REGIME OF SANCTIONS AND PENALTIES FOR NON-COMPLIANCE WITH THE URBRA ACT 2011

The URBRA Act 2011, Act No. 15 of 2011 creates several areas of compliance for the different stakeholders in the retirement benefits sector. This matrix is intended to ease compliance to the URBRA Act by highlighting key provisions of the law that create an obligation to the respective stakeholders.

This matrix only serves as a guideline and not a replacement of the law therefore, users should read this matrix in tandem with the URBRA Act.

COMPLIANCE			**PENALTY FOR NON-COMPLIANCE**
NO.	**COMPLIANCE ISSUE/ OFFENCE CREATED UNDER THE LAW**	**MINIMUM COMPLIANCE STANDARD**	**ADMINISTRATIVE /COURT SANCTIONS**
EMPLOYEES OF URBRA			
1.	An employee of the Authority who misuses any information obtained when performing his or her duties under this Act. Section 87(2) (a), URBRA Act	URBRA employees should maintain confidentiality and uphold their oath of secrecy	Upon conviction, a fine not exceeding five hundred (500) currency points or imprisonment not exceeding three (3) years, or both. Section 87 (3) URBRA Act

2.	An employee of URBRA who colludes with any trustee, custodian, administrator, fund manager or other public officer in the conduct of their duties. Section 87(2) (b), URBRA Act	URBRA employees should execute their duties in good faith.	Upon conviction, a fine not exceeding five hundred currency (500) points or imprisonment not exceeding three (3) years, or both. Section 87 (3) URBRA Act
GENERAL OFFENCES APPLICABLE TO TRUSTEES AND SERVICE PROVIDERS			
1.	Obstruction of the Authority from performing its functions - Section 87 (1) (a), URBRA Act	Trustees and service providers should cooperate with the Authority or any person authorised by the Authority in the execution of their functions under the Act	Upon conviction, a fine not exceeding five hundred (500) currency points or imprisonment not exceeding three (3) years, or both. - Section 87 (3) URBRA Act
2.	Restriction on use of scheme funds. Section 68(3), URBRA Act.	Scheme funds should be used according to the URBRA Act	Suspend or disqualify a Trustee, Custodian, Administrator or Fund Manager of a retirement benefits scheme from participating in the management, custody or administration of the funds of the retirement benefits scheme.
3.	Refusal to comply with orders & directives. Section 87(1) (b), URBRA Act	Trustees and service providers should comply with orders and directives of the Authority.	Upon conviction, a fine not exceeding five hundred (500) currency points or imprisonment not exceeding three (3) years, or both. Section 87 (3) URBRA Act

4.	Refusal to give information. Section 87 (1)(c), URBRA Act	Give URBRA or any person authorised by the Authority, access to any books, records, returns or any papers, documents, records or information.	Upon conviction, a fine not exceeding five hundred (500) currency points or imprisonment not exceeding three (3) years, or both. Section 87 (3) URBRA Act
5.	Presentation of a false or forged document or making a false statement with intent to deceive or mislead the Authority. Section 87(1) (d), URBRA Act	To present to the Authority or any person authorized by the Authority a true or original document or make true statements so as not to deceive or mislead the Authority or any person authorised by the Authority.	A fine not exceeding five hundred (500) currency points or imprisonment not exceeding three (3) years, or both. Section 87 (3) URBRA Act
6.	A trustee of a retirement benefits scheme acting without a licence issued under this Act. Section 41 (4), URBRA Act	i. Obtain license before acting as a trustee ii. Renewal of an expired license	Upon conviction to a fine not exceeding one thousand (1000) currency points or imprisonment not exceeding six (6) years or both.
7.	Contravening any provision of the URBRA Act where no penalty is prescribed. Section 88(a), URBRA Act	Compliance with all provisions of the URBRA Act and Regulations.	A fine not exceeding twenty-four (24) currency points, or to imprisonment for a term not exceeding one (1) year, or both. Section 88(a) URBRA Act
8.	Failure to comply with any direction given by the Authority.	Compliance with URBRA directives/direction	A fine not exceeding twenty-four (24) currency points, or to imprisonment for a term not exceeding one (1) year, or both.

	Section 88(b), URBRA Act		Section 88 (b) URBRA Act
9.	Establishing or operating a retirement benefits scheme without a license. Section 29 (3), URBRA Act.	Operating/establishing a retirement benefits scheme with a license	Upon conviction is liable to a fine not exceeding one thousand currency points or imprisonment not exceeding twelve years or both.
10.	Revocation of a license of a Retirement Benefits Scheme. Section 32, URBRA Act	Maintain the license of a Retirement Benefits Scheme	i. Give the trustees at least 30 days' notice in writing specifying the reasons for the intended revocation. ii. If not satisfied revoke the license.
11.	Unsafe and unsound practices. Section 74(1), URBRA Act.	Custodian, trustee, administrator, fund manager or fiduciary of a retirement benefits scheme acting according to the directions of the Authority	i. Directing the Trustee, Custodian, Administrator, Fund Manager or fiduciary to refrain from omitting or committing act. ii. Commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or imprisonment not exceeding three years, or both.
12.	Refusal or failure to give an inspector access to property, books of accounts etc. Presenting false documents Failure to comply with orders of the inspector. Section 76 (5), URBRA Act	Following the directions of the inspector.	Upon conviction to a fine not exceeding five hundred (500) currency points or to imprisonment not exceeding three (3) years, or both.
OFFENCES APPLICABLE TO TRUSTEES			

