

**S T A T U T O R Y   I N S T R U M E N T S**  
**2017 No. 40.**

**THE UGANDA RETIREMENT BENEFITS REGULATORY  
AUTHORITY (LICENSING OF RETIREMENT BENEFITS  
SCHEMES) (AMENDMENT) REGULATIONS, 2017.**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

1. Title.
2. Amendment of S.I No. 72 of 2012.
3. Insertion of new regulation 14A.
4. Insertion of new regulations 15A, 15B, 15C, 15D and 15E.
5. Insertion of new Part IIIA.
6. Amendment of regulation 23.
7. Amendment of Schedule Eleven.

# STATUTORY INSTRUMENTS

2017 No. 41.

## **The Uganda Retirement Benefits Regulatory Authority (Licensing of Retirement Benefits Schemes) (Amendment) Regulations, 2017.**

*(Under sections 28, 29, 30 and 91 (1) and (2) (a) and (b) of the Uganda Retirement Benefits Regulatory Authority Act, 2011, Act No. 15 of 2011).*

IN EXERCISE of the powers conferred on the Minister responsible for finance by sections 28, 29 and 91(1) and (2) (a) and (b) of the Uganda Retirement Benefits Regulatory Authority Act, 2011, these Regulations are made this 2nd day of May 2017.

### **1. Title.**

These Regulations may be cited as the Uganda Retirement Benefits Regulatory Authority (Licensing of Retirement Benefits Schemes) (Amendment) Regulations, 2017.

### **2. Amendment of S.I. No. 72 of 2012.**

The Uganda Retirement Benefits Regulatory Authority (Licensing of Retirement Benefits Schemes) Regulations, 2012, in these Regulations referred to as the principal Regulations are amended in Regulation 2—

- (a) by deleting the word “benefits” appearing immediately before the word “retirement” in the definition of “defined benefits retirement benefits scheme”;
- (b) by placing the definition of “licence” immediately after the definition of “mandatory contribution”;
- (c) by inserting the following definitions in their appropriate alphabetical order—

“deed of adherence” refers to an agreement signed between the trustees of an umbrella retirement benefits scheme and each participating employer, entity or individual, indicating that the parties to the deed agree to be bound by the trust deed of the umbrella retirement benefits scheme;

“participating employer” means an employer who registers with an umbrella retirement benefits scheme for purposes of providing retirement benefits for his or her employees;

“participating entity” means a body corporate, an association or a professional body, which joins an umbrella retirement benefits scheme for the purpose of providing retirement benefits for its employees or members;

“participating individual” means a natural person who joins an umbrella retirement benefits scheme for the purposes of providing for his or her own retirement benefits;

“special rules” refers to exceptional provisions which vary the application of the trust deed and scheme rules of an umbrella retirement benefits scheme to a particular employer, entity or individual participating in the umbrella retirement benefits scheme;

“umbrella retirement benefits scheme” means a retirement benefits scheme which collects contributions of employees of a single employer or a group of employers, individuals, members of an association or a professional body.

### **3. Insertion of new regulation 14A.**

The principal Regulations are amended by inserting immediately after regulation 14 the following new regulation—

**“14A. Additional requirements for a trust deed of umbrella retirement benefits scheme.**

The trust deed for establishing an umbrella retirement benefits scheme shall, in addition to complying with the requirements in regulation 14, contain the following—

- (a) provisions for the formation of member liaison committees consisting of representatives of the employers, entities or individuals participating or contributing to the umbrella retirement benefits scheme;
- (b) provisions for the trustees to periodically meet with the member liaison committees; and
- (c) any other information relevant for the operation of an umbrella retirement benefits scheme.”

**4. Insertion of new regulations 15A, 15B, 15C, 15D and 15E.**

The principal Regulations are amended by inserting immediately after regulation 15 the following new regulations—

**“15A. Additional requirements for scheme rules of an umbrella retirement benefits scheme.**

The scheme rules of an umbrella retirement benefits scheme shall, in addition to complying with the requirements in regulation 15, include—

- (a) provisions indicating the composition of the membership of the scheme, stating whether it admits all or any of the following—
  - (i) an individual or group of individuals;
  - (ii) a body corporate or an entity;
  - (iii) an association or a professional body; or
  - (iv) an employer or a group of employers;

- (b) the mode of calculating shared operational costs amongst the members of the umbrella retirement benefits scheme;
- (c) in case of an umbrella scheme whose membership consists of both corporate bodies and individuals, provisions stating how the operational costs payable shall be distributed among the different members without exploiting any member;
- (d) provisions enabling the making of special rules; and
- (e) provisions enabling the setting up of a member liaison committee to present the interests of the members of the umbrella retirement benefits scheme to trustees of the umbrella retirement benefits scheme.

**15B. Participating employer, entity or individual to sign deed.**

(1) A participating employer, entity or individual in an umbrella retirement benefits scheme shall sign a deed of adherence containing the following information—

- (a) particulars of the umbrella retirement benefits scheme;
- (b) particulars of the participating employer, entity or individual who desires to join the umbrella retirement benefits scheme;
- (c) composition of the membership of the retirement benefits scheme, stating whether the composition includes all or any of the following—
  - (i) an individual or group of individuals;
  - (ii) a body corporate or an entity;
  - (iii) an association or a professional body; and
  - (iv) an employer or a group of employers;

- (d) a provision stating that admission to membership of the umbrella retirement benefits scheme shall be after the signing of the deed of adherence by any participating employer, entity or individual;
  - (e) rights and obligations of the parties to the deed of adherence; and
  - (f) any other information which the Authority considers necessary for purposes of executing the deed of adherence.
- (2) An administrator of an umbrella retirement benefits scheme shall submit to the Authority—
- (a) a copy of the deed of adherence signed by each participating employer, entity or individual; and
  - (b) any special rules of each participating employer, entity or individual.
- (3) The deed of adherence shall be binding on the umbrella retirement benefits scheme and participating employer, entity or individual in the umbrella retirement benefits scheme.

