



## **GUIDANCE NOTE**

### **ACCESS TO ADDITIONAL VOLUNTARY CONTRIBUTIONS**

This schedule supersedes all previous documents circulated by the Department of Labour & Pensions on the subject.

#### **Purpose**

This Guidance Note is issued by the Department of Labour and Pensions to:

- Communicate the commencement date for the provisions relating to additional voluntary contributions (“AVC”) under section 47 of the National Pensions Act (2024 Revision);
- Explain the purposes under which AVC can be accessed; and
- Identify the requirements for each application depending on purpose

#### **A. COMMENCEMENT DATE**

The National Pensions (Amendment) Act, 2023<sup>1</sup> came into effect on the 9<sup>th</sup> December, 2023. As a result, the ability to access additional voluntary contributions for housing purposes was expanded in a similar fashion to the revisions introduced to Part 7A of the National Pensions Act with respect to mandatory contributions.

In this guidance note, references to section numbers are to sections of the National Pensions Act (2024 Revision).

Section 47(10) allows pension plan members to access their AVC, prior to reaching the normal age of pension entitlement, under four categories: medical purposes, temporary unemployment, housing purposes and educational purposes. If the member has AVC that they have not accessed prior to reaching the normal age of pension entitlement, the AVC can be paid as a lump sum when the member reaches the normal age of pension entitlement.

#### **B. MEDICAL PURPOSES**

Section 47(10)(a) permits a member to access their AVC for medical purposes where the member’s health insurance does not cover the cost of the medical procedure and the procedure is not elective.

As a result, the member would be able to access their AVC to cover any medically required procedures that are not covered by their health insurance. For clarity: this section does not require that the procedure is life threatening or an emergency. This AVC access would include, for example, the cost for the member’s co-payment.

If a member wishes to use their AVC for medical purposes, the following must be submitted:

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<sup>1</sup> The National Pensions (Amendment) Act, 2023 has been consolidated into the new National Pensions Act (2024 Revision)

- Completed application form
- A letter from the member's physician stating the medical procedure that is sought and the associated cost as well as confirmation that the procedure is not elective.
- A letter from the health insurance provider confirming the medical procedure contained in the physician's letter is not covered by the member's insurance.

#### C. TEMPORARY UNEMPLOYMENT

Section 47(10)(b) allows a member to access their AVC for temporary unemployment. The member is only eligible to apply after an initial three-month period of unemployment. After this initial period has passed, the member may apply for their AVC at any time during the next six months of unemployment. The commencement of unemployment is established based on the date and contents of the member's most recent termination letter.

If a member wishes to use their AVC for temporary unemployment, the following must be submitted:

- Completed application form
- A dated termination letter from the member's most recent local employer (dated within 9 months of the application)

#### D. HOUSING PURPOSES

Whilst withdrawals from a pension plan made pursuant to sections 52B, 52BA and 52C are restricted to Caymanians, all members (Non-Caymanians and Caymanians) are permitted to access their AVC under section 47 for housing purposes.

Section 47(10)(c) allows a member to access their AVC for housing purposes including:

- the purchase or construction of the member's dwelling house;
- the purchase of residential land for the member;
- providing a reduction payment —
  - on an existing residential mortgage, and if applicable, any arrears in strata fees related to the mortgaged property; or
  - on a residential land loan; or
- payment of the outstanding balance of the member's mortgage in full and, if applicable, any arrears in strata fees related to the mortgaged property, but excluding the payment of rent or similar purposes.

With respect to a member's access to their AVC under section 47 and mandatory contributions under section 52, it is permissible for a member to access their AVC and then also apply to access their mandatory contributions under sections 52B, 52BA, 52C. It is important to note that under section 47(10), members are not required to repay their AVC; however, pension assets withdrawn under sections 52B, 52BA, 52C must be repaid with an additional 3% contribution on a monthly basis.

All applications must relate to properties within the Cayman Islands and the necessary supporting documentation will be required as part of the application process. Additionally, the applications are not limited to the member's dwelling house and are permitted for investment properties because they are voluntary contributions.

1. Purchase or construction of member's dwelling house

If a member wishes to use their AVC to purchase or construct their dwelling house, the member must provide the administrator with the following:

- Completed application form
- A signed purchase agreement
- If the request is for construction purposes, a quote or invoice from the construction company is also required and the invoice must have been issued in the last 3 months

2. Purchase of residential land for the member

If a member wishes to use their AVC to purchase residential land, the member must provide the administrator with the following:

- Completed application form
- A signed purchase agreement

3. Reduction payment on an existing residential mortgage, and if applicable, any arrears in strata fees related to the mortgaged property; or on a residential land loan

If a member wishes to use their AVC to provide a reduction payment on an existing residential mortgage and if applicable, any arrears in strata fees in relation to that property or on a residential land loan, the member must provide the administrator with the following:

- Completed application form
- Evidence of their legal title to the mortgaged property or land (copy of entry in the Land Register which was issued in the last 30 calendar days)
- Copy of the letter from the financial institution holding the mortgage or residential land loan that confirms approval in principle for accepting a reduction payment on the existing mortgage (and, if applicable, arrears in strata fees related to the mortgaged property) or the residential land loan, as well as the amount to be paid.
- If the member wishes to pay their arrears of strata fees, then a copy of a letter issued by or on behalf of the relevant Strata Corporation addressed to the applicant certifying the matters set out in section 6(4) of the Strata Titles Registration Act (2013 Revision) (including the extent of arrears) is required. Strata Corporations are familiar with this type of letter, since such documentation is normally required as part of the sale of the property. For clarity, the letter should include:
  - the name of the current owner(s) of the property as well as the Block and Parcel of the relevant property; and
  - the timeframe within which contributions are due as well as the amount which is presently in arrears in relation to the strata fees.

