

THE RETIREMENT BENEFITS (INCOME DRAWDOWN FUNDS) REGULATIONS 2023



Introduction



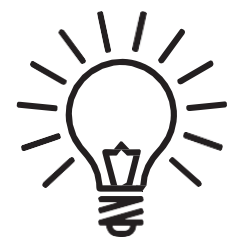
The Income Draw Down Funds are funds established to reinvest Retirement benefits for retirees to provide regular pension income.



Regulation 25(6) of the Occupational Regulations was amended in 2008 to provide IDF as an alternative to annuity.



Practice Note RBA No.1 was issued in 2010 , followed by prudential guideline 002 in 2012 to guide operations of IDF.



IDF Regulations were gazette on 31st October 2023 (Legal Notice 187)



Comparative Analysis

Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Requirement for registration (Reg. 3)	Established as a sub-fund within the Scheme vide special rules or set up as a stand alone.	Established as irrevocable trusts and registered by the RBA in accordance with the Regulations.
Requirements for Registration (Reg. 5)	<p>In case of special fund: Amended Trust Deed and Rules and Actuarial valuation</p> <p>For set up: Trust Deed & Rules, Resolutions, Services Providers Agreements, IPS, Actuarial Certificate & Corporate Trustee Agreement</p>	Trust Deed & Rules, Resolutions, Services Providers Agreements, IPS, Actuarial Certificate & Corporate Trustee Agreement



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Constitution of Founder (Reg. 6)	No requirement for Founder – relied on requirements for founder from the main scheme and the Retirement Benefits (Individual Retirement Benefits Schemes) Regulations	<p>The Founder must have a board and management with expertise in finance, law, Actuarial etc.. Where the Founder is not a registered retirement benefits scheme. The founder can be a company, co-operative, society, or other suitable legal entities.</p> <p>This requirement doesn't apply if the drawdown fund comes from the same sponsor's retirement scheme.</p>
Suitability of Founder (Reg. 7)	<p>Approval may only be granted upon the satisfaction of the following objective criteria:</p> <ul style="list-style-type: none">• Ability to segregate the funds of the income drawdown arrangement;	<p>In order to determine the suitability of a founder, the Authority shall have regard to the following qualities:</p> <ul style="list-style-type: none">• Ability to segregate the funds of the income drawdown arrangement;



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
	<ul style="list-style-type: none">• The technical and administrative capacity to manage the portfolio and provide basic advisory services on the income drawdown arrangement;• Infrastructural capacity to operate the arrangement.	<ul style="list-style-type: none">• Competence and judgment for fund marketing responsibilities• Likely diligence in fulfilling responsibilities• Management’s trust administration experience• Past conduct and fraud convictions• Breach of laws protecting against financial loss• Misconduct in financial services provision• Registered Office
Registered Office (Reg. 8)	No requirement	Income drawdown funds should have registered offices in Kenya
Contents of Income Drawdown Rules (Reg. 9)	<ul style="list-style-type: none">• Defined contributions• Benefits transferred from any retirement benefits scheme into the fund	<ul style="list-style-type: none">• Name, postal and registered office of the fund;• Date and commencement;



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
	<ul style="list-style-type: none">• Minimum drawdown period of ten (10) years;• Maximum withdrawal percentage per annum at 15%	<ul style="list-style-type: none">• Requirements for admission to membership• Minimum drawdown period of ten (10) and transfer after five (5) years of membership;• Maximum withdrawal percentage per annum at 12%
Duties, Appointment & Removal of Trustees (Reg. 11)	As per Trust Deed & Rules of primary Scheme, if it is a sub-fund. If not, as per the Retirement Benefits (Individual Retirement Benefits Schemes) Regulations	<p>N/B: Where an income drawdown fund draws its membership from an occupation scheme set up by the same founder, the trustees of the said scheme may act as trustees of the fund;</p> <ul style="list-style-type: none">• The Rules shall provide procedure for procurement, appointment, tenure, powers, duties & removal of Trustees;• Trustees must be a body corporate and hold meetings at least twice a year.



