***Kenya Railways Staff Retirement Benefits Scheme***

**MEMBERS' GENERAL NOTICE**

**Notice No. 1 of March 2022**

This General Notice is one of the communication documents to the members on the activities of the Scheme. This leaflet has been prepared by the Kenya Railways Staff Retirement Benefits Scheme (KRSRBS), to provide information to the Scheme members. This leaflet is not a legal document and only highlights some of the key issues you need to be aware of as a member of KRSRBS.

## 1.0 INTRODUCTION

The Kenya Railways Staff Retirement Benefits Scheme was registered in May 2006 by the Retirement Benefits Authority. The Scheme is a Defined Benefits (DB) scheme and is closed in nature. It is currently managed by a Board of Trustees (BOT).

The Scheme Secretariat is mandated with the day-to-day operations of the Scheme affairs reporting to the Board of Trustees. It is headed by the Chief Executive Officer.

## 2.0 CURRENT BOARD OF TRUSTEES

The current Board of Trustee members were appointed in August 2019 consisting of Member elected (3) and Sponsor nominated (6) as listed below:

1. John A.O. Nyerere (C) -Sponsor Nominated
2. Martin Mogwanja -Sponsor nominated
3. Tom Omariba -Sponsor Nominated
4. Philip Mainga -Sponsor Nominated
5. Jacqueline Mmboga -Sponsor Nominated
6. Asava Kadima -Sponsor Nominated
7. James K. Kanyeki -Member elected
8. Henry W. Toili -Member elected
9. Elijah O. Mokaya -Member elected

The CEO of the Scheme is CS. Isaac Sila who reported in the month of December 2020.

## 3.0 Appointments of Scheme Service Providers

The Scheme has engaged the required statutory service providers as follows: -

a) M/s ABSA, NatBank, & Coop Trust investments as the Fund Managers
b) M/s. Kenya Commercial Bank Limited as the Custodian
c) M/s Ronald LLP as the Audit Consultants.

The role of the Service Providers is to advise the Board of Trustees on the most suitable means of investing the assets to meet its recurrent liability.

## 4.0 Settlement of Monthly Pensions

The current membership of the Scheme consists of 7,666 Active pensioners and 816 deferred members working with the Kenya Railways Corporation. The current monthly pension wage bill is about Kes. 93 million. It has been the intent of the BOT to ensure that monthly pension is paid on or before the 25th of every month and all efforts towards this are being pursued.

When the GOK released the Kes. 1.2 billion Railway club deposit to the scheme, all the pension reviews for the past years were effected and monthly pension was paid to date and this was a trend for about 4 months. During the compulsory acquisition of Railway Club, The GOK undertook to take over the loan of Kes. 850million (plus interest making the total about Kes. 1.05billion) that had been taken from KCB to clear the previous 10 months' pension payment that had lagged behind. By December 2021, the GOK had not shown any commitment to KCB on the takeover of the loan and therefore the bank had to enforce recovery of the interest which was due in February 2022 and the reduction of the Principal which is due in full in August 2022. The bank has been recovering Kes. 20million every month starting from January 2022 from the rental collections which total to about Kes. 43 million every month. This reduced the accessible rental income to about Kes. 20million and this is the reason the scheme has not been able to pay pension since December 2021. The December 2021 pension paid on 25th March 2022 was from the rental collections for the last 3 months boosted by a small overdraft from KCB of Kes. 24 million.

The current outstanding loan has been reduced to Kes. 344 million inclusive of the interest from Kes. 1.05 billion. The bank will continue recovering the Kes. 20million from the rental collections but the BOT is working hard to ensure that the GOK releases money through the supplementary bill to cater for the three months and also the incremental arrears.

## 5.0 Main Challenges facing the Scheme

1. Liquidity level of the fund comprising of 99% immovable properties hence not able to pay benefits to members when due.
2. Old and dilapidated rental houses which cannot fetch high rental market returns.
3. Litigation by members (pensioners) to stop disposal of properties leading to numerous legal cases in Court.
4. Non performing debts especially with Government agencies.. Scheme members who refuse to pay rent for the houses they have occupied.
6. Political interference when the scheme is in the process of rent recovery strategy.
7. High level activism by some pensioners with individual interests which negatively impact on the scheme performance.

