

NATIONAL PENSIONS REGULATORY AUTHORITY



NPRA/GD/PPS/01/11

RULES FOR MANAGING OCCUPATIONAL PENSION, PROVIDENT FUND, PERSONAL PENSION AND MASTER TRUST SCHEMES

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1. INTRODUCTION

These rules by the Authority are to be complied with in relation to OCCUPATIONAL, PROVIDENT FUND, PERSONAL PENSION AND MASTER TRUST SCHEMES under the Act.

2. ELIGIBILITY OF APPROVED TRUSTEES

- (1) If all the approved trustees are individual persons, then at least one of those trustees must be an independent trustee.
- (2) A person is an independent trustee for the purposes of this Part only if the person-
 - (a) is not a director, close relative, partner or employee of the employer sponsoring the scheme or of an associate of that employer; and
 - (b) where the employer sponsoring the scheme is a company, does not hold any shares of the company or of an associate of the company; and
 - (c) satisfies the Authority that the person has the skill, knowledge, experience and qualifications that are, in the opinion of the Authority, necessary for a person to administer private pension schemes.
 - (d) satisfies the Authority that the person has no past or present association (financial or otherwise) with-
 - i. the employer sponsoring the scheme; or
 - ii. a director of that employer; or
 - iii. an associate of that employer or of such a director that could affect the impartiality of the person's independent judgment; and
 - (e) is not an auditor or actuary of the scheme.

3. MAINTENANCE OF ADEQUATE INSURANCE

- (1) There must be in force in respect of a registered scheme adequate insurance that will indemnify scheme members against losses that the members could incur as a result of the administration of the scheme by the trustee or by any service provider appointed or engaged to provide services for the purposes of the scheme.
- (2) For the purposes of these Rules, an approved trustee has adequate insurance for the registered schemes administered by the trustee if there are in force one or more insurance policies that-

- i. are obtained from one or more insurance companies licensed by the National Insurance Commission and the Authority is satisfied that the insurer is able to meet its liabilities. The Authority may consult the Insurance Commission; and
- ii. cover the total managed assets of the approved trustee and do not deal with any matter other than the assets of the schemes concerned; and
- iii. provide for indemnity in respect of the prescribed risks set out below that are attributable to the administration of the schemes by the trustee or by any service provider of the scheme (excluding losses attributable to investing the funds of the scheme in the ordinary course of business) :
 - a. the risk of loss of scheme assets attributable to fraudulent, wrongful or negligent acts done or omitted to be done by the approved trustee of the scheme, or a service provider appointed or engaged for the purposes of that scheme;
 - b. the risk of loss of scheme assets while they are being transported in the custody of the trustee or service providers;
 - c. the risk of loss of scheme assets arising from relying on a cheque or other negotiable instrument that is forged, fraudulently altered, lost or stolen;
 - d. the risk of loss of scheme assets arising from the fraudulent use of a computer or from fraudulent instructions given for the transfer of those assets;
 - e. the risk of loss of scheme assets arising from indemnifying the trustee in accordance with the governing rules of the scheme as permitted by law.

4. REQUIREMENTS WITH RESPECT TO ADDITIONAL VOLUNTARY CONTRIBUTIONS TO PROVIDENT FUNDS AND PERSONAL PENSION SCHEMES.

The scheme rules provide:-

- a. that participating employers are obliged, on request by any of their employees who are members of the scheme, to pay to the trustee of the scheme any additional voluntary contribution made by those employees; and
- b. if a participating employer elects to make additional voluntary contributions in respect of any employees who are members of the scheme, that those contributions will become vested in those employees as accrued benefits in accordance with the scheme rules; and

- c. if an employee or a self-employed person who is a member of a registered scheme elects to make additional voluntary contributions, that those contributions will become vested in full as accrued benefits in that employee or self-employed person when the contributions are received by the approved trustee of the scheme.