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Remittances into the Income Drawdown Fund (Reg. 14)	Any transfers from registered retirement benefits scheme	<ul style="list-style-type: none">Any registered retirement benefits scheme;A scheme established under or by an act of parliament;Any other income drawdown fund
Eligibility for Admission (Reg. 15)	<ul style="list-style-type: none">Member of a retirement benefits scheme who has attained at least the specified early retirement age and in any case one who has attained the age of 50 years;A beneficiary entitled to receive benefits from a retirement benefits scheme; <p>N/B: prior to joining members shall sign a consent form acknowledging that they understand the product design , benefits and associated risks.</p>	<ul style="list-style-type: none">Member of a retirement benefits scheme who has attained at least the specified early retirement age and in any case one who has attained the age of 50 years;Member transferring funds from another income draw-down fund;A beneficiary entitled to receive benefits from a retirement benefits scheme or income draw-down fund with the approval of the Trustees



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
		N/B: prior to joining members shall sign a consent form acknowledging that they understand the product design , benefits and associated risks.
Disclosures to Members (Reg. 16)	No requirement	<ul style="list-style-type: none">• Access terms;• Minimum drawdown period;• Benefits projection;• Termination of membership;• Risks etc.;
Benefits from Income Drawdown Fund (Reg. 18)	<ul style="list-style-type: none">• Withdraws subject to a maximum of 15% p.a. of the member's outstanding account balance;• Frequency of the drawdown: Monthly/ Quarterly or Bi-annually.	<ul style="list-style-type: none">• Withdraws amended to 12% p.a. of the member's outstanding account balance determined at the beginning of the financial year of the Income Drawdown Fund;• Frequency of the drawdown: Monthly/ Quarterly or Bi-annually/ Annually



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Portability of Benefits (Reg. 19)	Transfers subject to the minimum drawdown period of ten (10) years after which member may opt to continue with arrangement or purchase an annuity or cash lump sum	<ul style="list-style-type: none">• Transfers will only be allowed after a membership of 5 years and that the member shall give a notice not less than 3 months;• All transfers shall be done in lump sum and no provision for partial transfers of funds;• The transfer shall be done within 30 days after expiry of the notice period;• Procedures for transfer of members funds from one income drawdown fund to another to be provided;• The Fund shall submit to the Authority every Quarter a record of transfers out to other Income Drawdown Funds in the prescribed form;



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Payment of Benefits on the grounds of Ill-Health & Emigration (Reg. 20)	No provision for ill-health & emigration	<p>Member may opt for payment of the total amount of his benefits:</p> <ul style="list-style-type: none">• On grounds of incapacitation due to ill-health; upon approval by Trustees;• Where a member is emigrating from Kenya to another country without any present intention of returning to reside in Kenya; following approval of Trustees & Authority
Payment of Benefits Upon Death (Reg. 21)	Beneficiaries may continue with income drawdown arrangement, purchase an annuity or access the benefits as a lumpsum	Beneficiaries may continue with income drawdown arrangement, purchase an annuity or access the benefits as a lumpsum
Appointment of Auditors (Reg. 23)	As per Trust Deed & Rules	Auditor to be appointed within three (3) months of registration and seek Authority's approval within thirty (30) days



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Annual Accounts (Reg. 24)	No provision	Requirement to display and publish in the office of the income drawdown fund within six (6) months after end of financial year.
Reserve Fund (Reg. 27)	No provisions on reserve fund	No income drawdown fund shall maintain a reserve fund
Minimum Disclosures Requirements on Financial Statements (Reg. 28)	No provisions	<ul style="list-style-type: none">• Fees and expenses, appropriately classified;• Return on investments;• Related party transactions;• Ownership of more than 10% equity in any one company;• Overall rate of return credited to member balances
Investment Policy Statement & Investment Guidelines (Reg. 30)	No provisions	Income drawdown funds shall have a written investment policy statement in line with Form G and ensure not to invest directly into immovable property



Regulations	Income Drawdown Prudential Guidelines 2012)	Retirement Benefits Regulations (Income Drawdown Funds) 2023
Retirement Benefits Levy (Reg. 31)	No provisions	Income drawdown funds are exempt from payment of retirement benefits levy
Wind Up of Income Drawdown Funds (Reg. 32 – 42)	No provisions	Provides for mergers, bulk transfers and liquidation of the income drawdown funds

Comparative Analysis



Compliance of existing IDF (Regulation 43): All IDFs in existence on the date of the commencement of these Regulations shall within twelve months after the commencement of these regulations amend its IDF Rules to comply with these Regulations



Regulation 44: All income drawdown arrangements established as special funds within retirement benefit schemes shall be required to register these funds within three (3) years from the date of commencement of the Regulations and operate solely as Income Drawdown Funds.



Regulation 45: Any existing contracts of members to continue until expiry provided that members may transfer after five years from the date of the Regulations or the commencement of their contract whichever is earlier



Thank You!



Enwealth



For a better tomorrow

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