

CAYMAN ISLANDS



NATIONAL PENSIONS ACT

(2024 Revision)

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Note (not forming part of this Act): This revision replaces the 2012 Revision which should now be discarded.



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CAYMAN ISLANDS



NATIONAL PENSIONS ACT

(2024 Revision)

PART 1 - Introductory

Short title and commencement

1. (1) This Act may be cited as the *National Pensions Act (2024 Revision)*.
- (2) The following provisions shall come into force on such date as the Cabinet may by Order specify —
 - (i) sub-section 9(2)(d); and
 - (ii) sub-sections 16(4)(e), 16(4)(j), 16(4)(l)(i).

Application of this Act to certain pension plans

2. This Act applies to pension plans established and maintained for the benefit of employees in the Islands.

Interpretation

3. In this Act —

“**active member**”, in relation to a pension plan, means a member of the plan who —

- (a) has not terminated that member’s employment under the plan;
- (b) has not exercised that member’s entitlement under section 29; and
- (c) has not been deemed under section 63(1) to have terminated that member’s employment under the plan;



“**actuarial present value**”, in relation to a pension or benefit, means the value of the pension or benefit calculated in the prescribed manner and as of a fixed date;

“**actuary**” means a person who —

- (a) has qualified as an actuary by examination of the Institute of Actuaries in England, the Faculty of Actuaries in Scotland or the Societies of Actuaries in the United States or Canada and who is a current member in good standing of one of those professional associations; or
- (b) holds some other actuarial qualification and who is, in the opinion of the Cabinet, suitable for recognition as an actuary for the purposes of this Act;

“**additional voluntary contribution**” means a contribution and the earnings thereon to a pension fund by or on behalf of a member in excess of the amount the member is required by a pension plan or this Act to contribute;

“**administrator**” means a person who manages a pension plan;

“**ancillary benefit**” means any of the benefits described in section 32;

“**approved provider**” means an insurance company or other company licensed to undertake pension plans in the Islands;

“**assets**”, in relation to an employer, means assets that in the ordinary course of business would be entered in the employer’s books of accounts;

“**benefit**” means a pension benefit or an ancillary benefit;

“**Board**” means the National Pensions Board established under section 78;

“**certified copy**” means a copy certified by an attorney-at-law to be a true copy;

“**claimant**”, in relation to a pension plan, means a person other than a member or former member who, as a result of another person’s membership at any time in a plan, is or may be entitled to a right or benefit under such plan;

“**civil partner**” has the meaning assigned by the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

“**civil partnership**” has the meaning assigned by the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

“**commuted value**”, for the purpose of determining the lump sum amount that is equivalent to a pension or benefit, means the value of the pension or benefit calculated in the prescribed manner and as of a fixed date;

“**conjugal period**” means a period beginning with the marriage of a man and a woman and ending on either the death of one of them or on the date set out in —

- (a) a decree of dissolution of the marriage;
- (b) a decree of nullity of the marriage;
- (c) a decree of presumption of death of a spouse or civil partner; or
- (d) a decree of judicial separation.



“**continuous**”, in relation to employment, membership or service, means continuous notwithstanding regard to periods of temporary suspension of employment, membership or service of less than six months, and notwithstanding periods of lay-off from employment;

“**contributory benefit**” means a pension benefit or part of a pension benefit in respect of which a member is required to make contributions under the terms of the pension plan;

“**custodian**” means the person entrusted with the safekeeping of the assets of the pension fund;

“**deferred benefit**”, in relation to a member of a pension plan, means a benefit other than an immediate benefit;

“**deferred pension**” means a deferred benefit that is in payment;

“**defined benefit**” means a benefit determined in advance with reference to various factors including level of earnings and length of employment and a “**defined benefit pension plan**” means a plan providing such a benefit;

“**defined contribution benefit**” means a benefit that is determined solely with reference to and is provided by, contributions made by or for the credit of a member together with the investment yield of such accumulated contributions and that is determined on an individual account basis;

“**defined contribution pension plan**” means a pension plan providing a defined contribution benefit;

“**Director**” means the Director of the Department of Labour and Pensions established under section 79;

“**disabled**”, in relation to a member, means unable because of a physical or mental condition to perform most or all of the tasks related to that member’s employment;

“**earnings**” means —

- (a) in the case of an employee, any wages, salary, leave pay, fee, commission, bonus (to the extent that the bonus is equivalent to more than twenty per cent of the employee’s basic salary or wage for the period in question) or gratuity, expressed in monetary terms, paid or payable by an employer (directly or indirectly) to that employee in consideration of employment, but does not include severance payments, normal pension entitlement or long service recognition payments or health insurance premiums; and
- (b) in the case of a self-employed person, income of that person prescribed and calculated in accordance with the regulations;

“**employee**” has the meaning assigned to it by section 2 of the *Labour Act (2021 Revision)* but does not include a Caymanian as defined in the *Immigration (Transition) Act (2022 Revision)* who is under twenty-three years of age and pursuing full time education;

“**employer**” has the meaning assigned to it by section 2 of the *Labour Act (2021 Revision)*;

“**file**” means file with the Director;

“**former member**” means a person who was a member of a pension plan and who has terminated employment or membership in a pension plan, and is —

- (a) entitled to a deferred benefit payable from the pension fund;
- (b) in receipt of a pension payable from the pension fund;
- (c) entitled to commence receiving payment of a pension benefit from the pension fund after termination of employment or membership; or
- (d) entitled to receive any other payment from the pension fund;

“**fully funded**”, in relation to a pension plan, means to have at a given time, sufficient assets in a pension plan to provide for all pensions and other benefits as they become payable;

“**household domestic**” has the meaning assigned to those words in the *Labour Act (2021 Revision)*;

“**immediate benefit**” means a benefit under the pension plan where payment of the pension in respect of the benefit is to commence not later than the first day of the month following the termination of the employment or membership of the member;

“**inactive member**”, in relation to a pension plan, means a member of the plan other than an active member;

“**investment manager**” means a person that manages the investment of a pension plan;

“**joint and survivor pension**” means a pension payable during the joint lives of the person entitled to the pension and that person’s spouse or civil partner and thereafter during the life of the survivor of them;

“**member**”, in relation to a pension plan, means a person who is or may be entitled to a benefit or refund of the person’s contributions under the pension plan as a result of the person’s employment or self-employment;

“**Minister**” means the Minister having responsibility for pensions;

“**mortgage**” has the same meaning assigned to the word “charge” under the *Registered Land Act (2018 Revision)*;

“**multi-employer pension plan**” means a pension plan established and maintained for self-employed persons or employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund, but does not include a pension plan where all the employers are affiliated;

“**normal age of pension entitlement**” means sixty-five years of age except that a person who attains sixty years of age, within the time prescribed by Order



made by Cabinet, may opt for a normal age of pension entitlement of sixty years of age;

“**normal pension entitlement**” means retirement;

“**order**” means an order in writing;

“**partial winding up**” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of that pension plan;

“**pension**” means a benefit which is being paid at regular intervals;

“**pension benefit**”, in relation to a member or former member of a pension plan, means the entitlement of the member or former member or of another person upon the death of the member or former member to the periodic amounts provided under the pension plan for the lifetime of the member or former member, but does not include an ancillary benefit;

“**pension committee**” means a committee that is the administrator of a pension plan;

“**pension fund**” means a fund maintained to provide benefits payable under a pension plan;

“**pension plan**” includes a defined benefit pension plan or a defined contribution pension plan constituted and administered to provide pension benefits for employees but does not include —

- (a) an employee’s profit sharing plan or a deferred profit sharing plan;
- (b) a plan to provide cash withdrawals from the fund or lump sum payments;
- (c) a plan under which all pension benefits are provided by contributions made by members who are not self-employed;
- (d) a fund or plan supplementary to a registered pension plan; or
- (e) any other prescribed type of plan;

“**pensionable earnings**” means the average annual rate of earnings received by a member in that consecutive sixty month period during which that member’s earnings were the highest, or if membership is less than sixty months, the average annual rate of earnings over the period of that member’s membership subject, in either case, to a prescribed maximum;

“**period pertaining to civil partnership**” means a period beginning with the entering into a civil partnership and ending on either the death of one of the civil partners or on the date set out in —

- (a) a decree of dissolution or nullity of the civil partnership;
- (b) a decree of presumption of death of a civil partner; or
- (c) a decree of judicial separation;

“**prescribed**” means prescribed by regulations made under this Act;

“**reciprocal transfer agreement**” means an agreement respecting two or more pension plans that provides for the transfer of money, credits for employment or such other matter in respect of individual members who are transferring to and from registered pension plans whether in or outside the Islands;

“**registration**” means registration under this Act;

“**regulations**” means all regulations made by the Cabinet under the powers contained in this Act;

“**self-employed person**” means a person over school leaving age whose earnings (otherwise than in the capacity of an employee) derive from that person’s production (in all or part) of goods or services in the Islands, or that person’s trade in goods or services in or from the Islands;

“**spouse**” means a man or a woman who —

- (a) in the case of a man, is married to a woman; or
- (b) in the case of a woman, is married to a man;

“**surplus**” means the excess of the value of the assets of a pension fund related to a defined benefit pension plan over the value of the liabilities under the pension fund, both calculated in the prescribed manner;

“**termination**” —

- (a) in relation to employment, includes normal pension entitlement and death; and
- (b) in relation to a winding up in whole or in part of a pension plan, means the cessation of the accrual of benefits under the plan by members of the plan;

“**winding up**”, in relation to a pension plan, means the distribution of the assets of the pension plan after the plan is terminated; and

“**year’s maximum pensionable earnings**” means earnings totalling in any year eighty-seven thousand dollars or such other amount as may be prescribed by Order, made by Cabinet, containing the amount and the period for which that amount applies.

Establishment of pension plans.

- 4. (1) Subject to section 25(2), every employer in the Islands shall provide a pension plan or make contribution to a pension plan for every person employed by that employer in the Islands which shall, at the employer’s discretion, be either a defined benefit pension plan or a defined contribution pension plan and the specific pension plan shall be selected in the prescribed manner.
- (2) A person shall be deemed to be employed in the Islands —
 - (a) where the office of that person’s employer to which that person is required to report to work is situated in the Islands; or



- (b) if that person is normally resident in the Islands and where the office from which the person's salary, wage or other remuneration is paid is situated in the Islands.
- (3) The Director shall cause to be published, in the Gazette or via any other media as the Director determines, notice of each pension plan registered under this Act together with the details of any persons who will carry on the functions of administrator, investment manager, investment adviser, or custodian of the pension plan.
- (4) An employer who fails without reasonable cause to comply with the requirements of subsection (1) commits an offence and is liable —
 - (a) in the case of a first offence, on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both;
 - (b) in the case of a second offence, on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of three years, or to both; or
 - (c) in the case of a third or subsequent offence, on conviction on indictment to a fine of one hundred thousand dollars or to imprisonment for a term of five years, or to both.

Greater pension benefits and previous pensions.

- 5. (1) Nothing in this Act shall be construed to prevent the registration under this Act of any pension plan that provides pension benefits and ancillary benefits which are more advantageous to its members than those specified under this Act.
- (2) The Cabinet may make regulations respecting the administration of any pension plans which are in existence on the 1st June, 1998.

PART 1A - Suspension of Pension Contributions

Definitions and expiry of Part 1A

- 5A. (1) In this Part —

“**2010 pension holiday period**” means the periods commencing on 26th April, 2010, the date on which the *National Pensions (Amendment) Law, 2010 [Law 8 of 2010]* was published in the Gazette and ending on the date on which section 2 of that Law ceased to have effect; and

“**2020 pension holiday period**” means the periods commencing on 1st April, 2020 and ending on 30th September, 2020, the commencement date of sections 1, 2, 4 and 6 of the *National Pensions (Amendment) Law, 2020 [Law 12 of 2020]*, or upon such later date as may be appointed by Order made by the Cabinet*.

* *The National Pensions (Amendment) Law, 2020 (Extension of Pension Holiday) Order, 2020 [SL24 of 2022]* extended this pension holiday period to 30th September, 2022.

- (2) With regard to the 2010 pension holiday period, this Part shall cease to have effect —
 - (a) in relation to an employee who is a Caymanian, on the 25th April 2011, the date of expiration of a period of one year subsequent to the commencement of the *National Pensions (Amendment) Law, 2010 [Law 8 of 2010]*; and
 - (b) in relation to an employee who is not a Caymanian, on the 25th April 2012, the date of the expiration of a period of two years subsequent to the commencement of the *National Pensions (Amendment) Law, 2010 [Law 8 of 2010]*.
- (3) With regard to the 2020 pension holiday period, this Part shall cease to have effect on 30th September, 2022, as provided by section 1(3) of the *National Pensions (Amendment) Law, 2020 [Law 12 of 2020]* and as extended by *National Pensions (Amendment) Law, 2020 (Extension of Pension Holiday) Order, 2020 [SL 24 of 2022]*.

PART 2 - Registration and Administration

Prohibitions of administration of an unregistered pension plan

6. (1) Subject to subsections (2), (3) and (4), no person shall administer a pension plan for the benefit of employees unless the plan has been registered by the Director and a certificate has been issued in respect of the plan by the Director.
- (2) Notwithstanding subsection (1), a pension plan which has not been registered in accordance with subsection (1) may be administered without the required registration during the first two hundred and seventy days after the 1st June, 1998.
- (3) Notwithstanding subsection (1), a pension plan which was offered or subscribed to by an employer before the 1st June, 1998, which is acceptable to the Director, may continue to be administered as a supplementary plan without being registered, but only if —
 - (a) the employees' participation is voluntary;
 - (b) the pension plan is in addition to a registered plan;
 - (c) the pension plan is entered into with full information; and
 - (d) regular reports are provided to the employees in accordance with guidelines issued, from time to time, by the Director.
- (4) (a) Notwithstanding subsection (1), international pension plans, which are defined benefit pension plans at the 1st June, 1998, may continue to



- operate without registration subject to such conditions as may be imposed by the Director and to the conditions specified in paragraph (c).
- (b) An employee shall only be eligible to participate in a plan of a type referred to in paragraph (a) if, at the 1st June, 1998, that employee has been participating in the plan for at least ten years and —
- (i) there are no more than ten years before that employee's date of compulsory retirement;
 - (ii) the employee is at least forty-five years of age; or
 - (iii) the employee has been participating in the plan prior to that employee's employment in the Islands.
- (c) The conditions referred to in paragraph (a) are —
- (i) the employees' participation in the plan shall be voluntary;
 - (ii) the employer shall ensure that —
 - (A) the estimated value of the fund;
 - (B) the investment performance of the fund;
 - (C) changes in the contribution rate, if applicable;
 - (D) amendments to the plan;
 - (E) changes on the Board, Committee, or Trustees who administer the plan;
 - (F) the funding status of the plan; and
 - (G) any other relevant information,are provided within a reasonable time to all employees;
 - (iii) arrangements for portability or the payment of benefits in the event of termination of employment or winding up of a plan referred to in paragraph (a) shall have been approved by the Director;
 - (iv) benefits shall either be payable in the form of a pension or valued and transferred to another plan; and
 - (v) benefits may not, under the plan, be able to be commuted and paid in the form of a lump sum cash settlement.
- (d) In this subsection —
- “international pension plan”** means a pension plan which provides pensions for the employees of an employer, or a group of affiliated employers, in more than one country.
- (5) If an employer to which subsection (4)(a) refers employs a Caymanian employee, then the employer shall enroll that employee in a plan registered in accordance with subsection (1).