5. STATEMENT OF INVESTMENT POLICY TO BE MAINTAINED IN RESPECT OF EACH REGISTERED SCHEME

- (1) A statement of investment policy must be prepared and maintained in respect of each registered scheme.
- (2) The statement of investment policy must include sufficient information to enable scheme members to ascertain in relation to each constituent fund of the scheme-
 - a. the investment objectives of the fund; and
 - b. the policy as to the kinds of securities and other assets in which the fund may be invested; and
 - c. the policy as to the balance between different kinds of securities and other assets of the fund; and
 - d. the risks inherent in implementing the policies referred to in paragraphs (b) and (c) and the return expected to result from giving effect to those policies.

6. INVESTMENT STANDARDS TO BE COMPLIED WITH

The funds of a registered scheme may be invested only-

- (1) in the investments permitted under section 176; and
- (2) in accordance with the restrictions imposed under sections 178 and 179 of the Act and any additional restrictions that may be imposed by the Authority from time to time.

7. APPROVED TRUSTEE TO PROVIDE SCHEME MEMBERS WITH ANNUAL BENEFIT STATEMENTS

The approved trustee of the scheme must ensure that:

- (1) Within 3 months after each financial period of a registered scheme, each of the scheme members is provided with a benefit statement setting out the member's position with respect to the scheme as at the end of that period,

whether or not the auditing of the financial statements of the scheme for that period has been completed then; and

- (2) If there are subsequent audit adjustments made to the benefit statements affecting the members' balances, members are notified in writing within 30 days after the trustee becomes aware of those audit adjustments.

8. APPROVED TRUSTEE TO ENSURE PRESENCE OF INDEPENDENT TRUSTEE AT MEETINGS

The approved trustee of an employer sponsored scheme or group personal scheme must ensure-

- (1) that the independent trustee of the scheme is, as far as reasonably practicable, present at all meetings of the trustees; and
- (2) that any decision taken at a meeting of the trustees at which the independent trustee is absent does not have effect until it is acknowledged in writing by that trustee.

9. AMENDMENTS TO GOVERNING RULES OF REGISTERED SCHEME NOT TO TAKE EFFECT WITHOUT AUTHORITY'S APPROVAL

- (1) An approved trustee of a registered scheme must notify the Authority in writing of any amendment proposed to be made to the scheme rules and lodge with the Authority a copy of the proposed amendment.
- (2) An amendment to the scheme rules does not take effect until the Authority has given written notice to the trustee that the Authority has approved it.

In this section, a reference to an amendment to the scheme rules of a registered scheme includes a reference to addition of new provisions, or substitution or omission of existing provisions, of those rules.

10. APPROVED TRUSTEE TO ENSURE SEPARATION OF SCHEME ASSETS

- (1) The approved trustee of a registered scheme must ensure that the scheme assets-
 - a) are administered and dealt with as trust property; and
 - b) are applied only for the purposes of the scheme.

- (2) Subsection (1) has effect irrespective of whether or not the trustee has appointed a custodian or pension fund manager to perform functions with respect to the scheme assets.
- (3) The trustee must also ensure that the scheme assets are separately recorded in the records required to be kept in respect of the scheme and, in particular, are distinguished-
 - a) from the trustee's personal assets; and
 - b) from any assets held by the trustee for the benefit of a participating employer or any other person.

11. PROHIBITED TRANSACTIONS

The approved trustee of a registered scheme must ensure that pensions funds and scheme assets are not:

- (1) held by the trustee or fund manager appointed for the scheme or
- (2) kept with a custodian where the trustee or fund manager has a business interest, shares or any other interest in that custodian

12. APPROVED TRUSTEE PERMITTED TO DEDUCT FROM SCHEME MEMBERS' ACCOUNTS AMOUNT IN RESPECT OF ADMINISTRATIVE EXPENSES

Subject to these guidelines/standards, the approved trustee of a registered scheme may periodically deduct from each scheme member's account with the scheme fees for administrative expenses subject to the limits determined by the Authority.

13. ACCOUNTING AND OTHER RECORDS

- (1) The approved trustee of a registered scheme must ensure that-
 - a) such accounting records are kept so as to correctly record and explain all transactions concerning the scheme and the financial position of the scheme; and
 - b) those records are so kept that-
 - i. financial statements showing a true and fair view of the financial transactions of the scheme during each financial period and of the disposition of its assets and liabilities at the end of each financial period can be prepared from time to time; and

- ii. those financial statements can be conveniently and properly audited in accordance with the Act and Regulations made under it.
- (2) The approved trustee of a registered scheme must ensure that, at all reasonable times and without charge, the accounting records of the scheme are made available for inspection by the Authority.