## 6.0 Progress made by the Board of Trustees:

### 1. Clearance of unpaid Monthly pensions

When the BOT took office, Monthly pension had not been paid for a period of 11 months. To date, the monthly pension payment is current and pensioners are supposed to receive their monthly pension by the end of each current month or slightly thereafter as we move towards stabilizing the payment dates to the 25th of every month. The Scheme has managed to give the mandatory pension increase of 3% from the year 2014 and 5% from July 2017 to the year 2022. The BOT resolved that moving forward, all mandatory increments will be implemented automatically in the month of January. The arrears of the increments totalling to about Kes. 540mn is yet to be paid to members and the BOT is doing all that is possible to ensure that these arrears are released to the members as soon as the finances are available. The National Treasury is yet to release a balance of Kes. 6.7 Billion realised in the compulsory acquisition of the Nairobi Railway club and the BOT is highly pursuing this payment.

When the BOT took office, there were lump sum payments that had not been paid dating back to the year 2015 and efforts have been made to clear the same. All pension lump sums have been cleared up to the year 2018 and plans are underway to clear all the lump sums for the years 2019 and 2020 at a go as soon as the cash flow permits. Moving forward, the BOT has put plans in place to ensure that all deferred members who join the scheme to start earning pension will have their lump sums cleared within 3 months from the date the scheme gets the clearance certificate from the sponsor.

**2. Scheme Compliance**

The BOT in consultations with the Regulator and service providers has managed to improve the compliancy level of the scheme and a number of compliancy requirements have been attained including:

- Ensuring that all the Trustees have undergone and passed the mandatory TDPK certification training for Trustees as required by the regulator.
- Developing and adoption of all the required policies in the good management of the scheme as required by the RBA act and the good governance guidelines.
- Ensuring that all the mandatory fees to the regulator and the GOK is paid on time.
- Ensuring that the regulator and sponsor receives quarterly updates on the performance of the scheme and the way forward.
- Preparing the Strategic plan, the Scheme governance manual, The Board Charter, Code of conduct, Communication policy, the ICT policy, and all other policies required for the good governance of the scheme and in line with the current status of the scheme.
- The BOT has also engaged professionals from the Regulator, Insurance, pension and finance industries in trying to get the best way to unlock the cash flow which has been the greatest challenge facing the scheme. The results of these engagements will see the scheme offload the pension liability through annuitization and prudent liquidation of her properties. The BOT is also pursuing ways of enhancing the current coverage to see the pensioners well covered medically with options of last respect from the insurance providers.
- The Trust Deed and Rule (TDR) currently in force is due for an urgent review and the BOT has put in place plans to see the same amended to be in line with the current status of the scheme and also reflect the changes within the pension laws.

**3. Communication to members:**

The BOT through the elected Trustees have been conducting meetings at the scheme boardroom with various Associations of pensioners, individual pensioners and also representatives of the deferred members to address issues brought forth by members. Members who visit the scheme and have any issues are encouraged to engage the scheme secretariat as well as Trustees.

The scheme has upgraded its website to incorporate all the social media handlers and also introduced a Bulk SMS platform to relay communication to members via their mobile phones. The website is interactive and the ICT team is in the process of ensuring that only members can be allowed communication in the platform by confirming their existence with the scheme database.

The scheme is also in the final stages of developing a comprehensive members' booklet and this will be released half yearly. This summary booklet will also be released any time there is need to communicate with the pensioners on short notice.

**4. Review of pension increments**

The scheme has implemented all the mandatory increments that were due to pensioners to date and moving forward all such increments will be implemented every January of the year. By implementing the increments, the current minimum monthly pension has moved to Kes. 4,337.00 and the scheme is working through the Benefits and minimum pension policy to adjust the minimum pension to a figure that the cash flow will allow. By adopting the new benefits policy, all members earning pension under the minimum pension will automatically be adjusted to the minimum pension level.

**5. Upgrading of the ICT system**

The BOT has overseen the upgrade of the old ICT system to a new one with more features in line with the current technological changes and demands. With the new system, tenants of the scheme will be able to make rental payments through more platforms including mobile payments and reconciliation of all rental income will be automated on a real-time basis.

The system will also allow members to be able to interact with the scheme directly and access their statements and other reports for any particular period from the comfort of their computers and mobile phones. The system will also allow members to be able to access and edit their bio data and pay points following a series of security checks within the system and digital approvals from the scheme. The system will also give members the option to change their pay points including receiving their pension through mobile platforms for those who will wish to.

Members will also be able to update their life certificates online and periodically as instructed by the scheme. The system incorporates a confirmation of living members through eye recognition and selfie. This will help a lot in ensuring that we keep off ghost pensioners created by unreported deaths to the scheme.