- (6) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (7) In this section —
“**Caymanian**” has the meaning assigned to it by the *Immigration (Transition) Act (2022 Revision)*;

Refusal or revocation of registration

7. (1) No person shall administer a pension plan if the registration of that plan has been refused or revoked by the Director.
- (2) Subsection (1) does not apply to prevent administration of a pension plan for the purposes of the winding up of that pension plan.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of five years, or to both.

Administrator

8. (1) For the purposes of this Act, only the following persons may administer a pension plan —
 - (a) an employer;
 - (b) a pension committee at least fifty per cent of which shall be representatives of members of the pension plan and a majority of which shall hold Caymanian status or be permanent residents of the Islands;
 - (c) an approved provider where that provider provides all of the benefits under the pension plan, or a representative or agent of that provider;
 - (d) a board of trustees appointed pursuant to the pension plan, at least fifty per cent of which shall be representative of members of the pension plan and a majority of which shall hold Caymanian status or be permanent residents of the Islands;
 - (e) a board, agency or other person made responsible by this Act or any other law for the administration of the pension; or
 - (f) a trust company licensed in accordance with the *Banks and Trust Companies Act (2021 Revision)*.
- (2) For the purposes of subsection (1) —
“**employer**” includes an affiliate or parent company.
- (3) An administrator shall ensure that the administration, custodianship and investment of the pension plan and fund are undertaken by qualified and experienced persons or bodies.



- (4) No person who is a receiver or trustee in bankruptcy of an administrator of the pension plan shall administer a pension plan.
- (5) An administrator, subject to any approval of the Director to different arrangements given under section 6(3), shall be based or represented in the Islands.
- (6) In the event of the bankruptcy of an employer within the meaning of the *Bankruptcy Act (1997 Revision)*, the Director may act as or appoint an administrator of the plan.
- (7) A person who contravenes subsection (1) or (4) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of five years, or to both.

Registration

9. (1) An administrator shall apply to the Director within sixty days after the date on which a pension plan is established to register the pension plan.
- (2) An application for the registration of a pension plan shall be made in the prescribed form and accompanied by —
 - (a) the prescribed fee;
 - (b) two certified copies of the document constituting the pension plan and the relevant pension fund;
 - (c) a certified copy of any reciprocal transfer agreement related to the pension plan;
 - (d) a statement of investment policy in the prescribed manner;
 - (e) evidence of the method utilised to address on-going administrator training;
 - (f) details of the person that has accepted the appointment as auditor of the pension plan;
 - (g) details of any persons, including evidence of the knowledge and skill of the persons, who will carry on the functions of administrator, investment manager, investment adviser, agent of the administrator or custodian of the pension plan;
 - (h) details of all the individuals to be appointed to the pension committee, the board of trustees or the trust company acting as administrator;
 - (i) in the case of a defined benefit pension plan, an original or certified copy of an actuarial report;
 - (j) any other prescribed information respecting the pension plan and pension fund;
 - (k) a certified copy of the explanation and any other information required under section 20(1); and

- (l) any other information and particulars including copies of any actuarial report or advice given to the administrator or employer in connection with the establishment of the plan as the Director considers relevant.
- (3) The form in which an application for registration is to be made or in which any information is to be given pursuant to this section shall be prescribed by regulations made by the Cabinet acting on the advice of the Director.

Contents of pension plan

- 10.** (1) The document that constitutes a pension plan shall contain the following information —
- (a) the method of appointment and the details of the appointment of the administrator of the pension plan;
 - (b) the conditions for membership of the pension plan;
 - (c) the benefits and rights which will accrue upon —
 - (i) termination of employment;
 - (ii) termination of membership;
 - (iii) normal pension entitlement; and
 - (iv) death;
 - (d) the normal pension entitlement date under the pension plan;
 - (e) the requirements for entitlement under the pension plan to any pension benefit;
 - (f) the contributions and the method of calculating the contributions required by the pension plan;
 - (g) the method of determining benefits payable under the pension plan;
 - (h) the method of calculating interest to be credited to contributions under the pension plan;
 - (i) the mechanism for payment of the cost of administration of the pension plan and pension fund together with a schedule of administration fees;
 - (j) the mechanism for establishing and maintaining the pension fund;
 - (k) in the case of a defined benefit pension plan, the method of dealing with surplus during the continuation and on the winding up of the pension plan;
 - (l) the obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations;
 - (m) the method of allocation of the assets of the pension on the winding up of such plan;
 - (n) particulars of any previous pension plan under which members of the pension plan may be entitled to pension benefits;



- (o) in the case of a defined benefit pension plan, an original or certified copy of an actuarial survey and report; and
 - (p) any other prescribed information respecting the pension plan and pension fund.
- (2) Where a pension plan is established pursuant to a trust agreement, the documents constituting such agreement shall set out the powers and duties of the trustees.

Accrual of pension benefits.

- 11.** (1) The Director shall not register a pension plan where, apart from additional voluntary contributions —
- (a) the plan does not provide for the accrual of pension benefits in a gradual and uniform manner; or
 - (b) the formula for computation of the employer's contributions to the pension fund or, in the case of a defined benefit pension plan, the benefits provided under the pension plan, are variable at the discretion of the employer.
- (2) The Director shall not register a defined contribution pension plan if the formula governing allocation of contributions to a pension fund and the investment yield of such accumulated contributions among members of the pension plan is variable otherwise than at the discretion of a majority of the members of the pension plan.

Registration of amendment

- 12.** (1) An administrator shall not amend a plan without —
- (a) the recorded approval and votes of two-thirds of the members and the former members of the plan affected by the proposed amendment either present or voting by proxy, which votes shall be recorded in the minutes of the meeting at which such votes were taken, or voting in a written ballot of those members affected by the proposed amendment; and
 - (b) the approval of the employer.
- (2) A meeting or ballot process required for the purpose of subsection (1) shall be held in accordance with the rules set out in regulations prescribed by the Cabinet.
- (3) An administrator shall apply to the Director within thirty days after the date on which the pension plan is amended for registration of the amendment.
- (4) An application for the registration of an amendment shall be made in the prescribed form and shall be accompanied by —
- (a) the prescribed fee;
 - (b) a certified copy of the document;

- (c) certified copies of any other prescribed documents; and
 - (d) any other prescribed information.
- (5) An amendment of a pension plan is not effective until it is approved by the Director.
- (6) The administrator shall, where an amendment is approved, file a certified copy of the amended plan.
- (7) Notwithstanding subsection (1), an administrator shall not be required to obtain the approval of the members of a plan for amendments which are, in the opinion of the Director, minor or statutorily required.
- (8) An amendment to a pension plan may be made effective from a date before the date on which the amendment is registered.
- (9) An amendment which purports to convert a defined benefit pension plan to a defined contribution pension plan, or *vice versa*, shall be void and of no effect unless made with the written consent of the employer.

Reduction of benefits

- 13.** An amendment of a pension plan is void and of no effect where the amendment purports to reduce —
- (a) the amount, the commuted value or the actuarial present value of a pension benefit accrued under the pension plan with respect to employment before the commencement of the amendment;
 - (b) the amount, the commuted value or the actuarial present value of a pension or a deferred pension accrued under the pension plan; or
 - (c) the amount, the commuted value or the actuarial present value of an ancillary benefit for which a member or former member of the pension plan is eligible.

Acknowledgement of application for registration.

- 14.** (1) The Director shall issue to an administrator —
- (a) a written acknowledgement of any application for registration of a pension plan within thirty days after receiving an application for registration under section 9;
 - (b) a certificate of registration within thirty days of the registration of a plan; and
 - (c) a notice of registration for each amendment to a plan within thirty days of the registration of the amendment.
- (2) No person shall contract out of or waive a requirement imposed under this Act upon an employer or administrator of a pension plan in favour of a member,



former member or claimant and any such contracting out or waiver is void and of no effect.

- (3) Notwithstanding any provision in a pension plan, a plan that has been registered shall be deemed to be amended so that it complies with this Act and the regulations.

Refusal or revocation of registration

- 15.** (1) The Director shall refuse to register a pension plan or an amendment to a pension plan which does not comply with this Act.
- (2) The Director may revoke the registration of a pension plan which is not being administered in accordance with this Act.
- (3) The authority of the Director under subsection (1) or (2) is subject to the right to a hearing under section 72 of a person affected by the Director's decision.
- (4) An amendment to a pension plan terminates on the date the Director revokes the registration of the amendment.
- (5) Where the Director refuses to register a pension plan or revokes the registration of a plan, the administrator shall wind up the pension plan in accordance with this Act and the regulations.

Duties of the administrator

- 16.** (1) An administrator shall —
 - (a) administer the pension plan and pension fund in accordance with this Act and Regulations; and
 - (b) administer the pension plan and any amendment to the pension plan in accordance with the documents filed with the Director upon registration of that plan or amendment.
- (2) An administrator shall —
 - (a) where more than one pension plan is administered by the administrator, segregate the assets, bank accounts and records of each pension plan from the other; and
 - (b) segregate the assets, bank accounts and records of a pension plan from any other business in which the administrator may be engaged.
- (3) An administrator shall use that administrator's best efforts in the administration of a pension fund using all relevant knowledge and skill that, by reason of the administrator's profession or business or calling, that administrator ought to possess.
- (4) The administrator of a pension plan shall —
 - (a) pay the prescribed fee to the Director in respect of the pension plan within three months of the end of the financial year of the pension plan;

- (b) file with the Director each year during the continuation of the pension plan an annual information return relating to the pension plan in the prescribed form within three months of the end of the financial year of the pension plan or within any longer period the Director may approve;
- (c) within six months of the end of a financial year of the pension plan or within any longer period that the Director may approve, file with the Director audited financial statements of the pension plan prepared in the prescribed manner by an independent auditor approved by the Director, together with a copy of any management letter issued by the auditor;
- (d) every three years during the continuation of a defined benefit pension plan with the assistance of an actuary, review the financial operation of the pension plan and file with the Director an actuarial report within six months of the completion of the review, or any longer period the Director may allow;
- (e) provide returns and expense ratios for the pension plan, in the prescribed format, which shall be provided to the Director within six months of the end of a financial year of the pension plan or within any longer period that the Director may approve;
- (f) provide the Director, within three months of the end of the financial year, evidence of annual administrator training;
- (g) file with the Director a list of all active and inactive employers in the pension plan annually when filing the annual information return under paragraph (b) and on a monthly basis, thereafter, file with the Director all employer movements in or out of the pension plan;
- (h) hold annual general meetings dealing with prescribed information and provide a record thereof to the Director within three months of the meeting and to the members with the statement required under section 22;
- (i) file with the Director any additional reports required under this Act;
- (j) publish the pension plan or details relating thereto in the prescribed manner;
- (k) ensure that all documents and records of the pension plan are maintained in a central location and notify the Director of that location and any changes to that location; and
- (l) prepare and submit to the Director, together with the audited financial statements each year —
 - (i) confirmation that the statement of investment policy is in compliance with the prescribed requirements; and
 - (ii) a register of the members of the pension plan, and the register shall specify —
 - (aa) the name of each member;



- (bb) the date of birth of each member;
 - (cc) the employer of each member; and
 - (dd) the value of the accrued benefit of each member.
- (5) If an administrator fails to comply with any requirement under this section, the Director may dismiss the administrator and act as or may appoint another administrator of the plan.
- (6) The reasonable administration costs of the Director or the administrator approved by the Director of any action taken under subsection (5) shall be paid by the pension fund.
- (7) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of five years, or to both.

Functions of the administrator

- 16A.**(1) An administrator shall ensure that the administration, custodianship and investment of a pension plan or pension fund are undertaken by persons qualified and experienced to be administrators, custodians, investment advisers and investment managers, as the case may be.
- (2) An administrator shall exercise the care, diligence and skill in the administration of a pension plan and in the management and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another.
- (3) An administrator shall not knowingly permit that administrator's private interests to conflict with that administrator's duties and powers in respect of a pension plan or pension fund.
- (4) An administrator is not entitled to any benefit from a pension plan other than -
- (a) pension benefits or ancillary benefits or a refund of contributions under the plan to which the administrator is entitled as a member, former member or claimant under the plan ;
 - (b) ancillary benefits; and
 - (c) the administrative fees and expenses as are provided by a pension plan.
- (5) Subsection (4) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or committee made responsible by this Act or any other law for the administration of a pension plan.
- (6) If an administrator fails to comply with any requirement under this section, the Director may dismiss the administrator and act as or may appoint another administrator of the plan.

- (7) The reasonable administration costs of the Director or the administrator approved by the Director of any action taken under subsection (6) shall be paid by the pension fund.
- (8) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of five years, or to both.