14. ADDITIONAL REQUIREMENTS

The scheme rules must in addition to the requirements and standards of registered schemes, comply with other requirements prescribed by the Act 766, in particular the following sections:

- (1) Portability (Transfers into and from approved Schemes) -*Section 100*
- (2) Income on contributions - *Section 108(3)*
- (3) Vesting schedule - *Section 108(4)* (employer sponsored schemes only)
- (4) Benefit on leaving service - *Section 108(6)*(employer sponsored schemes only)
- (5) Death Benefit - *Section 108(8)*
- (6) Self Employed Persons – Contribution Accounts *Section 109(2)*(group personal pension schemes only)
- (7) Withdrawals from scheme and Tax Implications - *Sections 110, 112*
- (8) Retirement Benefits – *Section 111*
- (9) Assignment of Benefits - *Section 114* (optional)
- (10) Termination of the Trust / Winding-up - *Section 118*
- (11) Accounts and Audit , Annual report - *Section 166, 167*

15. DEFINITIONS OF TERMS

Except where otherwise specified, the terms used in these requirements and standards for registered schemes, have the same meanings as defined in the Act. The applicant should make appropriate reference to the Act where necessary.

16. APPLICATION PROCEDURE

- (1) An Application for the registration of an Occupational Pension, Personal Pension or Provident Fund Scheme as an Employer-sponsored Scheme or Master Trust Scheme in Ghana shall be made to the National Pensions Regulatory Authority (NPRA) in accordance with Section 129 of the National Pensions Act, 2008 (Act 766).

- (2) An Application for Registration shall be made to the Chief Executive Officer of the NPRA in a prescribed manner and be accompanied by the prescribed fee.
- (3) An Application may be made only by:
 - a) A Company which has been approved as a Trustee or has applied for approval as a Trustee;
 - b) Two or more individuals who are Approved Trustees, or have applied for approval, and at least one is an Independent Trustee; or
 - c) A Company and one or more individuals.
- (4) Where an Application is made by persons all of whom are individual persons, each of those persons who is not an Independent Trustee shall be a Member of the Scheme.
- (5) Where an Application is made by persons, one or more of whom are Companies and the others are individual persons, each of those individual persons shall be members of the Scheme.
- (6) An Application shall be signed by:
 - a) At least two Directors of the Company if the applicant is, or includes a Company;and
 - b) At least two of those persons, including the Independent Trustee if the applicant consists wholly of individual persons.
- (7) After meeting the requirements for registration, approval may be granted, which shall be valid for a period, and thereafter subject to renewal(s).

17. APPLICATION REQUIREMENTS

The following are the requirements:

- (1) The Application shall be accompanied with a Copy of the Proposed Rules that govern the Scheme.
- (2) The Applicant shall attach to the Application, a Statement setting out the Investment Policy and Investment Objectives of the Scheme.

- (3) An Application to register a Provident Fund Scheme as an Employer-sponsored Scheme shall include particulars of the Employer sponsoring the Scheme.
- (4) Application shall be accompanied by:
 - a) A non-refundable application fee approved by the NPRA, in bank draft, payable to the National Pensions Regulatory Authority and marked "Application Fee".
 - b) Name, Address (physical and electronic) telephone numbers of the person to whom enquiries may be referred.

18. APPLICATION SUBMISSION

Duly completed application form and supporting documents should be submitted in both hard and soft copies in sealed envelopes to the following address:

***CHIEF EXECUTIVE OFFICER
NATIONAL PENSIONS REGULATORY AUTHORITY
PMB, MINISTRIES POST OFFICE, ACCRA.***

All enquiries should be referred to the above address. Relevant forms can be downloaded from the NPRA website: www.npra.gov.gh.

19. FURTHER ENQUIRIES

For further enquiries contact:

The Chief Executive Officer
National Pensions Regulatory Authority
Office of Head of Civil Service Building, PMB Ministries, Accra,
Tel: 021-688089, 021-688169