Please note that the payment to the Strata Corporation can be made directly by the pension plan administrator and does not have to go through the financial institution as would be required in the case of withdrawals made under section 52BA.

4. Payment of the outstanding balance of the member's mortgage in full and, if applicable, any arrears in strata fees related to the mortgaged property, but excluding the payment of rent or similar purposes

A member may utilize the AVC to pay off their mortgage in full; however, the funds are not accessible to cover a regular monthly mortgage payment.

If a member wishes to use their AVC to pay off their mortgage in full on an existing residential mortgage and, if applicable, any arrears in strata fees in relation to that property, the member must provide the administrator with the following:

- Completed application form
- Evidence of their legal title to the mortgaged property or land (copy of entry in Land Register which was issued in the last 30 calendar days)
- Copy of the letter from the financial institution holding the mortgage that confirms approval in principle for paying off on an existing mortgage (and if, applicable, arrears in strata fees related to the mortgaged property) or the residential land loan, as well as the amount to be repaid.
- If the member wishes to pay their arrears of strata fees, then a copy of a letter issued by or on behalf of the relevant Strata Corporation addressed to the applicant certifying the matters set out in section 6(4) of the Strata Titles Registration Act (2013 Revision) (including the extent of arrears) is required. Strata Corporations are familiar with this type of letter, since such documentation is normally required as part of the sale of the property. For clarity, the letter should include:
  - the name of the current owner(s) of the property as well as the Block and Parcel of the relevant property; and
  - the timeframe as well as the amount which is presently in arrears in relation to the strata fees.

Please note that the payment to the Strata Corporation can be made directly by the pension plan administrator and does not have to go through the financial institution as would be required in the case of withdrawals made under section 52C.

5. Use of AVC to pay additional contributions under section 52D

Since the list of housing purposes for which a member may access the AVC pursuant to section 47(10)(c) is illustrative rather than exhaustive, a policy decision has been taken by the Director to permit access to AVC in order to pay the additional contributions required under section 52D, when a member takes a housing withdrawal from their mandatory contributions.

Since contributions belong to the member, the AVC paid by both the employer and employee would be accessible for this purpose. Additionally, only AVC paid, **after** the member's property withdrawal could be used for the repayment of additional contributions.

If a member wishes to use their AVC to pay the additional contributions required under section 52D, the member must provide the administrator with the following:

- Completed Application
- Evidence (in the form of a letter/email) of the need for the repayment from the relevant pension plan administrator

#### 6. Other permissible purposes

With respect to other permissible housing purposes for which AVC withdrawals may be made, withdrawals for the purposes of renovations or repairs to the member's dwelling house are only permissible if those renovations or repairs are to the actual physical structure of the house or items that are permanently or semi-permanently affixed to the structure of the member's dwelling house such as windows, doors, flooring, cabinets, solar panels and central air conditioning systems; withdrawals for the purposes of renovations or, or repairs to chattels. For the avoidance of doubt, it would be acceptable to access AVC's in order to build on a studio apartment that is affixed to the member's existing house since that would be permanent.

For clarity, please note that access to AVC is not permitted for simple maintenance or reasons such as the purchase of appliances or furniture, or the construction of fencing or swimming pools. This is not intended to be an exhaustive list but is provided for indication purposes.

If a member wishes to use their AVC to complete repairs and renovations to their dwelling house, the member must provide the administrator with the following:

- Completed application form
- Evidence of their legal title to the dwelling house (copy of entry in Land Register which was issued in the last 30 calendar days)
- A quote or invoice from the construction company, supplier or service provider engaged to complete the work. The invoice must have been issued in the last 3 months.

#### E. EDUCATIONAL PURPOSES

Section 47(10)(d) permits a member to access their AVC for the educational purposes of that member or the dependent child of the member, if the child is under the age of 23 and pursuing full time education.

As a result, the member can access these sums for their own educational purposes, without any restrictions. If the member wishes to utilize the money for their child, then that child must be under the age of 23 and must be enrolled in full time education, which includes:

- locally approved pre-schools,
- special needs education,
- primary, secondary or tertiary education.

If a member wishes to use their AVC for educational purposes, the following must be submitted:

- Completed application form
- A letter of acceptance from the educational institution showing the cost for the instruction and person being enrolled.
- For a dependent child of a member, proof of the parental/guardian relationship with the member, proof of the dependent child's age, and a letter from the educational institution that stipulates the program is full-time.

F. HOW TO APPLY

The member should apply directly to their pension plan administrator and there is no need for the application to be submitted to the Department of Labour & Pensions unless the administrator needs to clarify if the request is permissible.

G. REPAYMENT

There is no requirement for a pension plan member to repay the AVC that is withdrawn for any of the categories outlined in the National Pensions Act.

H. FREQUENCY OF ACCESS

A member is permitted access to their AVC up to 4x per calendar year, for the categories permissible in the National Pensions Act.

I. MONTHLY REPORTING BY ADMINISTRATORS

The pension plan administrator has been provided with a template in order to report to the Department of Labour & Pensions, as required under section 47(12) of the National Pensions Act (2024 Revision). The report is due to be filed with this office by the 10<sup>th</sup> of each month.

NB: This guidance note is subject to review and revision as it becomes necessary.

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