Administrator may employ agents

17. (1) **Repealed** by section 13(b) of the *National Pensions (Amendment) Act, 2016* [Law 17 of 2016].
- (2) **Repealed** by section 13(b) of the *National Pensions (Amendment) Act, 2016* [Law 17 of 2016].
- (3) Where it is reasonable and in the interests of the members of a plan so to do, an administrator may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the management and investment of the pension fund.
- (4) Every actuary, accountant or other professional person who provides professional services with respect to the establishment or administration of a pension plan or pension fund, shall be deemed to be an agent of the administrator.
- (5) An administrator who employs an agent shall —
- (a) personally select the agent;
 - (b) be satisfied of the agent's suitability to perform the acts for which the agent is employed; and
 - (c) supervise the agent as far as practicable and reasonable.
- (6) An agent of an administrator is subject to the standards that apply to the administrator under subsections 16(1), (2) and (3) and 16A (1), (2) and (3).
- (7) **Repealed** by section 13(b) of the *National Pensions (Amendment) Act, 2016* [Law 17 of 2016].
- (8) **Repealed** by section 13(b) of the *National Pensions (Amendment) Act, 2016* [Law 17 of 2016].
- (9) An agent of an administrator is entitled to usual and reasonable fees and expenses for services provided in respect of a pension plan and such fees and expenses may be paid out of the pension fund.



Information from employer

- 18.** (1) An employer, who is not an administrator, shall provide to the administrator of the pension plan of which that employer's employees are members any information required by the administrator for the purpose of complying with the terms of the pension plan, of this Act or the regulations.
- (2) In subsection (1) —
“**employer**” includes a predecessor of the employer.

Obligations of employer

- 18A.**(1) An employer shall cause to be kept proper payroll accounts, books and records with respect to all sums of money paid by the employer to a pension plan.
- (2) For the purposes of subsection (1), proper payroll accounts, books and records shall not be deemed to be kept if there are not kept such payroll accounts, books and records as are necessary to give a true and fair view of the state of affairs of the employer with regards to a pension plan and to explain its transactions.
- (3) An employer shall cause all books of account required to be kept under subsection (1) to be retained for a minimum period of five years from the date on which they are prepared.
- (4) For each employee, except an employee for whom an employer is not required to provide a pension plan or to contribute to a pension plan under section 25, an employer shall keep and maintain records showing —
- (a) the name of and current contact information for the employee;
 - (b) the date the employment commenced and the duration;
 - (c) whether the employment is part time or full time;
 - (d) the rate of pay and salaried arrangements;
 - (e) gross and net amounts of pay;
 - (f) bonuses;
 - (g) resignations and terminations relating to the employee;
 - (h) the name of the pension plan;
 - (i) all deductions from earnings of the employee for pension contributions;
 - (j) all contributions made by the employer and on behalf of the employee and evidence of payment to the pension plan;
 - (k) the period over which contributions were made;
 - (l) the dates on which the contributions were made; and
 - (m) any interest payments made in the name of the pension plan.
- (5) The contributions shall be stated clearly and there shall be no comingling; that is, contributions shall be differentiated from other payments that employers are required to pay, such as health insurance.

- (6) An employer shall retain records required to be kept under subsection (4) for a minimum period of five years from the date on which they are prepared.
- (7) An employer shall maintain a written notification, acknowledged by the employee in writing, of the pension plan referred to in section 4(1).
- (8) An employer who —
 - (a) knowingly and wilfully contravenes subsections (1) or (3); or
 - (b) fails without reasonable cause to comply with subsections (4), (5), (6) or (7),commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Advisory Committee

- 19.** (1) The members and former members of a pension plan, by the decision of a majority of them participating in a vote, may establish an advisory committee.
- (2) The inactive members of a pension plan are entitled to appoint at least one representative to the advisory committee.
- (3) An advisory committee may be established pursuant to subsection (1) to —
 - (a) monitor the administration of the pension plan;
 - (b) make recommendations to an administrator respecting the administration of the pension plan; and
 - (c) promote awareness and understanding of a pension plan among members, former members and claimants of the plan and other persons receiving benefits under the pension plan.
- (4) An advisory committee or a member of the committee may examine the records of the administrator relating to the administration of the pension plan and the pension fund at the office of the administrator, and may make copies of the records, but shall not, without the written consent of a member, examine information relating to any member's —
 - (a) service;
 - (b) salary;
 - (c) pension benefits; or
 - (d) other personal information.
- (5) Subsection (1) does not apply if the pension plan is administered by a pension committee and at least one-third of the members of the committee are appointed by members of the pension plan or where a plan is administered by a board of trustees.



- (6) An administrator shall provide to an advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee.

PART 3 - Disclosure of Information

Information from administrator

- 20.** (1) An administrator shall provide, in writing, to each person who under this Act is required to become a member of a pension plan, immediately upon the person's application for membership in the pension plan —
- (a) an explanation of the provisions of the pension plan that apply to the person;
 - (b) an explanation of the person's rights and obligations under the pension plan;
 - (c) details of the returns and expense ratios of the pension fund in the prescribed format; and
 - (d) any other information prescribed.
- (2) An employer shall, within twenty-one days after the date upon which an employee becomes eligible to become a member of a pension plan, provide to an administrator the information required to enable the administrator to comply with this section.

Notice of proposed amendment

- 21.** (1) Before the registration of an amendment to a pension plan, an administrator shall —
- (a) give notice containing an explanation of the amendment to —
 - (i) each member;
 - (ii) each former member; and
 - (iii) any other person entitled to payment from the pension fund;
 - (b) invite the submission of written comments on the amendment to the administrator and the Director; and
 - (c) provide the Director with a copy of the notice of the proposed amendment.
- (2) The Director shall not register an amendment until forty-five days after the date of the notice of amendment to members.
- (3) An administrator shall notify each member of the date of registration of an amendment.
- (4) The Director may, upon the written application of an administrator, exempt that administrator from the requirements of subsection (1) where the administrator

has been exempted from obtaining the approval of the members of a plan under section 12(7) or where the Director is of the opinion that the amendment —

- (a) is of a technical nature;
- (b) will not substantially affect the pension benefits, rights or obligations of a member or former member; or
- (c) will not adversely affect any person entitled to payments from the pension fund.

Semi-annual statement of pension benefits

- 22.** (1) An administrator shall on a semi-annual basis, or at the shorter period as may be specified in a pension plan, give to each member a written statement setting out —
- (a) the prescribed information in respect of the pension plan which shall cover the pension plan's operations since the last report or since registration in the first instance;
 - (b) in the case of a pension plan that is a defined benefit pension plan, the member's expected pension benefits as at the member's normal pension entitlement date or, in the case of a pension plan that is a defined contribution pension plan, the amount of money standing in the member's account; and
 - (c) any ancillary benefits for which the member is eligible.
- (2) Notwithstanding the requirement for a written statement under subsection (1), a statement may be forwarded to a member electronically or via any other media upon the consent of the member in writing to accept transmission of the statement in that manner.
- (3) An administrator shall, where a member terminates employment with an employer or otherwise ceases to be a member of a plan, give to that member or any other person who is, as a result, entitled to a benefit under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or the other person.
- (4) Subsection (3) applies in respect of a multi-employer pension plan where a member ceases to be a member but does not apply where a member terminates employment with an employer but continues to be a member.

Inspection of administrator's documents.

- 23.** (1) Within thirty days of a written request, an administrator shall make available the prescribed documents and information in respect of a pension plan and the pension fund for inspection without charge to —
- (a) a member;
 - (b) a former member;



- (c) the spouse or civil partner or former spouse or former civil partner of a member or former member;
 - (ca) the member's or former member's civil partner or former civil partner where the civil partnership is dissolved or annulled;
 - (d) a claimant;
 - (e) any other person entitled to pension benefits under the pension plan;
 - (f) an agent authorised in writing by a person mentioned in paragraph (a), (b), (c), (ca), (d) or (e);
 - (g) an employer who is or was required to make contributions to the pension plan;
 - (h) a receiver or trustee in bankruptcy of an employer referred to in paragraph (g); and
 - (i) such other person as may be prescribed.
- (2) The prescribed documents and information may be inspected at the premises of the employer of a member or former member or at such other location agreed upon by the administrator and the person making the request.
 - (3) A person inspecting the documents may copy the documents or purchase from the administrator, at a reasonable fee, copies of the documents.
 - (4) A person described in paragraphs (a) to (g) of subsection (1), may not make a request under this section more than once in any six months unless the documents have been changed or amended during the course of the six month period.
 - (5) For the avoidance of doubt, only a person mentioned in subsection (1) shall be entitled to inspect the documents referred to in subsection (1).

Inspection of filed documents

- 24.** The administrator of a pension plan and the persons mentioned in section 23(1) may inspect at the offices of the Director during normal business hours, the copies of the documents that constitute the pension plan and the pension fund and such other prescribed documents as are filed in respect of the pension plan and the pension fund and may obtain copies of the documents upon payment of the prescribed fee.

PART 4 - Membership

Eligibility for membership

- 25.** (1) Subject to subsection (2) all employees between the ages of eighteen years and the normal age of pension entitlement shall be members of a pension plan.

- (2) Employers are not required to provide pension plans, or to contribute to pension plans, for the benefit of employees who do not have Caymanian status, or who are not permanent residents, within the meaning of the *Immigration (Transition) Act (2022 Revision)* and who, in either case —
- (a) have been working in the Islands for a continuous period of nine months or less*; or
 - (b) are employed as a household domestic.
- * *Section 18(2)(i) of the National Pensions (Amendment) Act, 2016 [Law of 2016] which amended the period from 'nine' to 'six' months has not yet commenced.*
- (3) Every self-employed person shall either be a member of an approved pension plan or shall contribute to an individual pension entitlement account with an approved provider.
- (4) Where an employee is employed by more than one employer, each employer shall be liable to pay contributions to a pension plan in respect of such employee.
- (5) With the approval of the Director, an employer may offer or establish a separate pension plan for employees employed in less than full-time continuous employment.
- (6) The Director shall approve a separate pension plan referred to in subsection (5) if the Director considers that the separate pension plan provides benefits equivalent to those in the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.

PART 5 – Entitlement and Vesting

Normal pension entitlement date

26. (1) The normal pension entitlement date under a pension plan submitted for registration under this Act is the date, not later than three months after attaining the normal age of pension entitlement, on which a person becomes entitled under a registered pension plan to collect that person's pension benefits.
- (2) Every pension plan established prior to the 1st June, 1998 and registered under this Act, shall be deemed to specify a normal pension entitlement date in respect of pension benefits that accrue after the 1st June, 1998, that is not later than one year after attainment of the normal age of pension entitlement.
- (3) The first instalment of a member's pension is due not later than the first day of the month following the normal pension entitlement date, unless the member elects otherwise.
- (4) An active member who continues employment and membership in a pension plan after the normal pension entitlement date may elect to continue accruing



benefits under the pension plan up to the date of the member's application for their pension entitlement and is subject to any terms of the pension plan —

- (a) limiting the number of years of employment or active membership that can be considered for the purpose of determining a member's pension benefit; or
 - (b) fixing a maximum amount of a member's pension benefit.
- (5) The first instalment of a pension of a member who makes the election described in subsection (4) is due not later than the earlier of —
- (a) the first day of the month following the date of revocation of the election by the member; or
 - (b) the first day of the month following the date of termination of employment of the member.

Deferred pension for past service

- 27.** (1) An active member of a pension plan continued after the 1st June, 1998 who meets the qualifications in subsection (2) is, subject to section 6(3) and (4), entitled to the benefit mentioned in subsection (3).
- (2) The qualifications are that, on the date the member terminates that member's employment —
- (a) the member must have been employed by the employer or have been a member of the pension plan for a continuous period of at least ten years;
 - (b) the member must have reached the age of forty-five years; and
 - (c) the member must terminate that member's employment with the employer before the normal pension entitlement date under the pension plan.
- (3) The benefit is a deferred pension provided under the pension plan as it existed on the day before the 1st June, 1998 in respect of employment in the Islands before the 1st June, 1998.
- (4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions payable under plans that are not registered under section 6(3).

Deferred pension

- 28.** (1) An active member of a pension plan brought into existence after the 1st June, 1998 who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).
- (2) The qualifications are that the member must —
- (a) be a member of a pension plan on or after the 1st June, 1998; and
 - (b) have terminated membership of a plan before the normal pension entitlement date.

- (3) The benefit is a deferred pension provided under the pension plan in respect of employment after the 1st June, 1998.

Termination by member.

- 29.** (1) A person who is an active member —
- (a) of a multi-employer pension plan;
 - (b) of a pension plan who is employed by an employer on a part-time basis; or
 - (c) of a pension plan who has been laid off by the employer,
- may terminate that person's active membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-four consecutive months or for such shorter period as may be specified in the pension plan.
- (2) For the purpose of determining benefits under this Act, a person mentioned in subsection (1) who terminates that person's membership in a pension plan shall be deemed to have terminated that person's employment.
- (3) Subsections (1) and (2) shall not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement between the two pension plans.

PART 6 - Benefits

Minimum benefit

- 30.** (1) A member of a defined benefit pension plan that is continued or established after the 1st June, 1998 shall, subject to subsection (4), be entitled at that member's normal pension entitlement date to a minimum annual pension equivalent to 1.5 per cent of that member's pensionable earnings for each year that that member shall have been in membership of that plan subject to a maximum of forty-seven years membership.
- (2) Where a member elects to retire before the normal pension entitlement date, that member's annual pension shall be calculated in accordance with the regulations.
- (3) In calculating years of membership each completed month shall count as one-twelfth of a year.
- (4) The minimum annual pension entitlement referred to in subsection (1) shall, in the case of an employee who makes reduced contributions under section 47(8), be reduced in accordance with guidelines to be issued, from time to time, by the Director.