1.	Revocation of the license of a trustee. Section 45 (1), URBRA Act	i. Trustee should not make false statements in order to obtain a license from URBRA. ii. There should not be an occurrence of event that renders the Trustee ineligible to perform his or her functions as a trustee. iii. Trustee's business should remain a going concern. iv. Compliance with the requirements for maintenance of a license. v. Compliance with all provisions of the URBRA Act. vi. Compliance with Section 43, URBRA Act.	i. URBRA to give (thirty) 30 days' notice in writing before the license is revoked. Section 45 (2), URBRA Act ii. URBRA to consider all representations made in writing by the Trustee opposing the revocation of license. Section 45 (3), URBRA Act iii. URBRA shall revoke the license if the Trustee has not opposed the revocation or if unsatisfied the license will be revoked. Section 45 (4) (a) & (b), URBRA Act
OFFENCES APPLICABLE TO SPONSORS			

1.	Failure to remit the contributions within the prescribed time. Section 69 (3), URBRA Act	Payment of contributions	Commits an offence and is liable to make the remittance already due, and in addition pay a fine of not less than ten percent of the total contribution that remains unpaid for each month or part of each month the default continues. Section 69 (3), URBRA Act
OFFENCES APPPLICABLE TO CUSTODIANS			
1.	Operating without a licensee. Section 35 (4), URBRA Act	A custodian shall operate with a license issued by URBRA.	Commits an offence and is liable on conviction to a fine not exceeding one thousand currency points.
2.	Revocation of a license. Section 38, URBRA Act	i. Custodian should not make false statements in order to obtain a license from URBRA. ii. There should not be an occurrence of event that renders the Custodian ineligible to provide custodial services.	i. URBRA to give thirty (30) days' notice in writing before the license is revoked. Section 38 (2), URBRA Act ii. URBRA to consider all representations made in writing by the Custodian opposing the revocation of license. Section 38 (3), URBRA Act iii. URBRA shall revoke the license if the Custodian has not opposed the revocation or if unsatisfied the license will be revoked. Section 38 (4) (a) & (b), URBRA Act

		iii. Custodian's business should remain a going concern. iv. Compliance with the requirements for maintenance of a license. v. Custodian should remain in operation as a licensed financial institution under the Financial Institutions Act, 2004. vi. Compliance with all provisions of the URBRA Act.	
OFFENCES APPLICABLE TO ADMINISTRATORS			
1.	Acting as an administrator of a retirement benefits scheme without a licencee. Section 48 (4), URBRA Act	Administrators should operate with a license issued by URBRA.	Upon conviction to a fine not exceeding one thousand (1000) currency points or imprisonment not exceeding six (6) years, or both.

2.	Revocation of a license of an administrator. Section 52, URBRA Act	i. An Administrator should not make false statements in order to obtain a license from URBRA. ii. There should not be an occurrence of event that renders the Administrator ineligible to provide custodial services. iii. An Administrator should not be declared bankrupt or insolvent, or enters into an arrangement with an his or her creditors. iv. Compliance with all the conditions of the license. v. Compliance with Section 50, URBRA Act. vi. An Administrator should remain fit	i. URBRA to give thirty (30) days' notice in writing to the Administrator before the license is revoked. Section 52 (2), URBRA Act ii. URBRA to consider all representations made in writing by the Administrator opposing the revocation of license. Section 52 (3), URBRA Act iii. URBRA shall revoke the license if the Administrator has not opposed the revocation or if unsatisfied the license will be revoked. Section 52 (4) (a) & (b), URBRA Act

		and proper as prescribed in Part II, Schedule 3 vii. Compliance with all provisions of the URBRA Act.	
OFFENCES APPLICABLE TO FUND MANAGERS			
1.	Acting as a Fund Manager of a retirement benefits scheme without a license. Section 55(4), URBRA Act	Fund Managers should with a license issued by URBRA.	Upon conviction to a fine not exceeding one thousand currency (100) points or imprisonment not exceeding six (6) years, or both.
2.	Revocation of a license of a Fund Manager. Section 59, URBRA Act.	i. A Fund Manager should not make false statements in order to obtain a license from URBRA. ii. There should not be an occurrence of event that renders the Fund Manager ineligible to provide custodial services.	i. URBRA to give thirty (30) days' notice in writing to the Fund Manager before the license is revoked. Section 59 (2), URBRA Act ii. URBRA to consider all representations made in writing by the Administrator opposing the revocation of license. Section 59 (3), URBRA Act iii. URBRA shall revoke the license if the Administrator has not opposed the revocation or if unsatisfied the license will be revoked. Section 59 (4) (a) & (b), URBRA Act

		iii. A Fund Manager should not be declared bankrupt or insolvent, or enters into an arrangement with an his or her creditors. iv. Compliance with all the conditions of the license. v. Compliance with Section 57, URBRA Act. vi. Fund Manager should remain fit and proper as prescribed in Part II, Schedule 3 vii. Compliance with all provisions of the URBRA Act.	