**6. Reorganisation of the Scheme staffing level and Implementation of the HR Policy**

The scheme has been able to implement the new HR policy by restructuring the workforce through allowing the termination of mature contracts when the staff contractual period comes to an end.

A number of changes have been effected in the staffing level including dismissing those who have grossly violated the scheme rules and regulations. The scheme looks forward to a leaner staff level when the ICT system is fully implemented.

**7. Collection of historical and current debts**

The scheme has been pursuing a number of debts incurred historically and efforts from previous leaderships have not borne fruits in clearing these debts.

The BOT has managed to collect the debts amounting to Kes. 11million from KPLC for the sale of one acre in Muthurwa power substation which has been pending since 2012. The BOT is working to avail the completion documents to KPLC for sale of two acres in Makongeni and the remainder balance of Kes, 15million will be paid soon after the scheme completes the exercise.

The BOT has managed to engage KURA for the balance of Kes. 227million which has been pending since the year 2018. This was the balance of a transaction that was completed in 2018 for purchase of 5.4 acres in Muthurwa for the proposed Nairobi viaduct project through the swapping of rates owed to the County Government of Nairobi.

The BOT has also managed to complete the final documents for the Devolution ministry where they owed the scheme a balance of Kes. 105 million. All the required documents were successfully delivered to the local Government ministry and the Ministry of lands and Physical planning. The former Ministry of local Government had acquired 4.5 acres of land in Muthurwa estate for expansion of access road to Muthurwa hawkers market in 2010.

The balance of Kes. 79 million owed to the scheme by Mahadi Investments who bought the valley road property has been pending coz of the missing title from the sponsor side. The BOT and the sponsor has worked together and the title is now available and the pending balance should be released by the client once the title is delivered to them. A small anomaly in the title on a missing parcel is being corrected by the sponsor and same should be completed in a short period so that the title can be released to the client.

The former Governor of Nairobi still owes the Scheme an amount of Kes. 353 million from a transaction executed in April 2019 and the EACC has been holding the title of the transaction property since they ordered the Scheme to stop further transactions on the same. The BOT is currently pursuing the EACC to release the title of the property so that the best way forward can be pursued in regards to the transaction and the balance owed. The title is being held by the courts because of a case instituted by the former Governor against the EACC on the same parcel of land.

The scheme has also been pursuing the tenants who owe the scheme rental arrears and some have been evicted and are being pursued for the rental arrears while we give out their premises to new tenants at market rates.

**8. Handling of legal issues**

The BOT has been able to analyse through use of experts in the legal field and assess all the historical legal cases against the scheme. Various recommendations have been sought from professionals and even the regulator and the aim is to see the scheme free of all these legal matters to the best interest of the scheme. The scheme has also appealed some of the cases where the awards given, according to professional analysis, were inconsistent with the work done and there are high chances of the scheme winning so far.

The BOT has been extremely careful with all service providers including lawyers and fees for their services are negotiated to the best interest of the scheme before any assignment is awarded.

**9. Inconsistency in properties transferred to the scheme by the sponsor**

The BOT has confirmed that a number of properties that were transferred from the sponsor vide gazette notice No. 169 of 2006 had encroachments, mismatching acreages and some had already been sold to third parties.

The BOT has highlighted all properties with the said issues and the same is being handled by both Boards of the sponsor and the scheme. The BOT is hopeful and confident that the sponsor will be able to compensate the scheme for all the properties that had issues or were inconsistent with what is stated in the legal notice. The BOT is also aggressively pursuing the sponsor to ensure that all properties whose titles are still under the sponsor's name are transferred to the scheme as per the vesting orders.

The sponsor is already organising for a joint Board meeting between the Trustees and the Sponsor directors so that all these issues are addressed and resolved.

**10. Deferred Members issues**

The BOT constituted a special AD-HOC committee to look into the historical issues raised by the deferred pensioners who are still working with KRC and are members of the scheme and their fund had been dormant in the scheme books. The Ad-Hoc committee went through the actuarial valuation reports and recommendations and presented its report to the BOT for guidance and direction. During the BOT meeting held on 8th March 2022 the recommendations of the Ad-Hoc committee on the percentage increments were approved and same given to the management for execution and implementation. Deferred members will also be able to access their annual statements with any incorporated growth of their fund from the newly upgraded system.

