



RETIREMENT BENEFITS SCHEMES

Election Procedures Manual 2014

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1. INTRODUCTION

This manual is a guide for conducting free and fair elections of KPC pension schemes. The rules and regulations in this document are not intended to substitute the existing pension scheme laws and regulations that govern the Kenya Pipeline Company Retirement Benefits Schemes.

2. TRUSTEES DUTIES AND RESPONSIBILITY

- (a) The Trustees shall have the responsibility for general management and administration of the Scheme and they shall keep all proper books and records of account showing the position in respect to contributions, other income, expenditure, liabilities and assets of the Scheme and the lump sums and other sums payable out of the Scheme and all other matters relevant to its management and shall prepare or cause to be prepared and furnish to the Founder with an audited account of all such transactions and matters at such intervals as the Founder may from time to time determine.
- (b) Administering the Scheme in accordance with the appropriate provisions.
- (c) Computing and preparing statements benefits payable to Members.

- (d) Liaising with the Authority, Sponsor, Members, Manager, Custodian, Administrator and any other professional engaged by the Trustees.
- (e) Collecting, keeping and updating retirement benefits data for each Member including maintenance of individual membership records.
- (f) Ensuring that the contributions based on correct pensionable emoluments are remitted to the Custodian as required by the appropriate provisions.
- (g) Ensuring that the Scheme Funds are being invested by a Manager, duly appointed by the Trustees as required by the appropriate provisions.
- (h) Communicating regularly with the Members, with respect to the affairs of the Scheme.
- (i) Providing Members with annual membership benefits statements.
- (j) Ensuring that documents intended to bind the Scheme are professionally prepared.
- (k) Convening an annual general meeting of members to enable members raise any matters related to the scheme provided that the minimum agenda for the meeting shall be as prescribed in the Act.

The Trustees shall have the following additional powers and functions:

- (i) The Trustees may, in addition to the powers conferred upon them by law, from time to time delegate any of their functions or any business relating to the Scheme (including the receipt or payment of money) to any one or more of their number and may delegate any matters relating to the collection of contributions and the administration and investment of the assets from time to time comprising the Scheme and of the income generated by such assets to such agents, administrators, advisers, custodians and managers or other professional advisers (whether remunerated or not) as they may determine and the Trustees may register or vest any of the assets from time to time comprised in the Scheme in the names of any other person as nominee of the Trustees **Provided That** the Trustees shall not delegate any matter requiring the exercise of their discretion to any person other than one or more of their number.
- (ii) The Trustees may, with the consent of the Commissioner and the Authority, waive the strict enforcement of any provision of this Deed or the Rules **Provided That** the exercise of any such power by the Trustees shall not reduce the accrued benefit of any Member.

- (iii) No decision or exercise of a power by the Trustees shall be invalidated or questioned on the ground that any of the Trustees (or in the case of the Trustees or one of the Trustees being an incorporated body any member or members of the board of directors of such body) had a direct or personal interest in the result of any such decision or in the exercising of any such power.
- (iv) The Trustees shall have power to act notwithstanding any vacancy in their number.
- (v) The Trustees shall convene an annual meeting of the Members to enable such Members to raise any questions or matters relating to the Scheme. The procedures for convening and conducting the meeting shall be laid down by the Trustees and notified to the Members from time to time **Provided That** the business of the annual meeting shall include but not limited to the giving of reports to the Members on any changes to the benefit or contribution structure of the Scheme, audited accounts, investments and remuneration of trustees.

3. APPOINTMENT OF TRUSTEES

- (a) **For the DB Scheme**, the number of Trustees shall always be not less than three, at least one third of whom shall be nominees of the Members **Provided That** the total number of Trustees shall not exceed nine (9).
- (b) **For the DC Scheme**, the number of Trustees shall always be not less than four, at least one-half of whom shall be nominees of the Members Provided That the total number of Trustees shall not exceed eight (8).
- (c) Each Trustee nominated by the Founder shall be appointed and may, subject to compliance with the TDR provisions, be removed by the Founder by deed or pursuant to a resolution of the Directors. A copy of such deed or resolution certified by a Director or the Company Secretary of the Founder shall be sufficient evidence thereof.
- (d) Each Trustee may be removed in accordance with the TDR.

4. REMOVAL OF TRUSTEES FROM OFFICE

A Trustee shall vacate office as such if he/she:

- i. becomes bankrupt or makes an arrangement or composition with his creditors generally; or
- ii. becomes of unsound mind; or
- iii. fails, without reasonable cause and without the consent of the other Trustees, to attend four (4) consecutive meetings of the Trustees and the other Trustees resolve that, by reason of such failure, he shall cease to be a trustee; or
- iv. resigns by notice in writing to the Trust Secretary; or
- v. is forbidden to act as a trustee pursuant to the RBA or any other written law; or
- vi. is removed by the Founder if the Trustee is nominated by the Founder; or
- vii. dies, or is in any other way not allowed to carry out his/her duties as a Trustee

5. TYPICAL KNOWLEDGE REQUIREMENTS FOR NEW TRUSTEES

- i. Duties of Trustees
- ii. Stakeholders to a pension Scheme and their roles
- iii. Risks of being a Trustee
- iv. What information to ask for prior to becoming a trustee: Retirement Benefits Act, Retirement Benefits Regulations and the Scheme trust Deed and Rules
- v. What information to ask for on appointment; Deed of appointment, Investment Policy and TDR
- vi. Outline of the role of the Pensions Regulator
- vii. Trustees duties, powers and discretions
- viii. Role and functions of various schemes' stakeholders

6. ELIGIBILITY FOR CANDIDATE VYING FOR ELECTIONS

Member of good standing who is:

- i. Confirmed in their appointment as permanent and pensionable employee of Kenya Pipeline Company or

- ii. A pensioner
- iii. Has never been disqualified to serve as a trustee or administrator
- iv. A person of integrity

7. ELIGIBILITY FOR VOTING IN ELECTIONS

- i. Member must have been confirmed in their appointment as permanent and pensionable.
- ii. Retired members.

