the investment income that has accrued in respect of those contributions;	preservation. It allows members in occupational retirement benefits schemes to access only 50% of total accrued benefits both from employer and employee contributions	12 TH July 2021
Extension of Timeline for Submission of Actuarial Report	Regulation 31(1) is amended in subparagraph (a) by deleting the words “five months” and substituting therefor the words “six months”.	The extension of time to six months’ period will accord actuaries sufficient time to undertake quality work and the scheme to submit a valuation report to the Authority	Legal Notice No. 164 Effective date 12 TH July 2021

Stakeholders are advised to obtain full details of these changes from the **Finance Act, 2021** and **Legal Notices 163, 164 and 165** of 10th August 2021.