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Retirement Benefits Act

The Retirement (Administrators) Regulations

Legal Notice 151 of 2007

Legislation as at 31 December 2022

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The Retirement (Administrators) Regulations (Legal Notice 151 of 2007)

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RETIREMENT BENEFITS ACT
THE RETIREMENT (ADMINISTRATORS) REGULATIONS
LEGAL NOTICE 151 OF 2007

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1. Citation

These Regulations may be cited as the Retirement (Administrators) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires -

"administration services" means administration of the affairs of the scheme in accordance with the provisions of the Act and regulations, scheme trust deed and rules, any other relevant legislation in force, other legal documents related to the scheme and instrument of appointment of the administrator;

"administrator" means a person appointed by trustees to administer a scheme in accordance with the terms and conditions of service specified in the instrument of appointment.

3. Application

- (1) These Regulations shall apply to any company incorporated under the Companies Act ([Cap. 486](#)) which is empowered under written law, memorandum of association or any other instrument constituting it or defining its powers to carry out administration services.
- (2) The provisions of these Regulations relating to the role of the administrator, the process, controls and systems for administration shall also apply where a natural person has been appointed to be an administrator.

4. Registration of administrators

- (1) An application for registration as an administrator shall be submitted to the Authority in the prescribed form together with the prescribed fee.
- (2) Where a company is seeking registration as an administrator, the minimum paid up share capital including unimpaired reserves of the company shall be ten million shillings or such value as the Authority may from time to time prescribe.
- (3) A company rendering administration services to 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.
- (4) The Authority shall within ninety days from the date of receipt of an application for registration consider the application and notify the applicant in writing whether the application has been or not accepted and the reason for the decision where the application has not been accepted.

- (5) The Authority shall, after notifying the applicant of the acceptance of its application for registration, proceed to register the applicant and forward to the applicant the certificate of registration.
- (6) After registration, the administrator shall provide any additional information which may include but not be limited to ownership, directorship, shareholding and staff establishment when required to do so by the Authority.
- (7) This regulation shall not apply to a natural person who has been appointed to be an administrator.

5. Qualifications of natural persons appointed to be administrators

A natural person rendering administration services shall be academically and professionally qualified in matters relating to insurance, law, accounting, actuarial science, economics, banking, finance, investment of scheme funds or has more than five years experience in matters relating directly to pensions and administration of schemes.

5A. Disqualification of Administrators

No person shall be appointed as the administrator of a scheme if that person is related to the fund manager of the scheme.

[L.N. [18/2010](#), r. 2.]

6. Agreement in respect of administration

- (1) An administrator shall enter into a written agreement with the relevant scheme which shall set out the specific arrangements for the required administration services prior to the commencement of the provision of administrative services with regard to a particular scheme.
- (2) The agreement shall be a Service Level Agreement and shall—
 - (a) set out clearly all the relevant agreed requirements and acceptable standards for delivery;
 - (b) stipulate the basis on which the administrator is to be remunerated for conducting the administration.
- (3) Any amendment to the agreement shall be in writing, effected by way of an addendum or new agreement between the administrator and the scheme.

7. The role of the administrator

An administrator shall -

- (a) have all the powers necessary for the performance of its functions under the Act;
- (b) carry out daily administration of the affairs of the scheme in accordance with the provisions of the Act, scheme trust deed and rules and its amendments, any other relevant legislation in force and all other legal documents related to the scheme;
- (c) liaise with the trustees, the Authority, the Department for the time being responsible for collecting domestic taxes and the scheme service providers in the course of administration of the scheme;
- (d) offer advisory and training services to the trustees, members and the Sponsor on their rights and obligations in the scheme;
- (e) avail the required data of the scheme to the service providers to enable preparation of statutory returns to the Authority;
- (f) submit or cause to be submitted required statutory returns to the Authority;

- (g) compute and pay benefits to the members and their beneficiaries directly as provided for in the law and the scheme rules;
- (h) prepare the scheme budgets, cash flows and liquidity requirements as may from time to time be required;
- (i) where required, offer secretarial services to the Board of Trustees by organising meetings, issuing notices for the same and taking minutes during the meetings;
- (j) advise the trustees to ensure that the manager is investing the scheme funds in compliance with the provisions of the Act, the Regulations, scheme trust deed and rules and other relevant legislation in force;
- (k) where required, organise and call annual general or special meetings, take minutes and keep record of those meetings; and
- (l) carry out all other functions stated in the instrument of appointment.

