"(c) surplus arising from a defined scheme shall be apportioned between the scheme sponsors and the members in the proportions of their contribution,"

Dated the 12th June, 2008.

AMOS KIMUNYA,
Minister for Finance.

LEGAL NOTICE NO. 77

THE RETIREMENT BENEFITS ACT
(No. 3 of 1997)

IN EXERCISE of the powers conferred by section 55 of the Retirement Benefits Act, 1997, the Minister for Finance makes the following Regulations-

THE RETIREMENT BENEFITS (OCCUPATIONAL RETIREMENT BENEFITS SCHEMES) (AMENDMENT) REGULATIONS, 2008

1. These Regulations may be cited as the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2008.


2. Regulation 8 of the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2000, in these regulations referred to as the “principal Regulations” is amended-

(a) in paragraph (1)-

(i) by inserting the following new subparagraph in the proviso to subparagraph (c)-
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"(iii) a scheme or a corporate trust shall have in the Board of trustees at least one member who has been vetted by the Authority to provide trust services."

(ii) by inserting the following new subparagraph in the proviso to subparagraph (f)-

"(iii) a trustee who fails to attend three consecutive meetings shall be disqualified from serving as a trustee."

(b) in subparagraph (2) (e) by inserting the words "and bank account details of the members for the purpose of payment of benefits" immediately after the word "records".

3. Regulation 21 of the principal Regulations is amended by-

(a) by inserting the following new paragraph (2) immediately after paragraph (1)-

"(2) The scheme rules shall make, in a defined benefit scheme, provisions for the actuary during an actuarial valuation to provide for annual increments in deferred pensions for members and scheme trustees to implement the same".

(b) by renumbering paragraph (2) as (3).

4. Regulation 25 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (5)-
“(6) The scheme rules may provide for the payment of retirement benefit by way of an income draw down, as an alternative to the purchase of annuity, for members at retirement age:

Provided that the minimum draw down period shall be ten years.”

5. Regulation 37 of the principal Regulations is amended-

(a) in paragraph (2)-

(i) by inserting the words “be signed by the trustees and the investment adviser and” immediately after the word “shall”.

(ii) by inserting a new subparagraph immediately after subparagraph (b) (iii) as follows-

“(iv) asset liability matching;”

(iii) renumbering subparagraph (b) (iv) as item (b)(v).

(b) by deleting paragraph (4) and substituting therefor the following new paragraph-

“(4) A scheme shall, before a statement under this regulation is prepared or revised, obtain and consider the written advice from a registered Chartered Financial Analyst, actuary, investment advisor or fund manager registered under the Capital Markets Act or manager under the Act:  

Cap. 485 A.
Provided that the advisor shall not be the scheme manager, related to the company or an employee of the scheme.

Dated the 12th June, 2008.

AMOS KIMUNYA,
Minister for Finance.

LEGAL NOTICE NO. 78

THE VALUE ADDED TAX ACT
(Cap. 476)

IN EXERCISE of the powers conferred by section 58 of the Value Added Tax Act, the Minister for Finance makes the following Regulations-

THE VALUE ADDED TAX (AMENDMENT) REGULATIONS, 2008

1. These Regulations may be cited as the Value added Tax (Amendment) Regulations, 2008.

2. The Value Added Tax Regulations are amended by inserting the following new regulation immediately after regulation 19-

20.(1) Except as is otherwise provided in the Act, services shall be deemed to have been supplied in Kenya-

(a) where the supplier has established his business or has a fixed physical establishment in Kenya;

(b) where the services are physically performed in Kenya;