8. ELECTION COMMITTEE

An election committee Board should be constituted. The election committee shall comprise of the following:

- i. Pension Scheme Administrator/Trust Secretary.
- ii. A pensioner
- iii. Two appointees from the Sponsor of the Scheme
- iv. One nominee by the sitting trustees

Generally, it is their responsibility to conduct the elections, which includes setting dates for the elections, verification of candidates for eligibility and conducting the actual election. The Elections committee shall meet as often as necessary.

The election committee shall be remunerated as per the agreement between them and the sitting Board of Trustees.

Specifically the committee is charged with the following;

- i. To organize and administer all Trustee elections.
- ii. To make available a copy of the election rules, procedures, and election dates to all candidates.
- iii. To vet and approve eligibility of candidates.
- iv. To appoint Returning Officers, Presiding Officers and other election support staff.
- v. To administer all aspects of election voting.
- vi. To determine the legitimacy of charges and adjudicate election violation complaints.
- vii. To certify the election results.

N. B. A serving trustee or a candidate for any election may not be a member of the election committee.

9. NOTICE OF NOMINATIONS

The election committee shall invite eligible candidates to submit their application for consideration as election candidates for trustee whenever trustee positions fall vacant. The committee will circulate notices; in all KPC stations inviting qualified members to complete applications; in the scheme website. Notices may also be mailed to members of the scheme.

10. ELECTION CAMPAIGNING

After nomination members may start campaigning for the positions until the Day preceding the Election date when all campaigns shall stop. The following guidelines shall be used as regards election campaigns.

- (a) No schemes funds should be used for campaigning.
- (b) The campaigns should not interfere with the normal running operations of KPC.
- (c) None of the publications issued by the pension schemes administration or Trustees shall endorse a particular candidate.

11. ELECTION DAY

The election committee should ensure sufficient ballots and election stationery are availed to all the centres before the designated election day. Candidate's names shall be placed on the ballot in alphabetical order according to last names. A sample of the final ballot may be posted closer to the Election Day in order to help members prepare to vote. This sample ballot needs to reflect the same names that are in the posted slate of nominees.

12. ELECTION OBSERVERS

Any candidate whose name is to appear on the ballot shall have the right to present an official observer of the candidate's own choosing, in all places where ballots bearing the

candidate's name are to be cast or counted. The observers are however not allowed to;

- (a) Assist in the actual conduct of the election.
- (b) Engage in any kind of campaigning.
- (c) Wear buttons or badges in support of a candidate.
- (d) Pass out leaflets, or attempt to discuss the election with those who come to vote.

These restrictions on campaigning also apply, to the members of the election committee who are conducting the election.

Rights to Observers:

- (a) The right to inspect the ballot box at any time up to the moment the election is to start.
- (b) The right to be present in the room where the election is taking place throughout the hours set for the voting.
- (c) The right to take such notes as they choose to, including making their own list of who has voted.
- (d) The right to call to the attention of the election committee members present any violation of proper procedure, which they may observe.
- (e) The right to remain after the polls have closed and to keep the ballot box under observation until it is opened.

- (f) The right to observe the actual counting of the ballots, including the right to examine any suspect ballot.
- (g) The right to maintain their own tabulation as the election committee counts the ballots.

ELECTION MISDEMEANORS

- i. Paying a person to vote.
- ii. Allowing a person to vote who is not entitled to vote, or by use of an unauthorized procedure, or an election official.
- iii. Showing a marked ballot to another person in a way to reveal the contents of the ballot, except when a voter is receiving assistance in marking the ballot.
- iv. Examining a ballot that a voter has prepared for marking or soliciting the voter to show the ballot, except when a voter is receiving assistance in marking the ballot.
- v. Destroying or defacing a ballot, or delivering a package of ballots to an unauthorized person, if the person has been entrusted with custody of the ballots.
- vi. Fraudulently causing a vote total to be taken down incorrectly or making a false statement or return of the votes.
- vii. Interfering with an observer.

- viii. Knowingly causing disturbance and interfering with good working of the election official.
- ix. Interfering with the secrecy of voting.
- x. Inducing or persuading a voter to vote for a candidate, while acting as an election official.
- xi. Intimidating, threatening, or coercing an individual for voting or attempting to vote.

13. COUNTING BALLOTS

In counting the votes, it is best to have three persons, appointed by the Presiding Officer/Returning Officer, examining the ballots themselves with one of them calling off the names of those who receive votes on the particular ballot, and with two others keeping a record of the votes by making a mark after each name that is called on a "tally sheet." Periodic checks should be made by these two tally clerks to make sure that their counts agree. A number of questions are frequently raised as the ballots are being counted, concerning the validity of particular ballots. The final results should then be placed in written form and signed by the presiding officer and at least two other witnesses.

14. MAJORITY VOTE

The candidate/s with the highest number of votes shall be declared winner/s.

15. RUN-OFF ELECTIONS

When the election is completed, those candidates who received a majority of the votes cast are declared elected. If at any time some candidates tie making it impossible to know the winner, a run-off election must be held. The run off must take place within one month.

16. DISPUTES AND IRREGULARITIES.

The Election Committee shall hear and resolve disputes arising from the elections and make a ruling within 14 days of appeal.