

THE RETIREMENT BENEFITS (AMENDMENT) ACT, 2003

No. 8 of 2003

Date of Assent: 10th December, 2003

Date of Commencement: 19th December, 2003

An Act of Parliament to amend the Retirement Benefits Act, 1997

ENACTED by the Parliament of Kenya, as follows: -

Short title.

1. This Act may be cited as the Retirement Benefits (Amendment) Act, 2003.

**Amendment of
section 2 of
No.3 of 1997**

2. The Retirement Benefits Act, 1997, in this Act referred to as the principal Act, is amended -

(a) by deleting the definition of "financial year" and substituting therefor the following new definition -

"financial year" -

(a) in relation to the Authority, has the meaning assigned to it in section 19;

(b) in relation to a scheme, means such accounting period as may be prescribed in the scheme rules;

(b) by inserting the following new definitions in their proper alphabetical sequence -

"pooled fund" means a fund established by a limited liability company, other than an approved issuer, for purposes of pooling scheme funds for collective investment;

Cap.487 "statutory fund" has the meaning assigned to it in section 2 of the Insurance Act.

Amendment of
section 22 of
No. 3 of 1997.

3. Section 22 of the principal Act is amended in subsection (3)-

(a) by deleting the word "two" and substituting therefore the word "one";

(b) by inserting the words "at least" immediately before the word "once".

Amendment of
section 34 of
No.3 of 1997.

4. Section 34 of the principal Act is amended -

(a) in subsection (2), by deleting the words "balance sheet" appearing in paragraph (a) and substituting therefor the words "statement of assets and liabilities";

(b) by inserting the following proviso at the end of subsection (3) -

"Provided that the appointed auditor shall not be a member, trustee or sponsor of the scheme".

Amendment of
section 37 of
No.3 of 1997.

5. Section 37 of the principal Act is amended by inserting the following proviso at the end of subsection (1) -

"Provided that a scheme with a fund value of five million Kenya shillings or less may invest up to one hundred per centum of its scheme funds in Government securities".

Insertion of
section 54A in
No. 3 of 1997

6. The principal Act is amended by inserting the following new section immediately after section 54 -

Conduct of
prosecutions.

Cap 75

54A(1) The Attorney-General may, pursuant to the provisions of the Criminal Procedure Code, appoint public prosecutors for the purposes of cases arising under this Act.

(2) The Authority shall, for the purposes of the Criminal Procedure Code, be deemed to be a public authority.

Amendment of
section 311 of
Cap 486

7. Section 311 of Companies Act is amended –

(a) in subsection (1), by inserting the following paragraph immediately after paragraph (c) -

(cA) all retirement benefits contributions and vested benefits of any clerk or servant of the company;

(b) by deleting the operative paragraph of subsection (2) and substituting therefor the following -

“(2) Notwithstanding anything in paragraph (c) or (cA) of subsection (1), the sum to which priority is to be given under these paragraphs shall not, in the case of any claimant, exceed twenty thousand shillings:”.