Value of deferred pension

- 31.** (1) If the commuted value of the contributory benefit that accrued under a defined benefit pension plan before the 1st June, 1998, and to which a member is entitled on the date of termination of employment is less, on the date of termination, than the sum of the member's contributions made under the plan before the 1st June, 1998 to the date of termination, the benefit shall be increased on the date of termination so that the commuted value of the benefit is at least equal to the sum of the member's contributions and the interest thereon.
- (2) Subsection (1) does not apply in respect of a pension plan that contains the provision described in subsection (4).
- (3) Under a pension plan an increase in the commuted value of a contributory benefit under a pension plan in respect of employment before the 1st June, 1998 —
- (a) that results from an amendment to the pension plan made on or after that date; and
- (b) to which the member is entitled on the date of termination of employment, may be included in calculating the commuted value of the benefit for the purposes of subsection (1).
- (4) A pension plan may provide, in respect of each member of the plan that —
- (a) the sum of the member's contributions under the pension plan made before the 1st June, 1998 and the interest thereon to the date of termination of employment of the member shall not be used to provide more than fifty per cent of the commuted value on the date of termination of the contributory benefit under the plan to which the member is entitled on the date of termination; and
- (b) if the member is entitled to a contributory benefit under the pension plan on termination of employment, the member is entitled to payment on termination of a lump sum equal to the amount by which the sum of the member's contributions made before the 1st June, 1998 and interest thereon to the date of termination exceeds fifty per cent of the commuted value accrued before the 1st June, 1998.
- (5) The sum of the contributions under a pension plan made by a member of the plan after the 1st June, 1998 and the interest thereon to the date of termination of employment shall not be used to provide more than fifty per cent of the commuted value of the contributory benefit under the plan that has accrued after the 1st June, 1998 and to which the member is entitled on the date of termination.
- (6) A member is entitled to payment on termination of membership to a lump sum equal to the amount by which the sum of the member's contributions made after the 1st June, 1998 and interest thereon to the date of termination exceeds fifty

per cent of the commuted value of the contributory benefit that accrued after the 1st June, 1998 and to which the member is entitled on the date of termination.

- (7) Under a pension plan the following may be excluded in determining that part of the commuted value of a pension or the actuarial present value of a benefit to which subsections (5) and (6) apply —
- (a) defined contribution benefits;
 - (b) benefits that result from additional voluntary contributions; and
 - (c) any other benefits prescribed for the purposes of this subsection.
- (8) Under a pension plan the following may be included in calculating a member's contributory benefit for the purposes of this section —
- (a) ancillary benefits related to employment on or after the 1st June, 1998;
 - (b) any increase in pension benefits and ancillary benefits related to employment before the date of the amendment to a plan resulting from an amendment to such plan made on or after the 1st June, 1998 but that are not included in calculating commuted value under subsection (2); and
 - (c) pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established on or after the 1st June, 1998.
- (9) Where a defined benefit accrued by a member of a pension plan is, at any time, converted in whole or in part into a defined contribution benefit, the value of the defined benefits that are converted shall be the actuarial present value of those benefits at the time of conversion, and subsections (5) and (6) shall apply as if the member had terminated that member's employment at the time of conversion, and as if the term "actuarial present value" were substituted for the term "commuted value" in those subsections.

Ancillary benefits

- 32.** (1) A pension plan may only provide the following ancillary benefits —
- (a) disability benefits;
 - (b) death benefits in excess of those referred to in section 39;
 - (c) benefits arising from additional voluntary contributions which have provided a pension entitlement fund in excess of the minimum as prescribed;
 - (d) early pension entitlement options and benefits in excess of those provided by section 33; and
 - (e) any other prescribed ancillary benefit.
- (2) The pension benefit to which a member is entitled on the date of termination of employment of the member shall include an ancillary benefit for which the



member has met, on that date, all eligibility requirements under the pension plan.

- (3) For the purposes of subsection (2), where, under a pension plan, the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit and a member or a former member has met all other eligibility requirements, the employer's consent shall be deemed to have been given.

Early pension entitlement option

- 33.** (1) An inactive member of a pension plan is entitled to elect at any time to receive an early pension entitlement under the pension plan if the member —
- (a) terminates employment on or after the 1st June, 1998;
 - (b) is entitled, at the time of election, to a deferred benefit under the pension plan; and
 - (c) is at the time of election, within ten years of the normal pension entitlement date.
- (2) An active member who is within ten years of the normal pension entitlement date and who would be entitled to a deferred benefit on termination of employment is entitled upon termination of employment or on the winding up of the pension plan in whole or in part to elect to receive an early pension entitlement.
- (3) The actuarial present value of an inactive member's early pension entitlement under subsection (1) shall not be less than the actuarial present value of the inactive member's deferred benefit under the pension plan.
- (4) The actuarial present value of a member's early pension entitlement shall be not less than the actuarial present value of the deferred benefit under the pension plan to which the member would be entitled on termination of employment.
- (5) An inactive or active member may require the commencement of the payment of the early pension entitlement at any time after making the election and within the ten year period mentioned in subsections (1) and (2).
- (6) An election under subsection (1) or (2) may be made in writing, signed by the member and delivered to the administrator of the plan.

Transfer

- 34.** (1) A member of a pension plan who, on or after 1st June, 1998, terminates employment with a specific employer and who is entitled to a deferred benefit —
- (a) may request the administrator to pay an amount equal to the commuted value of the deferred benefit or the balance in the member's defined contribution account —

- (i) to another registered pension plan, if the administrator of the other pension plan agrees to accept the payment;
 - (ii) into a prescribed pension entitlement savings arrangement; or
 - (iii) for the purchase for the member of a life annuity that will not commence before the earliest date on which the member would have been entitled to receive payment of pension benefits under the pension plan;
 - (b) may elect to remain in the pension plan; or
 - (c) may elect to transfer that deferred benefit to a plan administered under the *Public Service Pensions Act (2023 Revision)* if the administrator of the Public Service Pensions Board agrees to accept the payment.
- (2) The pension entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.
- (3) Notwithstanding subsection (1), where —
- (a) a member’s employment is terminated;
 - (b) the member ceases to reside in the Islands; and
 - (c) no contributions have been made to a pension plan by or on behalf of the member for a period of two years or more,
- the member may request the administrator to pay an amount equal to the commuted value of the deferred benefit or the balance in the member’s defined contribution account to a pension plan, pension entitlement savings arrangement or life annuity that is outside of the Islands.
- (4) The requirements under subsection (3) are not applicable to transfers between registered pension plans.
- (5) For the purposes of subsection (3), a person is considered to have ceased to be resident in the Islands if that person has been absent from the Islands for a period of two years or more, and, in calculating a period of absence, no account shall be taken of a period of residence in the Islands for an aggregate period of less than three months.
- (6) Subject to subsections (1) and (3), an administrator may, on making a payment or transfer under section 42, 53 or this section, make a deduction from that payment or transfer, subject to a prescribed maximum fee, exclusive of any transfer fees charged by the pension plan’s bankers, in respect of actual and ascertainable administrative expenses incurred in making the payment or transfer that is —
- (a) provided for in the pension plan to be made in respect of all transfers and withdrawals; and
 - (b) approved by the Director,



and the Director shall not approve a provision in a pension plan that purports to enable different levels of deduction to be made in respect of different classes of members.

- (7) A former member may exercise that member's pension entitlement under subsections (1) and (3) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Director.
- (8) Subject to compliance with the requirements of this section and the Regulations, the administrator shall comply with the direction referred to in subsection (7) not later than forty-five days after the date of delivery of the direction.
- (9) An administrator who contravenes subsection (8) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; and if the offence is a continuing one to a fine of one thousand dollars for every day or part of a day during which the offence has continued.
- (10) The administrator shall not make a payment under —
 - (a) subsection (1)(a)(ii), unless the pension entitlement savings arrangement is in accordance with the prescribed requirements; and
 - (b) subsection (1)(a)(iii), unless the contract to purchase the deferred life annuity is in accordance with the prescribed requirements.
- (11) Where a payment does not meet the limitations prescribed in relation to the transfer of funds from pension funds, the administrator shall not make the payment without the approval of the Director.
- (12) The Director may, by Order, approve a payment under subsection (11) subject to the terms and conditions contained in the Order that the Director thinks fit in the circumstances.
- (13) Where —
 - (a) a payment that does not meet the conditions prescribed in relation to the transfer of the funds from pension funds is made without the approval of the Director; or
 - (b) there is a failure to comply with a term or condition of the approval given under subsection (12),the Director may, by Order, require any person to whom payment has been made to repay an amount equal to the amount paid together with interest on the amount.
- (14) This section does not apply in respect of benefits under a pension plan accrued on or before a prescribed date where those benefits are guaranteed by an approved provider and the guarantee was given by the approved provider on or before that date.

- (15) Subject to section 76, an Order for payment under subsection (12) may be enforced in the same manner as a judgment of the Grand Court for the payment of money.
- (16) An administrator is discharged from all responsibilities and liabilities in respect of a payment made in good faith under this section and in compliance with this Act.

Purchase of pension.

- 35.** (1) Subject to section 34 and any limitations on transfer of funds from pension plans, an administrator who is required by a pension plan to provide a pension or benefit, may purchase the pension or benefit from an approved provider.
- (2) Where a purchase under subsection (1) does not comply with limitations prescribed in respect of transfer of funds from pension funds, the administrator may not complete the purchase without the prior approval of the Director.
- (3) The Director may approve a purchase under this section subject to such terms and conditions as the Director considers fit in the circumstances.
- (4) Where —
- (a) a purchase that does not comply with limitations prescribed in relation to transfer of funds from pension funds is made without the approval of the Director; or
 - (b) there is a failure to comply with a term or condition attached to the Director's approval under subsection (3),
- the Director may, by order, require any person, to whom payment under this section has been made, to repay an amount not greater than the amount of the payment together with interest thereon at the rate to be prescribed in the regulations.
- (5) Subject to section 72, an order for payment under subsection (4) may be enforced in the same manner as a judgment of the Grand Court for the payment of money.

Joint and survivor pension benefits

- 36.** (1) Every pension paid under a pension plan to a former member who has a spouse or civil partner on the date that the payment of the first instalment of the pension is due shall be a joint and survivor pension and the pension payable to the spouse or civil partner on the death of the member shall be of an amount equivalent to one hundred per cent of the pension paid to the member.
- (2) The actuarial present value of a joint and survivor pension under subsection (1) shall not be less than the actuarial present value of the pension that would be payable under the pension plan to the former member but for subsection (1).
- (3) Subsections (1) and (2) do not apply —



- (a) in respect of a pension benefit if payment of the pension has commenced before the 1st June, 1998; or
 - (b) in respect of the portion of a pension that relates to a prescribed ancillary benefit.
- (4) Where —
- (a) prior to the 1st June, 1998 a deferred life annuity has been purchased from an approved provider for a person entitled to a deferred pension under this Act;
 - (b) payments have not commenced under the annuity on the 1st June, 1998; and
 - (c) the recipient of the payments has a spouse or civil partner on the date payments commence,
- the annuity shall be paid as a joint and survivor pension in accordance with the requirements of this section, and the approved provider shall make payments accordingly.
- (5) Where a former member dies leaving a surviving spouse or civil partner and dependent children, the spouse or civil partner shall receive and hold fifty per cent of the spouse's or civil partner's pension to be used for their maintenance, benefit and education until such time as the children attain the age of twenty-three or cease their full-time education, whichever shall be the earlier.
- (6) In a case where there is need, in the interests of the children, the Director of Social Services shall have power to apply to the Court for an order appointing a trustee to receive up to fifty per cent of the pension payable to the surviving spouse or civil partner and to apply it for the benefit of the children in accordance with subsection (5).

Information for payment of pension

- 37.** (1) An administrator or their agent shall, before paying a pension or benefit, or paying the commuted value of the pension or benefit, require the person entitled to such pension, benefit or commuted value, to provide that person with any necessary relevant information respecting the calculation of the amount of the pension or benefit.
- (2) An administrator is discharged from all liabilities upon making the payment —
- (a) in accordance with information provided by the person entitled under subsection (1); or
 - (b) where the person entitled fails to provide information in accordance with subsection (1), in accordance with such information respecting that person's pension or benefit as is contained in the records of the administrator.

Remarriage of surviving spouse or entering into a subsequent civil partnership or marriage by a surviving civil partner

- 38.** (1) The surviving spouse or civil partner of a former member of a pension plan who is receiving a pension under such pension plan remains entitled to such pension notwithstanding the subsequent remarriage of such surviving spouse or or the entering into a subsequent civil partnership or marriage by such surviving civil partner.
- (2) Subsection (1) applies in respect of pensions which are first paid after the 1st June, 1998.

Death benefit prior to application for pension entitlement

- 39.** (1) If a member or former member of a pension plan dies before the commencement of payment of a pension, the person who is the spouse or civil partner of the member or former member on the date of the death of the member or former member is entitled either to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension of the member or former member.
- (2) The surviving spouse or civil partner who elects to receive a deferred pension may further elect that either —
- (a) the pension in respect of the deferred benefit described in subsection (1) shall be paid to the spouse or civil partner —
- (i) no earlier than ten years before the spouse or civil partner attains the age of sixty-five; or
- (ii) no later than the spouse's or civil partner's normal age of pension entitlement under the plan; or
- (b) the commuted value of the defined benefit shall be paid by the administrator to one of the vehicles or for one of the purposes specified in section 34(1).
- (3) If a member continues in employment after the normal pension entitlement date under the pension plan and dies before the commencement date of the payment of benefits, the person who is the spouse or civil partner of the member on the date of death of the member is entitled to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the pension benefit of the member at the date of death.
- (4) For the purposes of this section, the deferred pension or pension benefits to which a member is entitled if the member dies while employed shall be calculated as if the member's employment were terminated immediately before the member's death.
- (5) A member or former member may designate a beneficiary and the beneficiary is entitled to be paid an amount equal to the commuted value of the deferred



pension mentioned in subsection (1) or (3), if the member or former member does not have —

- (a) any dependent child or children; and
 - (b) a spouse or civil partner on the date of death.
- (6) The personal representative of the estate of a member or former member may receive payment of the commuted value of a pension under this section as the property of the member or former member if the member or former member —
- (a) has not designated a beneficiary in accordance with subsection (5); and
 - (b) does not have a spouse or civil partner on the date of the member’s or former member’s death.
- (7) If the pension plan provides for payment of pension benefits to or for a dependent child or dependent children of the member or former member, upon the death of the member or former member, the commuted value of the payments may be deducted from the entitlement of a beneficiary designated under subsection (5) or of a personal representative under subsection (6).
- (8) A person entitled to payment under this section shall provide the administrator with the relevant information respecting such payment.
- (9) The administrator is discharged from all liabilities on making payment in accordance with the information provided by the person pursuant to subsection (8).
- (10) In this section —
- “**personal representative**” has the meaning assigned to it by section 2 of the *Succession Act (2021 Revision)*.

Variation of payment to disabled person

- 40.** A pension plan may provide for the payment of greater benefits under the plan to a member whose life expectancy is likely to be reduced because of the mental or physical disability of that member.