8. Termination of agreement

- (1) Any party to an administration agreement or instrument of appointment may terminate the agreement, without penalty, by a notice not exceeding ninety days in writing to the other party.
- (2) Upon the termination of the administration agreement or instrument of appointment, the administrator shall furnish a report to the Authority within thirty days of the termination, confirming—
 - (a) that all documents of title in possession of the administrator, the assets register, minute books, members' records and all other records pertaining to the scheme have been delivered to the scheme trustees or the new administrator, as the case may be, mentioning specifically the identities of such persons.
 - (b) the date and address of such delivery and the name of the trustee or person at the new administrator to whom the documents in (a) have been delivered.
- (3) Where an administrator is, for some reason other than remuneration for the administration services, unable to comply fully or partially with paragraph (2), the administrator shall state in the report full particulars of the documentation which has not been delivered, the reasons therefor and a plan with the dates on which compliance will take place.

9. Opening of trust account

- (1) An administrator may with regard to the schemes under administration, deposit benefits payable to beneficiaries from those schemes into a trust account to enable the administrator to make use of electronic bank transfer facilities.
- (2) Notwithstanding paragraph (1), the administrator shall ensure that—
 - (a) all benefits are transferred to the account of the beneficiary on the same day on which the deposit in the trust account is made, on condition that any delay caused by the bank's automated clearing bureau, shall not be regarded as a contravention of this regulation;
 - (b) all payment to a beneficiary which has been rejected by the bank are repaid immediately to the relevant scheme's custodian;
 - (c) the administrator reports to the trustees on a monthly basis on all transactions processed through the trust account;
 - (d) the trust accounts are audited annually by the auditor of the administrator; and
 - (e) the bank charges and interest are allocated annually to each scheme administered by the administrator in such proportion as the annual amount deposited on behalf of a particular

scheme bears to the total annual amount deposited on behalf of all schemes administered by the administrator.

10. Processing, controls and systems

- (a) all applicable processes concerning the affairs of the scheme are performed in accordance with the provisions of the Act, the Regulations and the scheme rules;
- (b) all the administrative functions are performed in accordance with the relevant regulatory requirements;
- (c) general administration processing, accounting transactions and risk control measures are in place to ensure accurate, complete and timely processing of data, information reporting and the assurance of data integrity;
- (d) an appropriate internal control system is in place, monitored and managed by a suitable compliance function within the organization to ensure that the requirements of the Act are complied with;
- (e) an adequate operational system is in place capable of enabling performance of scheme administration functions particularly—
 - (i) keeping and updating an accurate record of scheme assets and contributions;
 - (ii) generating all required reports especially statutory reports and returns;
 - (iii) maintaining accurate membership records and respective accrued benefits on daily basis;
 - (iv) calculating member benefits immediately when due.

11. Compliance with Regulations

- (1) Where the Authority has proven that an administrator has contravened or failed to comply with any provision of these Regulations, it shall forthwith notify the administrator in writing at the administrator's last registered address, and require the administrator to furnish the Authority in writing with reasons why the registration as administrator should not be withdrawn within thirty days of the date of the notice.
- (2) The Authority may, where no satisfactory reasons have been furnished within the specified period, after giving a notice in writing, withdraw the registration of the administrator.
- (3) Where the administrator otherwise ceases to render administration services, perform administration business, or the business of the administrator is dissolved or liquidated, the registration of an administrator by the Authority shall be deemed to have lapsed, without prejudice to any legal obligations which may still be attaching to the former administrator under the Act.

12. Transition

Where, at the commencement of these Regulations, an arrangement and an administrator is administering a scheme under an existing arrangement which does not comply with these Regulations, the administrator shall, after having obtained approval and registration by the Authority, enter into a new agreement which complies with these Regulations with each scheme within six months from date of commencement or such time as the Authority may by notice direct.