



2018/2019 BUDGET CHANGES

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PANAFRIC HOTEL**



AGENDA

- Penalties on late submission of statutory returns
- Power to recover unremitted contributions
- Definition of Medical Fund
- Transfer of Retirement Benefits to Medical cover providers
- Exemption of Medical Funds from levy
- Professional services by trustees
- Income Draw Down
- Retirement Benefits Levy



Changes to the ACT



PENALTIES ON LATE SUBMISSION OF STATUTORY RETURNS I

Changes in Retirement Benefits Act

Section 34 of the Retirement Benefits Act, 1997 has been amended by deleting subsection (4C) and adding the following new subsections:



PENALTIES ON LATE SUBMISSION OF STATUTORY RETURNS II

(4C) A **trustee** who fails to submit a copy of Audited Accounts of the scheme to the Chief Executive Officer by the due date to pay a penalty of **KES. 100,000**; where the returns remain un-submitted, the trustee, in addition to the prescribed penalty, shall pay a further fine of **KES. 1000** for each day or part thereof during which the returns remain un-submitted:

(4D) A **fund manager** who fails to submit an Investment return of a scheme to the Chief Executive Officer by the due date shall pay a penalty of **KES. 10,000** where the returns remain un-submitted, the fund manager, in addition to the prescribed penalty shall pay a further fine of **Ksh.1000** for every day or part thereof during which the returns remain un-submitted.



PENALTIES ON LATE SUBMISSION OF STATUTORY RETURNS III

(4E) An **administrator** who fails to submit contribution returns of a scheme to the Chief Executive Officer by the due date shall pay a penalty of **KES. 10,000** and where the returns remain un-submitted, the administrator, in addition to the prescribed penalty, shall pay a further fine of **KES. 1,000** for every day or part thereof during which the returns remain un-submitted.

Changes contained in the Finance Bill, 2018
Effective date 1st October 2018



POWER TO RECOVER UNREMITTED CONTRIBUTION

The Retirement Benefits Act, 1997 has been amended by Inserting the following new section immediately after section 53A –

53B. Notwithstanding the provisions stated under section 53A, where there is non-remittance of the contribution by the employer, the Authority shall

(a) require the employer to:

(i) pay the contributions and interest accrued to the scheme in full within the period specified in the notice and a penalty of **5%** of unremitted contributions or **KES 20,000** whichever is higher, payable to the Authority within **7 days** of receipt of the notice;



POWER TO RECOVER UNREMITTED CONTRIBUTION II

(ii) pay the penalty specified in paragraph (a) (i) and submit to the Authority for approval a remedial plan providing the period within which the accumulated contributions and interest thereon shall be offset;

or

(iii) immediately cease further deductions from employees' emoluments and notify all the members of the scheme of the cessation: Provided that -

(A) the Authority may lift the cessation order where it is satisfied that the employer is able to remit the employee emoluments as and when they fall due;



POWER TO RECOVER UNREMITTED CONTRIBUTION III

(B). where there is a failure by an employer to comply with a direction to cease deductions from employees' emoluments under this provision, the Authority shall take the necessary action or issue such other directions as it may deem necessary and expedient in protecting the interests of the members, including instituting summary proceedings to recover the amounts due to the scheme; and

(b) Initiate the process of winding up the scheme and facilitate members to join individual schemes where their contributions shall be remitted.

Changes contained in the Finance Bill, 2018
Effective date 1st October 2018



Changes to the Regulations

Definition of Medical Fund

The regulations have been amended by inserting the following definition:

“medical fund” means a fund into which all contributions, investment earnings, income and all other moneys payable under the scheme rules or the provisions of this Act and subsidiary Regulations shall be paid for the purposes of accessing medical benefits in retirement

Legal Notice No. 138

Effective date 14th June 2018



CONFLICT OF INTEREST

Regulation 8 of the principal Regulations has been amended by adding the following new paragraph immediately after paragraph (4)

(5) No trustee engaged in any profession or business shall be engaged in professional services done by him or his firm in connection to the scheme.

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COMMUTATION OF RETIREMENT BENEFITS

Regulation 25 of the principal Regulations is amended – (a) by deleting paragraph (a) of the provision to paragraph (1) and substituting therefore the following new paragraph

10% of the accrued benefits to be transferred to Medical Fund

(a). Subject to the amount not exceeding ten percent of the total accrued benefits transferred to a medical fund, not more than one-quarter of the remaining retirement benefits may be commuted in a scheme where members do not make contributions and not more than one-third of the remaining retirement benefits may be commuted in a scheme where members make contributions;

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COMMUTATION OF RETIREMENT BENEFITS

Income draw down

By deleting paragraph (6) and substituting therefore the following paragraph –

(6) The scheme rules may provide for the payment of retirement benefit by way of an income draw down, as an alternative or in addition to the purchase of annuity for members at retirement age: Provided that the scheme members shall take a minimum period of ten years.



RETIREMENT BENEFITS LEVY

Regulation 39 of the principal Regulations is amended –

In paragraph (1), by deleting the expression “**three months**” and substituting therefore the expression “**four months**”

Levy to be submitted after 4 months of years end

(b) In paragraph (3), by inserting the words “less the amount of the medical fund” at the end of subparagraph (a) of the proviso.

Medical fund exempted from RBA Levy

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THANK YOU