Commuted value

- 41.** A pension plan may provide for a lump sum payment to a former member of a portion of the commuted value of a benefit if the annual benefit payable at a normal pension entitlement date is more than the prescribed minimum pension.

Cash out of small benefits

42. Notwithstanding any provision of this Act to the contrary, if the commuted value of the pension benefit on termination is less than five thousand dollars or such other sum as may be prescribed, the administrator may distribute such benefit to the former member, or, if the member is deceased, to that member's spouse or civil partner, dependent child or designated beneficiary, as appropriate, in a single lump sum cash payment payable on the date of termination.

Payment on breakdown of marriage or civil partnership

43. (1) A court order made upon a dissolution of a civil partnership, divorce or separation for maintenance or other payments respecting such dissolution of a civil partnership, divorce or separation may provide for the transfer to a member's spouse or civil partner of a portion of the commuted value of a member's pension benefits but shall not require payment of a pension benefit before the earlier of —
- (a) the date on which payment of the pension benefit commences; or
 - (b) the normal pension entitlement date of the member or former member.
- (2) A court order may not provide for the payment to a spouse or civil partner of more than fifty per cent of the pension benefit calculated in the prescribed manner and accrued by a member or former member during the conjugal period or period pertaining to civil partnership or of the value of the defined contribution account added during the conjugal period or period pertaining to civil partnership of the member or former member and that member's or former member's spouse or civil partner.
- (3) An administrator is discharged from all liabilities upon making payment in accordance with an order under this section.
- (4) Where a court order mentioned in subsection (1) affects a pension, the administrator shall revalue the pension in the prescribed manner.
- (5) A spouse or a civil partner on whose behalf a certified order is given to an administrator is entitled, on termination of employment by the member or former member, to any option available in respect of the spouse's or civil partner's interest in the pension benefits as the member or former member has in respect of their pension benefits.

Discrimination on the basis of sex.

44. (1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in —
- (a) determining the amount of contributions required to be made by a member of the plan;



- (b) determining the benefits or the actuarial present value or the commuted value of benefits to which a member, former member or other beneficiary is or may become entitled;
 - (c) the provision of eligibility conditions for membership; or
 - (d) the provision of ancillary benefits.
- (2) In order to comply with subsection (1), the administrator may —
- (a) use annuity factors that do not differentiate as to sex;
 - (b) provide for employer contributions that vary according to the sex of the employee; or
 - (c) use any other prescribed method of calculation or valuation.
- (3) Subsections (1) and (2) apply in respect of contributions, benefits and conditions in relation to —
- (a) employment on or after the 1st June, 1998; and
 - (b) employment before the 1st June, 1998 in so far as it is dealt with in an amendment made to the pension plan after the 1st June, 1998.

Inflation protection

- 45.** Pension benefits, pensions or deferred pensions shall be adjusted in accordance with internationally accepted formulae respecting inflation increases as specified in the regulations.

PART 7 - Contributions

Funding

- 46.** (1) A defined benefit pension plan shall not be registered under this Act unless it provides for funding sufficient to provide the benefits and rights under the pension plan in accordance with this Act and the regulations.
- (2) Subject to subsection (3), every defined benefit pension plan registered under this Act must be fully funded within five years of the 1st June, 1998.
- (3) An administrator shall, where a defined benefit pension plan is not fully funded at the date of registration, submit together with the documents specified under section 9 a funding schedule to be approved by the Director.

Contribution rate

- 47.** (1) Subject to section 25(2), a member and that member's employer shall contribute to the pension fund of a pension plan on behalf of that member from the date of the commencement of that member's employment by that employer at the rates specified in subsection (3).

- (2) A self-employed person shall contribute to a pension plan or an individual pension entitlement account every year during that person's employment a sum equivalent to ten per cent of that person's earnings, up to the year's maximum pensionable earnings for that year. The Cabinet may make regulations respecting the pension plans and individual pension entitlement accounts of self-employed persons.
- (3) (a) A member shall not be required, without that member's express consent, to contribute to a defined contribution pension plan more than five per cent of that member's earnings up to the year's maximum pensionable earnings.
- (b) An employer may not contribute to a defined contribution plan less than five per cent of the member's earnings up to the year's maximum pensionable earnings.
- (c) Where an employer contributes to a defined contribution plan more than five per cent of the member's earnings, the member shall only be required to contribute such an amount as shall, when added to the employer's contribution, equal ten per cent of the member's earnings up to the year's maximum pensionable earnings.
- (d) For a defined benefit pension plan, the member shall not be required, without that member's express consent, to contribute more than the amount stipulated in the actuarial report up to a maximum of five per cent of that member's earnings up to the year's maximum pensionable earnings in any one year, and the employer shall contribute an amount equal to the amount contributed by the member in accordance with the actuarial report, except in cases where a shortfall exists where the employer shall compensate for this underfunding.
- (4) A member's contribution shall be payable at regular periods during each year of that member's employment, and the employer's contribution shall be payable at the same time as the member's contribution.
- (5) The employer shall deduct the relevant part of the member's contribution from that member's earnings and pay the same, together with the employer's contribution, directly into the pension fund or, if the pension benefits under the pension plan are paid by an approved provider, to the approved provider.
- (6) In the case of a defined benefit pension plan, an employer may apply to the Director for payment out of the pension fund of an overpayment by the employer into the pension fund.
- (7) The Director may consent to a payment under subsection (6) to an employer if the application is made by the employer within three months after the end of the fiscal year in which the overpayment is made.
- (8) (a) A pension plan, or an individual pension entitlement account in the case of a self-employed person, established prior to, on or immediately after the 1st June, 1998 may —



- (i) allow employees forty years of age or younger to pay reduced contributions for a period of four years after the 1st June, 1998;
 - (ii) allow employees between ages forty-one and forty-five to pay reduced contributions for two years after the 1st June, 1998; and
 - (iii) allow self-employed persons to pay reduced contributions for four years after the 1st June, 1998.
 - (b) The rates of contributions payable under paragraph (a) shall be on a graduated scale prescribed by regulations.
 - (c) A member may, with the agreement of the employer (in the case of an employed person) continue in membership of a pension plan after the normal age of pension entitlement and, in such event, the employee's contributions will continue to be payable at the rate or rates prescribed by the plan.
 - (d) Members may make additional voluntary contributions at any time prior to normal pension entitlement.
 - (e) An employer may, subject to the obligation to compensate for underfunding contained in subsection (3), during the period that any employee is contributing at a rate less than the rate prescribed by the plan, contribute to a pension fund on behalf of that employee an amount equal to that contributed by the employee.
- (9) Notwithstanding any contract to the contrary, an employer shall not deduct from the salary, wage or other remuneration of an employee or otherwise recover from such person, the contributions paid by the employer in respect of such person.
- (10) Subject to the pension plan, a member may access that member's additional voluntary contributions prior to the normal age of pension entitlement as follows —
- (a) for medical purposes where the member's health insurance does not cover the cost of the medical attention sought and the medical attention sought is not elective;
 - (b) for temporary unemployment where that unemployment is within the first six month period following the three month period after the date upon which the member was terminated;
 - (c) for housing purposes including —
 - (i) the purchase or construction of the member's dwelling house;
 - (ii) the purchase of residential land for the member;
 - (iii) providing a reduction payment —
 - (A) on an existing residential mortgage, and if applicable, any arrears in strata fees related to the mortgaged property; or

- (B) on a residential land loan; or
 - (iv) 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; and;
 - (d) for the educational purposes of a member or the dependent child of a member who is under twenty-three years of age and pursuing full time education.
- (11) For the purposes of subsection (10) a member shall make an application to the administrator in the manner designated by the Director.
- (12) An administrator shall provide to the Director on a monthly basis —
- (a) a list of the names of all members who have withdrawn an amount from the member's respective account in a pension plan under this section, stating the amount of each withdrawal;
 - (b) a list of the names of all members who applied for an amount under this section;
 - (c) a copy of each letter to each member stating the reason for refusal under subsection (12)(b); and
 - (d) in the form designated by the Director, a report with respect to each member who has withdrawn an amount from the member's account in a pension plan under this section.
- (13) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.

Notice to Director of arrears of contributions

48. (1) A member and the member's employer shall contribute to the pension fund of a pension plan on behalf of that member from the date that the member is required by this Act to participate in the pension plan and at the rates specified in section 47(3).
- (2) Contributions shall be remitted to employees' pension plans on or before the 15th day of the month next following any month in which the employee performs services for the employer, for which the employee receives or expects to receive remuneration, regardless of the employee's established pay period, and this date shall be known as the "**contribution date deadline.**"
- (3) A contribution not received by the close of business on the contribution date deadline is considered a delinquent contribution.
- (4) An administrator shall immediately take action to collect a delinquent contribution which for the purposes of this subsection includes interest accrued on the delinquent contribution.



- (5) A delinquent contribution not received by the administrator by the 15th day of the month next following the contribution date deadline, in this section referred to as the “**reportable date**”, shall be reported in writing by the administrator to the Director in the form approved by the Director.
- (6) An administrator shall notify —
 - (a) the Director in writing on or before the 20th day of the month next following the month of the contribution date deadline, in this section referred to as “**the delinquent notification date**”, of any delinquent contributions not received by the reportable date and still outstanding at the date of reporting; and
 - (b) the affected employees in writing within sixty days of the date on which the Director is notified under paragraph (a) of the delinquent contributions reported under paragraph (a) and the administrator may publish the names of employers whose delinquent contributions have not been received by the delinquent notification date.
- (7) The Director, if the Director considers it necessary, may instruct an administrator in writing, to publish in another publication that the Director shall identify, in addition to the publication under subsection (6)(b), the names of employers for whom contributions have not been received by the delinquent notification date.
- (8) Notwithstanding the requirement for written notification under subsection (6)(b), notification may be forwarded to an affected employee electronically or via any other media upon the consent of the employee in writing, to accept transmission of notification in that manner.
- (9) The Director shall, no later than the 20th day of the month next following the delinquent notification date, initiate an action to recover the payment of the delinquent contributions by one or more of the following means —
 - (a) by letter of demand to the employer, stating a time within fourteen days of the date of the letter of demand that the contribution shall be paid into the pension plan, and outlining the action that will be taken if the contribution is not forthcoming within the specified time;
 - (b) by letter demanding the appearance of the delinquent employer before the Director for the purpose of explaining the delinquency, disclosing the employer’s banking arrangements, delinquent contributions and payroll records and arriving at an acceptable payment plan, but only if the Director is of the opinion that the delinquency can be rectified and that the employer is acting in good faith;
 - (c) by ordering the payment of a delinquency collection fee equal to the greater of ten per cent of the total amount delinquent or fifty dollars per day, from the contribution date deadline until the total amount of delinquent contributions is paid;

- (d) by commencing legal proceedings in a court of competent jurisdiction to recover the delinquent contributions, any fines and fees arising pursuant to this Act, except that no action is necessary for one or more of the following reasons —
- (i) where the delinquency was reported in error;
 - (ii) where the delinquency has been corrected by full payment; or
 - (iii) where any action has been taken in resolution of the delinquency consistent with this Act; or
- (e) by publishing breaches of this Act by employers and such publications shall include the name of the employer, the offence under this Act which was contravened and the applicable penalty.
- (10) Any information disclosed to the Director pursuant to subsection (9)(b) shall be used solely for the purposes of pension arrears recovery and shall otherwise be kept confidential.
- (11) Any expenses of the administrator for the additional reporting for the purposes of subsection (6), which shall be approved in advance either generally or specifically by the Director, or any expenses authorised pursuant to this Act to be made by the Director for the actions pursuant to subsection (7) or (9), shall be borne by the employer concerned and not by the pension plan in general or the employees.
- (12) An employer who fails to pay contributions into a pension plan within the specified time given by the Director shall, in addition to the delinquent contributions and the fee and expenses levied pursuant to subsection (9)(c) and (11), be liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (13) The Director may —
- (a) investigate the relevant activities of employers in respect of contributions to pension plans; and
 - (b) share information pursuant to an investigation under paragraph (a) regarding employers with other Government departments and agencies.
- (14) Where pursuant to legal proceedings commenced under subsection (9)(d) funds are restrained for the payment of delinquent contributions to a pension plan, the court shall not make an Order to allow for the payment of costs, legal and other expenses out of the funds.
- (15) Where an employee reasonably believes that an employer has failed to remit contributions to the administrator by the reportable date, the employee may in writing report the employer to the Director and the Director may, after making investigations in accordance with subsection (13), take any action referred to in subsection (9).



Trust property

- 49.** (1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund.
- (2) Money withheld by an employer, whether by payroll deduction or otherwise, from money payable to an employee shall be deemed to be money received by the employer from the employee.
- (3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer's contributions due and not paid into the pension fund.
- (4) Where a pension fund is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer's contributions accrued on the date of the winding up but not yet due under the plan or regulations.
- (5) An administrator has a lien and charge on assets of the employer in an amount equal to the amounts deemed to be held under subsections (1), (3) and (4).
- (6) Subsections (1), (3) and (4) apply whether or not the money has been kept separate and apart from other money or property of the employer.

Accrual

- 50.** (1) An employer is liable to pay interest to a pension fund, as prescribed, on all money that is due to be paid by the employer to that pension fund at the current prime rate in the Islands plus five percent, calculated on a daily basis in addition to any other fees, fines and penalties specified by this Act or ordered by a court of competent jurisdiction.
- (2) For the purposes of section 48, the amount of any delinquent contribution to be collected and paid, is inclusive of the accrued interest calculated in accordance with this section.
- (3) The administrator of a pension fund shall ensure that all interest due on delinquent contributions has been properly calculated as stipulated in this section and received in accordance with the provisions of this Act and paid into the pension plan of the employee.

Bond

51. The Director may require an administrator or any person who receives contributions to a pension fund to be bonded in an amount specified by the Director and to provide a guarantor to be approved by the Director.

Investment of pension fund

52. Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by regulations.