**11. Chambilo property in Mombasa**

This property in Mombasa had been leased out for 50 years to a private developer who at the same time left the same to be vandalized. The property had also been turned into a dumping ground and an illegal slaughter house. The BOT after inspecting the property went to court to seek the cancellation of the lease and compensation from the vandalism and neglect of the property by the lessee. In a High Court ruling on the 15th of December 2021 at the

Mombasa High Court, the scheme was awarded all her prayers by the Court which included: (1) A cancellation of the 50-year lease and revert of the property to the scheme, (2) A permanent injunction to the lessee and their agents not to access the property (3), a damage refund of Kes. 86 million for the vandalism of the property and (4) payment of the cost of the legal suit by the lessee. This is one of the milestone achievements by the current BOT which faced a lot of challenges both from internal interests (pensioners with personal interests working with the lessee) and external interests (Previous leadership) that had been working to sabotage or delay the court process. It should also be well noted that a number of pensioners were being used by the previous leadership to sabotage this particular court process and the BOT had to be very cautious and confidential thus the success.

It should also be noted that the Chambilo property had been used as a security by the lessee to acquire a loan of Kes. 500 million which was never captured in the original title and that is why the trustees had to act with speed and confidentiality since these were arrangements made by the previous leadership and even the scheme management was not aware of this.

**12. AGM, Census and Member Sensitization**

The current BOT was unable to conduct an AGM because of the COVID conditions that had paralysed the world. There were several communications requesting the regulator to allow the BOT conduct an AGM but the same was denied because of the vulnerability status of the membership.

With the reopening of the country, the BOT is arranging for an AGM preceded by a complete census exercise to ascertain the actual number of pensioners as required by law and also the sensitization of the members before the AGM. It is projected that an AGM will be conducted in the early months of the year 2022, probably before June 2022.

The BOT and the scheme management also seeks to encourage pensioners to enrol for the NHIF coverage that had been previously negotiated by one of the Associations for a monthly fee of Kes. 300. The BOT is pursuing the NHIF in coordination with the pensioners' Association to see the pensioners get enhanced cover and all benefits within the NHIF cover.

**7.0 Disposal of properties**

The Board of Trustees managed to successfully dispose two properties at the market rate and the exercise was completed to finality. These properties were Bristol court in Kindaruma road that sat on 0.71 acres and was sold at Kes. 212million. Another property was the Hurlingham court in Hurlingham that sat on 0.48 acres and was sold for Kes. 178million.

The Railway club was compulsorily acquired by the GOK through KENHA and finally handed over to NMS for the green park stage. The GOK through NLC valued the property at Kes. 7.9billion and the NLC was able to demonstrate to the sponsor, regulator, the senate committee on Labour on how they arrived at the valuation of Kes. 7.9billion while previous valuers of the scheme had valued the same at Kes. 13.5Billion. On records at the lands office, the Railway club was still a recreational facility and not a commercial property as was captured by the private valuers. The BOT is also pursuing the discrepancy on the valuation prices and documentations are already with the relevant authorities.

To date, The GOK has only released Kes. 1.2 billion to the scheme which was used to clear the backlog of monthly pension payments and implement annual increases since 2014 that had not been implemented. The BOT is vigorously pursuing the balance from the GOK and this balance is enough to give a well enhanced pension that will see pensioners get a reasonable monthly pension for the next 10 years.

**8.0 The Railway City Project**

The proposed Railway City project will affect a big portion of our landed properties which are around Landi Mawe, Goodshed, KRSRBS headquarters and Muthurwa. The BOT managed to ensure that the scheme is represented in the Railway City board by two trustees because of the vast property of the scheme that will be affected.

The BOT will ensure that all our affected properties (approximately 90 acres) are compensated at the current market rate and caution will be taken to ensure that the investors pay in advance before entry into the premises since this will not be a compulsory acquisition but a joint arrangement/agreement with investors.

**CONTACTS**

**ALL ENQUIRIES SHOULD BE DIRECTED TO THE SCHEME'S OFFICES SITUATED AT KENYA RAILWAYS HEADQUARTERS.**

**ATTENTION OF:**

**THE CHIEF EXECUTIVE OFFICER,**
**Kenya Railways Staff Retirement Benefits Scheme,**
**Workshop Road, Off Haile Selassie Avenue,**
**Opposite the Technical University of Kenya**
**P.O BOX 46796-00100**
**NAIROBI.**

**Office telephone number:** +254719314249
**Our website: www.krsrbs.co.ke**

***REF: BNFT/COMM/1/2022***
***Date: April 04, 2022***