**15C. Effect of signing deed of adherence.**

Upon the signing of the deed of adherence—

- (a) the employees of a participating employer shall become members of the umbrella retirement scheme;
- (b) the members of a participating entity shall become members of the umbrella scheme; and
- (c) in the case of a participating individual, that individual shall become a member of the umbrella retirement benefits scheme.

**15D. Umbrella retirement benefits scheme to maintain separate records.**

An umbrella retirement benefits scheme shall open and maintain separate records for—

- (a) each participating individual member;
- (b) in the case of participating entities, a separate record for each participating entity; and
- (c) in the case of participating employers, a separate record for each participating employer.

**15E. Varying of scheme rules.**

(1) A participating employer, entity or individual may, in consultation with the trustees of the umbrella retirement benefits scheme, sign special rules to vary the provisions of the scheme rules of the umbrella retirement benefits scheme.

(2) The special rules made under sub regulation (1) shall contain exceptions to the scheme rules of the umbrella retirement benefits scheme which apply to the particular participating employer, entity or individual.

(3) The administrator shall submit to the Authority a copy of the special rules signed by a participating employer, entity or individual.”

**5. Insertion of new Part IIIA.**

The principal Regulations are amended by inserting immediately after regulation 17 a new Part IIIA as follows—

“PART IIIA—VESTING OF RIGHTS

**17A. Vesting of member’s rights.**

(1) A member’s benefits shall begin to accrue when he or she contributes to a retirement benefits scheme.

(2) A member's benefits shall be deemed to vest in the member if that member has acquired an immediate fixed right to the present or future receipt of his or her accumulated benefits in the scheme.

(3) The benefits derived from the contributions of a member into a scheme shall vest immediately in the member.

**17B. Prescription of vesting period.**

(1) The scheme rules shall clearly define the vesting period which may be linked to—

- (a) a reasonable period of service or employment with the contributing employer calculated in relation to the average employee tenure; and
- (b) the number of years of contribution into the scheme.

(2) Notwithstanding sub-regulation (1), the vesting period prescribed in the scheme rules shall not exceed two years.

**17C. Protection of member's benefits from retroactive reductions.**

(1) The benefits which have already vested in a member shall not be subjected to retrospective or retroactive reduction of the value of the benefits.

(2) Any amendments to the contribution formula or vesting scale of a member, shall only affect the rate of future benefit accrual.

**17D. Exceptions to protection of vested benefits from members' creditors.**

Except where a member has assigned his or her benefits in accordance with section 68(2)(a) of the Act for purposes of securing a mortgage or a housing loan, the vested benefits of the member are protected from the member's creditors.



**17E. Members to be notified if the rate of future benefit accrual will be reduced.**

The trustees of a retirement benefits scheme shall notify the members if the rate of future benefit accrual will be reduced as a result of changes in the retirement benefits scheme's benefit or contribution formulas or any other market factors.

**17F. Vested benefits of members whose employment is severed.**

(1) The vested benefits of a member who has severed his or her employment with an employer shall not be subject to forfeiture, regardless of the reasons for severance except as provided for under regulation 17G.

(2) The trustees shall ensure that at least the nominal value of a severed employee's vested benefit in a retirement benefits scheme is protected, whether or not the separation from service was voluntary through mutual agreement or at the will of the employer.

**17G. Forfeiture of vested benefits.**

(1) Where a member's employment is severed for reasons of gross misconduct related to the retirement benefit scheme, the vested benefits of a member may be forfeited.

(2) Notwithstanding sub regulation (1), the forfeiture shall exclude any amounts associated with a member's own contributions to the retirement benefits scheme.

(3) The assets associated with the benefits which a member forfeits under the circumstances referred to in sub regulation (1) shall be retained by the scheme and shall not be appropriated by or transferred to the employer or sponsor."

**6. Amendment of regulation 23.**

The principal Regulations are amended in regulation 23 by—

(a) substituting for sub regulation (2) the following—

“(2) Every licensed retirement benefits scheme shall pay the prescribed compulsory annual levy within a period of four months after the end of the financial year of the scheme.”

(b) substituting for sub regulation (3) the following—

“(3) A retirement benefits scheme which fails to pay the compulsory levy on or before the date on which the levy falls due, shall be required to pay the levy already due and an additional fine equal to twenty five percent of the levy per annum for the period during which the levy due remains unpaid.”

## **7. Amendment of Schedule Eleven.**

The principal Regulations are amended in Schedule Eleven—

- (a) in item (1) (a) by substituting the fee of “10 currency points” appearing in the fees column with “nil”;
- (b) in item 1 (b) by substituting the fee of “50 currency points” appearing in the fees column with “nil”.

**MATIA KASAIJA,**  
*Minister of Finance Planning and Economic Development.*