PART 7A - Withdrawal of pension funds to purchase or construct dwelling unit, purchase residential land, provide reduction payment on residential land loan or existing mortgage, and if applicable, arrears in strata fees in the Islands

Definitions in Part 7A

- 52A.(1) In this Part —

“**building society**” means a society incorporated under the *Building Societies Act (2020 Revision)*;

“**Caymanian**” has the meaning assigned to that expression under the *Immigration (Transition) Act (2022 Revision)*;

“**Cayman Islands Development Bank**” means the Cayman Islands Development Bank established under section 3 of the *Development Bank Act (2018 Revision)*;

“**Class A bank**” means a bank holding an “A” licence under the *Banks and Trust Companies Act (2021 Revision)*;

“**credit union**” has the meaning assigned to that expression under the *Cooperative Societies Act (2020 Revision)*;

“**deposit**” means all monies required by a financial institution as a condition for a person to obtain a loan (which shall include any legal fees and stamp duty) the proceeds of which will be used to purchase no more than two existing dwelling units, construct no more than two new dwelling units, or purchase residential land in the Islands;

“**dwelling unit**” means two or more rooms used or intended for the domestic use of one or more individuals living as a single housekeeping unit, with exclusive cooking, eating, living, sleeping and sanitary facilities;

“**financial institution**” means a building society, credit union or Class A bank carrying on business in the Islands or the Cayman Islands Development Bank;



“**non-current home owner**” means a person who does not currently own a dwelling unit in the Islands;

“**reduction payment**” means a payment towards —

- (a) a residential mortgage, and if applicable, arrears in strata fees related to the mortgaged property; or
- (b) a residential land loan;

“**residential land**” means any lot, plot, tract, area, piece or parcel of land including any building used exclusively or intended to be used as no more than two dwelling units; and

“**room**” means a compartment within a building enclosed by —

- (a) a floor;
- (b) a ceiling; and
- (c) walls or partitions.

- (2) For the purposes of the definition of the words “**reduction payment**”, payment towards a residential mortgage and, if applicable, arrears in strata fees related to the mortgaged property, or payment towards a residential land loan applies to—
 - (a) in respect of a residential mortgage or residential land loan which is in foreclosure, both the principal and interest arrears on the mortgage or land loan;
 - (b) in respect of a residential mortgage or residential land loan which is in good standing with the financial institution that granted it, the principal on the mortgage or land loan; or
 - (c) in respect of a residential mortgage where there are arrears in strata fees related to the mortgaged property —
 - (i) where the residential mortgage is in foreclosure, the principal and interest arrears on the mortgage and the arrears in strata fees related to the mortgaged property; and
 - (ii) where the residential mortgage is in good standing with the financial institution that granted it, the principal on the mortgage and the arrears in strata fees related to the mortgaged property.

Withdrawal of amount from pension account as a deposit

- 52B.**(1) Notwithstanding sections 55 and 56, but subject to the remaining provisions of this section, a person who is a Caymanian and non-current home owner may withdraw from that person’s account in a pension plan an amount not exceeding fifty thousand dollars as a deposit.
- (2) Notwithstanding subsection (1), a person who is a non-current home owner but who owns land in the Islands shall be entitled to withdraw an amount from that

person's account in a pension plan as a deposit to purchase residential land in the Islands.

- (3) A person who wishes to withdraw an amount as a deposit pursuant to subsection (1) shall, subject to subsection (4), make an application to the relevant administrator in the form prescribed in the Schedule.
- (4) An application under subsection (3) shall be accompanied by —
 - (a) evidence that the person is a Caymanian;
 - (b) a declaration in the form prescribed in Part B of the Schedule that the person is a non-current home owner;
 - (c) a copy of a letter issued by a financial institution addressed to the person making the application (whether or not solely to that person), showing approval in principle of a loan to —
 - (i) purchase no more than two existing dwelling units;
 - (ii) construct no more than two new dwelling units; or
 - (iii) purchase residential land in the Islands, and the deposit required;
 - (d) where the person has made a previous withdrawal under this Part, evidence that the member has complied with sections 52B(10), 52BA(12), 52C(9) and 52D(1), if applicable; and
 - (e) if required by the administrator, an application fee not exceeding fifty dollars.
- (4A) The letter referred to in subsection (4)(c) shall specify —
 - (a) the name of each person that applied for the withdrawal;
 - (b) the relevant block and parcel number of the relevant property to which each withdrawal relates;
 - (c) the specific sources of funding for the purchase, including each amount and specific pension plan from which the respective withdrawal will be taken; and
 - (d) a breakdown of the planned utilisation of the deposit.
- (4B) Any amount that was withdrawn under this section and is not used for the purchase of the property referred to in subsection (4)(c) shall be returned to the pension plan administrator within six months of the withdrawal but where the dwelling unit is being constructed, the amount that was not used shall be returned to the pension plan administrator within twelve months of the withdrawal.
- (5) For the avoidance of doubt, two or more persons who are Caymanians and non-current home owners approved in principle by a financial institution may, in accordance with this section, withdraw the amount of the deposit required from



their respective accounts in a pension plan up to a maximum of fifty thousand dollars each towards a single loan from a financial institution for the purchase of no more than two dwelling units, construction of no more than two new dwelling units or purchase of residential land in the Islands.

- (6) Where an application is made under subsection (3), the administrator —
 - (a) shall, within sixty days of the application being submitted, issue the deposit in the form of a cheque payable to the relevant financial institution and deliver it to the applicant if satisfied that the applicant is entitled under subsection (1) to withdraw the amount applied for; or
 - (b) may, if not satisfied that all the requirements under subsection (4) have been correctly provided by the applicant, refuse the application and shall, within seven days of the application being submitted, give reasons for the refusal to the applicant, by letter in writing.
- (7) An administrator who contravenes subsection (6) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; and if the offence is a continuing one to a fine of one thousand dollars for every day or part of a day during which the offence has continued.
- (8) An administrator shall provide to the Director monthly —
 - (a) a list of all persons who have withdrawn amounts as deposits from their respective accounts in a pension plan under this section, stating the amount of each deposit;
 - (b) a list of all persons who applied for amounts as deposits under this section;
 - (ba) a list of all persons who are repaying withdrawn amounts into their respective accounts in a pension plan under this section;
 - (c) a copy of each letter to persons stating the reason for refusal under subsection (6)(b); and
 - (d) in the form approved by the Director, a report with respect to each person who has withdrawn an amount as a deposit from that person's account in a pension plan under this section.
- (9) An administrator who contravenes subsection (8) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (10) Subject to subsection (12), where before repaying the withdrawal amount in full, a person sells the dwelling unit purchased or constructed or the residential land purchased through the use of a deposit under this section, the person shall upon completion of the sale return the original amount of deposit or ten per cent of the fair market value of the dwelling unit or residential land, whichever is greater, back to that person's pension plan account.

- (11) A person who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (12) The payments received by a pension plan administrator under section 52D shall be deducted from the amount that the member is required to repay under subsection (10).
- (13) A person may apply to withdraw an amount from the person's pension plan as a deposit under this section to purchase an existing dwelling unit or construct a new dwelling only where the dwelling unit serves as the primary residence of the person applying for the withdrawal.

Withdrawal of amount from pension account to provide a reduction payment on an existing mortgage, and if applicable, arrears in strata fees, or residential land loan

- 52BA.**(1) Notwithstanding sections 55 and 56 but subject to the remaining provisions of this section, a person who is a Caymanian may withdraw from the person's account in a pension plan an amount not exceeding fifty thousand dollars required to provide a reduction payment on —
- (a) an existing mortgage on no more than two dwelling units in the Islands;
 - (b) where there is an existing mortgage on no more than two dwelling units in the Islands, the existing mortgage and any arrears in strata fees related to the mortgaged property; or
 - (c) a residential land loan in the Islands.
- (2) A person who wishes to withdraw an amount required to provide a reduction payment pursuant to subsection (1) shall, subject to subsection (3), make an application to the relevant administrator in the form prescribed in the Schedule.
- (3) An application under subsection (2) shall be accompanied by —
- (a) evidence that the person is a Caymanian;
 - (b) evidence that the applicant has legal title to the respective dwelling unit or residential land;
 - (c) if applicable, a declaration in the form prescribed in Part B of the Schedule that the dwelling unit referred to in paragraph (b) is intended to serve as the primary residence of the applicant;
 - (d) if applicable, a copy of a letter issued by or on behalf of the relevant corporation addressed to the person making the application (whether or not solely to that person) certifying the matters set out in section 6(4) of the *Strata Titles Registration Act (2013 Revision)*;



- (e) a copy of a letter issued by the financial institution holding the mortgage or residential land loan, addressed to the person making the application (whether or not solely to that person), showing approval in principle for accepting a reduction payment on —
 - (i) the existing mortgage in respect of no more than two dwelling units and the amount to be paid;
 - (ii) the existing mortgage in respect of no more than two dwelling units, any arrears in strata fees related to the mortgaged property and the amount to be paid; or
 - (iii) a residential land loan and the amount to be paid;
 - (f) where the person has made a previous withdrawal under this Part, evidence that the member has complied with sections 52B(10), 52BA(12), 52C(9) and 52D(1), if applicable; and
 - (g) if required by the administrator, an application fee not exceeding fifty dollars.
- (4) The letters referred to in subsection (3)(e)(i) and (iii) shall specify —
- (a) the name of each person that applied for the withdrawal;
 - (b) the block and parcel number of the relevant property to which the withdrawal relates; and
 - (c) the specific sources of funding for the reduction payment, including each amount and specific pension plan from which the respective withdrawal will be taken.
- (5) The letter referred to in subsection (3)(e)(ii) shall —
- (a) specify the matters set out in subsection (4);
 - (b) provide confirmation that the arrears in strata fees is for the member's primary residence which shall contain no more than two dwelling units; and
 - (c) have annexed to it a copy of the letter referred to in subsection (3)(d).
- (6) Two or more persons who are Caymanian and who are approved in principle by a financial institution may, in accordance with this section, withdraw the amount required from their respective accounts in a pension plan up to the maximum of fifty thousand dollars each towards providing a reduction payment on —
- (a) an existing mortgage on the respective person's primary residence;
 - (b) where there is an existing mortgage on the respective person's primary residence and arrears in strata fees in respect of the primary residence, both the mortgage and the arrears in strata fees; or
 - (c) a residential land loan.

- (7) Where a person withdraws an amount from the person's account in a pension plan pursuant to subsection (1)(b), the person shall pay the part of the amount allocated to paying off the arrears in strata fees through a financial institution.
- (8) Where an application is made under subsection (2), the administrator —
- (a) shall, within sixty days of the application being submitted, issue the amount required to be paid towards the existing mortgage, and, if applicable, the arrears in strata fees related to the mortgaged property, or residential land loan in the form of a cheque payable to the relevant financial institution and deliver it to the applicant if satisfied that the applicant is entitled under subsection (1) to withdraw the amount applied for; or
 - (b) may, if not satisfied that all the requirements under subsection (3) have been correctly provided by the applicant, refuse the application and shall, within seven days of the application being submitted, give reasons for the refusal to the applicant, by letter in writing.
- (9) An administrator who contravenes subsection (8) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; and if the offence is a continuing one to a fine of one thousand dollars for every day or part of a day during which the offence has continued.
- (10) An administrator shall provide to the Director monthly —
- (a) a list of all persons who have withdrawn amounts from their respective accounts in a pension plan under this section, stating each amount withdrawn;
 - (b) a list of all persons who applied for a withdrawal under this section;
 - (ba) a list of all persons who are repaying withdrawn amounts into their respective accounts in a pension plan under this section;
 - (c) a copy of each letter to persons stating the reason for refusal under subsection (8)(b);
 - (d) in the form approved by the Director, a report with respect to each person who has withdrawn an amount from the person's account in a pension plan under this section; and
 - (e) a list of all persons who are repaying withdrawn amounts into their respective accounts in a pension plan under this section.
- (11) An administrator who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (12) Subject to subsection (13), where, before repaying the withdrawal amount in full, a person sells the dwelling unit in respect of which a reduction payment has been applied through the use of an amount withdrawn pursuant to this section,



the person shall upon completion of the sale return the amount withdrawn or ten per cent of the fair market value of the dwelling unit, whichever is greater, back to the person's pension plan account.

- (13) The payments received by an administrator under section 52D shall be deducted from the amount that the member is required to repay under subsection (12).
- (14) A person who contravenes subsection (12) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (15) For the purposes of this section, a person may apply for a reduction payment on an existing mortgage only where the mortgage applies to the primary residence of the person and the residence contains no more than two dwelling units.

Withdrawal of amount from pension account to pay off an existing mortgage and arrears in strata fees

- 52C.**(1) Notwithstanding sections 55 and 56 but subject to the remaining provisions of this section, a person who is a Caymanian may withdraw from the person's account in a pension plan an amount not exceeding one hundred thousand dollars required to —
- (a) pay off an existing mortgage on a dwelling unit in the Islands so that the dwelling unit is free from any encumbrance; or
 - (b) where there is an existing mortgage on a dwelling unit in the Islands, pay off the existing mortgage and any arrears in strata fees related to the mortgaged property.
- (2) A person who wishes to withdraw an amount required to pay off an existing mortgage pursuant to subsection (1) (a) or pay off an existing mortgage and pay off arrears in strata fees related to the mortgaged property pursuant to subsection (1)(b) shall, subject to subsection (3), make an application to the relevant administrator in the form prescribed in the Schedule.
- (3) An application under subsection (2) shall be accompanied by —
- (a) evidence that the person is a Caymanian;
 - (b) evidence that the applicant has legal title to the dwelling unit;
 - (ba) if applicable, a copy of a letter issued by or on behalf of the relevant corporation addressed to the person making the application (whether or not solely to that person) certifying the matters set out in section 6(4) of the *Strata Titles Registration Act (2013 Revision)*;
 - (c) a copy of a letter issued by the financial institution holding the mortgage, addressed to the person making the application (whether or not solely to that person), showing approval in principle —
 - (i) for paying off the existing mortgage and the amount to be paid off;or

- (ii) for paying off the existing mortgage and any arrears in strata fees related to the mortgaged property, and the amount to be paid off;
 - (d) where the person has made a previous withdrawal under this Part, evidence that the member has complied with sections 52B(10), 52BA(12), 52C(9) and 52D(1), if applicable; and
 - (e) if required by the administrator, an application fee not exceeding fifty dollars.
- (3A) The letter referred to in subsection (3)(c)(i) shall specify —
- (a) the name of each person that applied for the withdrawal;
 - (b) the relevant block and parcel number of the relevant property to which the withdrawal relates;
 - (c) the specific sources of funding for the purchase, including each amount and specific pension plan from which the respective withdrawal will be taken; and
 - (d) confirmation that the mortgage is for the member's primary residence which shall contain no more than two dwelling units.
- (3B) The letter referred to in subsection (3)(c)(ii) shall —
- (a) specify the matters set out in subsection (3A);
 - (b) provide confirmation that the arrears in strata fees is for the member's primary residence which shall contain no more than two dwelling units; and
 - (c) have annexed to it a copy of the letter referred to in subsection (3)(ba).
- (4) Two or more persons who are Caymanian and who are approved in principle by a financial institution may, in accordance with this section, withdraw the amount required from their respective accounts in a pension plan up to the maximum of one hundred thousand dollars each towards —
- (a) paying off an existing mortgage on the respective person's primary residence; or
 - (b) where there is an existing mortgage on the respective person's primary residence and arrears in strata fees in respect of the primary residence, paying off both the mortgage and the arrears in strata fees.
- (4A) Where a person withdraws an amount from the person's account in a pension plan pursuant to subsection (1)(b), the person shall pay the part of the amount allocated to paying off the arrears in strata fees through a financial institution.
- (5) Where an application is made under subsection (2), the administrator —
- (a) shall, within sixty days of the application being submitted, issue the amount required to pay off the existing mortgage and, if applicable, the arrears in strata fees related to the mortgaged property in the form of a



- cheque payable to the relevant financial institution and deliver it to the applicant if satisfied that the applicant is entitled under subsection (1) to withdraw the amount applied for; or
- (b) may, if not satisfied that all the requirements under subsection (3) have been correctly provided by the applicant, refuse the application and shall, within seven days of the application being submitted, give reasons for the refusal to the applicant, by letter in writing.
- (6) An administrator who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; and if the offence is a continuing one to a fine of one thousand dollars for every day or part of a day during which the offence has continued.
- (7) An administrator shall provide to the Director monthly —
- (a) a list of all persons who have withdrawn amounts from their respective accounts in a pension plan under this section, stating each amount withdrawn;
- (b) a list of all persons who applied for a withdrawal under this section;
- (ba) a list of all persons who are repaying withdrawn amounts into their respective accounts in a pension plan under this section;
- (c) a copy of each letter to persons stating the reason for refusal under subsection (5)(b); and
- (d) in the form approved by the Director, a report with respect to each person who has withdrawn an amount from that person's account in a pension plan under this section.
- (8) An administrator who contravenes subsection (7) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (9) Subject to subsection (9A), where before repaying the withdrawal amount in full, a person sells the dwelling unit paid off through the use of an amount withdrawn pursuant to this section, the person shall upon completion of the sale return the amount withdrawn or ten per cent of the fair market value of the dwelling unit, whichever is greater, back to that person's pension plan account.
- (9A) The payments received by a pension plan administrator under section 52D shall be deducted from the amount that the member is required to repay under subsection (9).
- (10) A person who contravenes subsection (9) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (11) In this section —

“**corporation**” has the meaning assigned by section 2 of the *Strata Titles Registration Act (2013 Revision)*;

“**encumbrance**” has the meaning assigned to that expression under section 2 of the *Registration (Land) Act (1996 Revision)*.

- (12) A dwelling unit under subsection (1) refers to a dwelling unit which serves as the primary place of residence for the person making the withdrawal under that section.

Additional contributions

52D.(1) Notwithstanding section 47 or any provision under another Act in force in the Islands to the contrary, where a person makes a withdrawal from the person’s account in a pension plan pursuant to section 52B, 52BA or 52C, the person shall, in addition to the amount that the person is required to contribute to a pension plan pursuant to section 47, contribute an additional amount of three per cent of the person’s earnings to the pension plan from the month immediately following the date of issuance of the cheque pursuant to section 52B(6)(a), 52BA(8)(a) or 52C(5)(a) —

- (a) until the total additional contributions equal the actual amount withdrawn;
or
(b) until the person attains the normal age of pension entitlement, whichever is earlier.

(1A) A member may make further lump sum payments, in addition to the percentage required to be paid under subsection (1), to facilitate faster repayment of the withdrawal under section 52B, 52BA or 52C.

(2) Notwithstanding subsection (1), an employer shall not be required to make any additional contributions to a pension plan on the basis of additional contributions made by a person pursuant to that subsection.

(3) Where a person is required to make additional contributions under subsection (1), the person shall —

- (a) if that person is an employee, inform that person’s employer in writing of the requirement and the employer shall deduct such additional contributions from the employee’s earnings and pay the same into the employee’s account in the pension plan; or
(b) if that person is self-employed deduct such additional contributions from that person’s earnings and pay the same into that person’s account in the pension plan.

(4) A person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.



Total amount withdrawn from more than one pension plan not to exceed fifty thousand dollars except under section 52C

- 52E.** (1) Where a person contributes or has contributed to more than one pension plan under this Act, that person shall not withdraw more than a total of fifty thousand dollars in the aggregate from that person's accounts in the pension plans under section 52B or 52BA.
- (1A) Where a person contributes or has contributed to more than one pension plan under this Act, that person shall not withdraw more than a total of one hundred thousand dollars in the aggregate from the person's accounts in the pension plans under section 52C.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.

False or misleading declaration or information

- 52F.** (1) A person shall not knowingly or wilfully make a false or misleading declaration or supply false or misleading information in an application made under section 52B, 52BA or 52C.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.

Restriction

- 52G.**(1) Where a withdrawal is made pursuant to section 52B, 52BA or 52C, the Director shall make an application to the Registrar of Lands for a restriction to be entered with respect to the dwelling unit or residential land that is the subject of the withdrawal and the Registrar of Lands shall enter the restriction in accordance with the *Registered Land Act (2018 Revision)*.
- (2) Notwithstanding section 134 of the *Registered Land Act (2018 Revision)*, a restriction entered pursuant to this section shall not be removed unless the total amount withdrawn under section 52B, 52BA or 52C is repaid as additional contributions or on the sale of the dwelling unit or residential land.
- (3) In this section —
“**Registrar of Lands**” means the person appointed as such pursuant to section 5 of the *Registered Land Act (2018 Revision)*.

Defence

- 52H.** It shall be a defence to a prosecution under section 52B, 52BA, 52C, 52D or 52E that a person took all reasonable steps to comply with section 52B, 52BA, 52C, 52D or 52E, as the case may be.

PART 8 - Locking In

Refunds

- 53.** (1) Except as is otherwise provided under this Act, no member or former member is entitled to a refund from a pension fund of contributions made by that member or on that member's behalf in respect of employment in the Islands or investment earnings on the contributions or otherwise to receive a payment or transfer from the pension plan on or after 1st June, 1998.
- (2) Notwithstanding subsection (1), on application by the administrator, contributions and interest thereon may be refunded to a member with the approval of the Director if —
- (a) the pension plan provides for the refund; and
- (b) the pension plan meets prescribed requirements.
- (3) Subsection (2) shall only apply to a person who has attained the normal age of pension entitlement and provides evidence through the administrator to the satisfaction of the Director that the member cannot transfer that member's pension benefits to another pension plan, pension entitlement savings arrangement or life annuity.
- (4) Notwithstanding subsection (1), where —
- (a) a member's employment is terminated;
- (b) that member ceases to reside in the Islands; and
- (c) no mandatory contributions have been made to a pension plan by or on behalf of the member for a period of two years or more,
- the member may elect, after the expiration of two years from the termination of the member's employment, in the case of a defined contribution pension plan, to receive a lump sum payment of an amount equal to not less than the amount of the contributions made by or on behalf of the member and the investment earnings on the contributions made under the pension plan or to have the units allocated to the member's account realised by the approved provider and to have the amount transferred to another pension plan, and in the case of a defined benefit plan, to receive a lump sum payment of the commuted value of the member's accrued pension benefits.
- (5) For the purposes of subsection (4), a person shall be deemed to have ceased to be resident in the Islands when the person has been absent from the Islands for a period of six months or more, and, in calculating a period of absence, no account shall be taken of a period of residence in the Islands for a continuous period less than three months.
- (6) Further to the requirements of subsection (4) an administrator shall provide, in the form that the administrator considers appropriate, a member leaving the



jurisdiction details setting out that member's ability to access the member's pension benefits under this Act.

- (7) A person may only apply for a refund under subsection 4 within the time prescribed by Order made by Cabinet.

Shorter qualification periods

- 54.** A pension plan may provide for shorter qualification periods for entitlement to a deferred pension than those set out in section 27 or 28 in respect of employees who are transferring benefits to another approved pension plan.

Void transactions

- 55.** (1) Any transaction is void if it purports to convey, assign, charge, anticipate or give as security —
- (a) a right to receive money that is or may become payable under a pension plan; or
 - (b) assets being transferred from a pension fund.
- (2) Subsection (1) does not apply with respect to a transfer required by a court order relating to the transfer of assets on a dissolution of a civil partnership, divorce, legal separation or decree of nullity.

Exemption from execution, seizure or attachment

- 56.** (1) Money payable under a pension plan is exempt from execution, seizure or attachment or any other process that is taken by a creditor.
- (2) Money transferred from a prescribed fund to a prescribed pension entitlement savings arrangement or for the purchase of a life annuity under this Act is exempt from execution, seizure or attachment or any other process that is taken by a creditor.
- (3) Money payable from a prescribed pension entitlement savings arrangement or a life annuity is exempt from execution, seizure, attachment or any other process that is taken by a creditor.
- (4) Subsections (1), (2) and (3) do not apply, subject to section 43, to prevent execution, seizure or attachment in satisfaction of a court order made upon a dissolution of a civil partnership, divorce or separation for maintenance or other payments respecting dissolution of a civil partnership, divorce or separation.
- (5) Subsection (4) applies to orders whether made before or after the 1st June, 1998.

Commutation or surrender

- 57.** Except as provided by or under this Act —
- (a) a pension or benefit of a person under a pension plan, a prescribed pension entitlement savings arrangement or a life annuity purchased for a person

- under a pension plan shall not be commuted or surrendered during a person's life; and
- (b) a transaction that purports to commute or surrender such a pension, benefit, annuity or prescribed pension entitlement savings arrangement is void and of no effect.

PART 9 - Termination and Winding Up

Winding up

- 58.** (1) An administrator may terminate and wind up a pension plan in whole or in part.
- (2) The administrator shall give written notice of the proposal to terminate and wind up the pension plan to —
- (a) the Director;
- (b) each member;
- (c) each former member;
- (d) each participating employer;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.
- (3) In the case of a proposal to terminate and wind up only part of a pension plan, the administrator is not required to give written notice of the proposal to members, former members or other persons entitled to payment from the pension fund if, in the opinion of the Director, they will not be affected by the proposed partial winding up.
- (4) The notice of proposal to terminate and wind up shall contain the information prescribed by regulations.
- (5) When giving notice of a proposal to terminate and wind up a pension plan to the Director, the administrator shall pay the prescribed fee to the Board.
- (6) The Director may waive the fee payable under subsection (5) if the liabilities of the pension plan exceed the assets of the pension fund.
- (7) The date of termination of a pension plan that is being wound up shall —
- (a) not be earlier than the date the members' contributions, if any, cease to be deducted, in the case of contributory pension plans; or
- (b) in any other case, be on the date notice is given to members.
- (8) The Director, may, by order, where the Director deems it necessary, change the commencement date of the winding up of a pension plan.



Winding up order by the Director

- 59.** (1) The Director may, by order, require the termination and winding up of a pension plan in whole or in part if —
- (a) there is a cessation or suspension of employees' contributions to the pension fund;
 - (b) the employer fails to make contributions to the pension fund as required by this Act or regulations;
 - (c) the employer is bankrupt within the meaning of the *Bankruptcy Act (1997 Revision)*;
 - (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganisation of the business of the employer;
 - (e) in the case of a multi-employer pension plan —
 - (i) there is a significant reduction of the number of members; or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
 - (f) any other prescribed event or circumstance occurs.
- (2) In an order under subsection (1), the Director shall specify —
- (a) the date of the winding up;
 - (b) the person or class of persons to whom the administrator shall give notice of the order; and
 - (c) the information that shall be given in the notice.

Winding up report

- 60.** (1) An administrator of a pension plan that is to be wound up in whole or in part shall file a winding up report that sets out —
- (a) the assets and liabilities of the pension plan;
 - (b) the benefits to be provided under the pension plan to members, former members and claimants;
 - (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
 - (d) such other information as is prescribed.
- (2) No payment shall be made out of the pension fund related to the pension plan in respect of which notice of proposal to wind up has been given until the Director has approved the winding up report.
- (3) Subsection (2) does not apply —

- (a) to prevent continuation of payment of a pension or other benefit, the payment of which commenced before the giving of the notice of proposal to wind up the pension plan; or
 - (b) to prevent any other payment that is prescribed or that is approved by the Director.
- (4) An administrator shall not make payment out of the pension fund except in accordance with the winding up report approved by the Director.
- (5) The Director may, by order, refuse to approve a winding up report that —
- (a) does not meet the requirements of this Act and regulations; or
 - (b) does not protect the interests of the members and former members of the pension plan.
- (6) On the partial winding up of a pension plan, members, former members and claimants entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full winding up of the pension plan on the commencement of the partial winding up.

Appointment of administrator to wind up

- 61.** (1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Director may act as or may appoint an administrator.
- (2) The reasonable administration costs of the Director or the administrator appointed by the Director may be paid out of the pension fund.

Notice of entitlements

- 62.** (1) On the winding up of a pension plan in whole or in part, the administrator shall give to each person entitled to a benefit or to a refund in respect of the pension plan a statement setting out —
- (a) the person's entitlement under the pension plan;
 - (b) the options available to the person; and
 - (c) any other prescribed information.
- (2) Where a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within sixty days of receiving the notice or shall be deemed —
- (a) to have elected to receive immediate payment of a pension benefit, if eligible therefor; or
 - (b) if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in paragraph (b) of section 63(1),



and the administrator of the pension plan shall make payment in accordance with the election or deemed election.

Determination of entitlement

- 63.** (1) For the purpose of determining the amounts of pension benefits and any other rights, benefits and entitlements on the winding up of a pension plan, in whole or in part —
- (a) the employment of each member affected by the winding up shall be deemed to have been terminated on the commencement of the winding up;
 - (b) each member's pension benefits at the commencement of the winding up shall be determined as if the member had satisfied all eligibility conditions for a pension benefit; and
 - (c) provision shall be made for the entitlements referred to in section 62.
- (2) A person entitled to a benefit on the winding up of a pension plan, other than a person who is receiving a pension is entitled to the rights under section 34(1) of a member who terminates employment.

Accrual of pensions during notice of termination

- 64.** (1) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination of employment required under the *Labour Act (2021 Revision)*.
- (2) Subsection (3) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension plan unless the member makes the contributions in respect of the period of notice of termination of employment.
- (3) For the purposes of this section, where —
- (a) under a pension plan the consent of an employer is an eligibility requirement to receive payment of an ancillary benefit; and
 - (b) the member would meet all other eligibility requirements,
- the employer shall be deemed to have given the consent.
- (4) This section and other sections relating to entitlement and benefits, apply in respect of the winding up, in whole or in part of a pension plan where the commencement of the winding up is on or after the 1st June, 1998.

Liability of employer on termination

- 65.** (1) Where a pension plan is terminated in whole or in part, the employer or each participating employer shall pay into the pension fund an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund.

- (2) The employer shall pay the money due under subsection (1) in the prescribed manner and at the prescribed times.
- (3) In any case where —
 - (a) any warrant of distress is executed against the property of an employer and the property is seized or sold in pursuance of the execution; or
 - (b) on the application of a secured creditor the property of an employer is sold, the proceeds of the sale of the property shall not be distributed to any person entitled thereto until the court ordering the sale has made provision for the payment into a pension fund of any amounts due in respect of both contributions payable by the employer and employees contributions deducted from the payroll but not credited to the pension fund.

Pension fund continues subject to this Act and the regulations

- 66.** (1) The pension fund of a pension plan that is wound up continues to be subject to this Act and regulations until all the assets of the pension fund have been disbursed.
- (2) In the case of a defined benefit pension plan, where the money in a pension fund is not sufficient to pay all the pension benefits on the winding up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

PART 10 - Surplus

Continuing pension plan

- 67.** (1) No surplus under a defined benefit pension plan shall be paid to any employer and such surplus shall be used solely for the benefit of members, former members and claimants of a pension plan as prescribed by the regulations.
- (2) Notwithstanding subsection (1), on the winding up of a defined benefit plan where a surplus existed prior to the 1st June, 1998, this section does not apply to the extent of the amount of that surplus.

PART 11 - Sales, Transfers and New Plans

Continuation of benefits under successor employer

- 68.** (1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of that employer's business or all or part of the assets of that employer's business, and a member of the pension plan as a result becomes an employee of the successor employer and becomes a member of the pension plan provided by the successor employer, that member —



- (a) continues to be entitled to the benefits provided under the employer’s pension plan in respect of employment in the Islands up to the date of the completion of the sale, assignment or disposition without further accrual;
 - (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer’s pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
 - (c) is entitled to credit in the employer’s pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer’s pension plan.
- (2) Paragraph (a) of subsection (1) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer’s pension plan and the pension plan of the successor’s employer shall be deemed to be a continuation of the employer’s plan with respect to any benefits or assets transferred.
- (3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.
- (4) Subject to subsection (5), where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the benefits provided under the employer’s pension plan, a transfer of assets shall be made from the pension fund related to the employer’s pension plan to the pension fund related to the plan provided by the successor employer in accordance with the prescribed terms and conditions.
- (5) The Director shall not approve a transfer of assets that does not —
 - (a) protect the pension benefits and any other benefits of the members and former members of the employer’s pension plan; or
 - (b) that does not meet the prescribed requirements and qualifications.
- (6) No transfer shall be made under subsection (4) without the prior consent of the Director.
- (7) The Director may, by order, require a transferee to return to the pension fund, with interest at a rate to be prescribed, assets transferred without the prior consent required by subsection (5).
- (8) Subject to section 72, an order for return of assets under subsection (7) may be enforced in the same manner as a judgment of the Grand Court for the payment of a sum of money.
- (9) In this section —

“**successor employer**” means the person who acquires the business or the assets of the employer.

Adoption of a new pension plan

- 69.** (1) Where a pension plan is established or utilised by an employer to be a successor to an existing pension plan, the rights of members under section 63(2) shall not arise and the assets and liabilities of the existing plan shall be transferred to the new plan.
- (2) The benefits and rights under the original pension plan in respect of employment before the establishment of the new pension plan shall be carried forward and included in the new pension plan.
- (3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.
- (4) An administrator shall not transfer assets from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Director or contrary to the prescribed terms and conditions.
- (5) The Director shall not approve a transfer of assets that does not protect the pension benefits and any other benefits and rights of the members, former members and claimants of the original pension plan.
- (6) The Director may, by order, require a transferee to return to the pension fund assets, with interest at a rate calculated in accordance with the regulations, transferred to that person by the administrator without the prior consent of the Director or transferred contrary to the prescribed terms or conditions.
- (7) Subject to section 72, an order for return of assets under subsection (6), may be enforced in the same manner as a judgment of the Grand Court for the payment of a sum of money.
- (8) An administrator who contravenes this section, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or five per cent of the assets transferred whichever is greater and this fine shall be paid by the administrator and shall not be charged to the pension plan.

PART 12 - Orders

Order by Director

- 70.** (1) The Director, in the circumstances mentioned in subsection (2), may order an administrator or any other person to take or refrain from taking any action in respect of a pension plan or a pension fund.
- (2) The Director may make an order under this section if the Director is of the opinion that —
- (a) the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;



- (b) the pension plan does not comply with this Act and the regulations; or
 - (c) the administrator of the pension plan, the employer or any other person dealing with a pension plan is contravening a requirement of this Act or the regulations.
- (3) In an order made under this section the Director may specify the time or times when the periods of time within which the persons to whom the order is directed must comply with the order.
- (4) An order under this section is not effective unless the reasons for the order are set out in the order.

Order for correction

- 71.** (1) The Director, in the circumstances mentioned in subsection (2), may order an administrator to take the action specified in subsection (3).
- (2) The Director may make an order under this section where the Director is of the opinion that —
- (a) the assumptions or methods used by the administrator in the preparation of a report required under this Act or regulations in respect of a pension plan are inappropriate for a pension plan;
 - (b) the assumptions or methods used in the preparation of a report required under this Act or regulations in respect of a pension plan do not accord with accepted actuarial principles or such other requirements as may be prescribed; or
 - (c) a report submitted in respect of a pension plan does not meet the requirements of this Act, the regulations or the pension plan.
- (3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

PART 13 - Hearing and Appeal

Appeal from Director's decision

- 72.** (1) A person affected by a decision of the Director may appeal to the Board.
- (2) In subsection (1) —
- “**decision**” includes —
- (a) an order;
 - (b) an approval;
 - (c) a consent;
 - (d) a refusal to register a pension plan or an amendment to a pension plan;

- (e) the revocation of a pension plan or an amendment to a pension plan; and
- (f) the appointment of an administrator.

Request for appeal etc.

- 73.** (1) A person affected by a decision of the Director may make an appeal under section 72 by notice in writing and shall deliver such notice to the Board not later than thirty days after the receipt of the Director's decision by the person.
- (2) On receipt of a notice of appeal under subsection (1), the Board shall appoint a time for the hearing of the appeal provided that the Board may refuse to hear an appeal if there are reasonable grounds to conclude that the appeal is frivolous and vexatious.
- (3) For the purposes of this section the parties to an appeal are —
- (a) the person who requests the hearing;
 - (b) the Director;
 - (c) an administrator;
 - (d) any trustees of the pension plan;
 - (e) any member of the pension plan; and
 - (f) any employer who contributes to the pension plan.
- (4) Upon hearing an appeal, the Board —
- (a) may confirm, vary or rescind the decision appealed against; or
 - (b) substitute its decision for that of the Director's,
- and may attach such terms and conditions to its order as the Board considers necessary.
- (5) The Board shall, by notice in writing, inform the parties to an appeal of its decision.
- (6) The Board may grant a stay of the decision appealed against on such terms and conditions as the Board considers appropriate in the circumstances.
- (7) A party to an appeal shall be given notice by the Board of the appeal and afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (8) Documents in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the conclusion of the hearing.



Quorum and votes

- 74.** (1) Three members of the Board constitute a quorum for the purposes of a hearing before the Board under section 73, and decisions in such hearings require the vote of a majority of the members of the Board present at the hearing.
- (2) The Board may sit in two or more panels simultaneously for the purposes of such proceedings.
- (3) The Chairperson of the Board shall assign the members of the Board to its panels and may change an assignment at any time.
- (4) The Cabinet may make regulations with respect to the practice and procedure of the Board.
- (5) Where a hearing is commenced before the Board and the term of office on the Board of a member sitting for the hearing expires or is terminated other than for cause before the hearing has been concluded but after the evidence has been heard, the person shall be deemed to remain a member of the Board for the purpose of completing the hearing in the same manner as if the person's term of office had not expired or been terminated.

Costs

- 75.** (1) The costs of and incidental to any proceedings before the Board are in the discretion of the Board and shall be assessed by the Board in any hearing.
- (2) The Board may, by order, direct to whom and by whom costs, if any, are to be paid.
- (3) The Board may establish a scale under which such costs shall be assessed.

Enforcement

- 76.** An order of the Director or the Board may be filed in the Grand Court and is, upon such filing, enforceable as an order of that court.

Appeal to Grand Court

- 77.** (1) A party to any proceedings before the Board under this Act may appeal to the Grand Court against the decision or order of the Board.
- (2) Upon the request of a person to appeal to the Grand Court, the Board shall furnish that person with a certified copy of the record of the proceedings, including the documents received in evidence and the decision from which an appeal is requested.

PART 14 - National Pensions Board

National Pensions Board

- 78.** (1) The National Pensions Board is hereby established.
- (2) The Board shall consist of —
- (a) a Chairperson;
 - (b) a Deputy Chairperson; and
 - (c) such other members being not less than five nor more than nine.
- (3) The members of the Board shall be appointed by the Cabinet.
- (4) The appointment of the members of the Board shall be published in the Gazette.
- (5) The Cabinet may fill any vacancy in the membership of the Board or in the offices of Chairperson or Deputy Chairperson of the Board.
- (6) The Cabinet may make regulations with respect to —
- (a) the tenure of members and vacation of office by members of the Board; and
 - (b) the appointment of staff to assist the Board in carrying out the business of the Board.
- (7) Subject to section 74(1), a majority of the members of the Board constitutes a quorum.
- (8) The Cabinet may, by directions, designate such further functions of the Board as are considered necessary for the effective administration of this Act and regulate the procedure and functions of the Board.

Remuneration and immunity of members of the Board

- 78A.** (1) Those members of the Board who are not public officers shall receive such remuneration in respect of each meeting attended, and the chairperson and deputy chairperson shall receive such additional remuneration as may be determined by the Cabinet.
- (2) Every member of the Board shall be personally indemnified against all claims, damages, costs, charges or expenses incurred by the member in the discharge of the member's functions or duties under this Act except claims, damages, costs, charges, or expenses caused by the member's bad faith.

Appointment and functions of committees

- 78B.** (1) The chairperson of a Board may appoint committees comprising no fewer than three members of the Board including the chairperson or the deputy chairperson, and may delegate to such committees any of the functions of the Board, except that —



- (a) the chairperson shall, as soon as practicable, notify the Cabinet of the appointment of any such committee; and
 - (b) either the chairperson or the deputy chairperson shall be the chairperson of each committee so appointed.
- (2) The Secretary or the assistant Secretary of the Board shall be the Secretary of each committee so appointed

Meetings of the Board

- 78C.**(1) The Board shall meet at least once every quarter and upon such other occasions as, in the opinion of the chairperson, may be necessary or desirable in the public interest.
- (2) Any member of the Board who, without providing the prior written notice to the chairperson, is absent from more than two out of five consecutive meetings of that Board shall cease to be a member of the Board.
- (3) In the temporary absence of the chairperson or in the event of that person's inability to act, the deputy chairperson shall act as chairperson and exercise all the powers and functions of chairperson.
- (4) At every meeting of the Board —
- (a) it shall reach its decision by a majority of the votes of members present and voting;
 - (b) the chairperson or presiding member shall have no original but only a casting vote; and
 - (c) two-thirds of the membership shall constitute a quorum.
- (5) Where a member of the Board has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Board, the member shall, if present at the meeting at which such matter is to be determined, as soon as possible after the commencement of the meeting, disclose the fact and leave the meeting.
- (6) Subject to subsections (1) to (5), the Board shall have power to regulate its own procedure.

Duty of confidentiality

- 78D.**(1) The fact and any particulars of, or relating to, any matter falling for consideration by, or the decision of, a Board shall be treated as confidential by each member of the Board and the member shall not disclose any such fact or particular otherwise than in the proper performance of the member's duties under this Act or in compliance with the order of a court of competent jurisdiction.
- (2) The failure of any member to comply with subsection (1) —
- (a) is an offence; and

- (b) constitutes a sufficient ground for the termination of the member's appointment.
- (3) Any allegations of a breach of subsection (1) shall be fully investigated by a constable of the rank of Inspector or above.
- (4) A person who commits an offence under subsection (2)(a) is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both

Department of Labour and Pensions

- 79.** (1) There is established the Department of Labour and Pensions which shall be responsible for the administration and enforcement of this Act.
- (2) The Department of Labour and Pensions shall be comprised of the Director, Deputy Director, officers and other members of staff necessary to satisfy the requirement of subsection (1).
- (3) The Director, Deputy Director, officers and other members of staff of the Department of Labour and Pensions shall be appointed pursuant to the *Public Service Management Act (2018 Revision)* and the Regulations made thereunder.
- (4) The Director is the chief administrative officer of the Board and shall exercise the powers and perform the duties that are vested in or imposed upon the Director by this Act and the Regulations.

Powers of Directors and Deputy Directors

- 79A.** The Director, Deputy Director and any designated person pursuant to section 87 shall have, when performing duties regarding the imposition of administrative penalties under this Act the same powers, privileges and immunities as are conferred on a constable by the *Police Act (2021 Revision)* and may perform the functions required to be performed by the designated person in accordance with section 87.

Duty of Director and Board

- 80.** The Board shall —
- (a) hear, consider and determine decisions appealed in accordance with Part 13 of this Act;
 - (b) promote the establishment, extension and improvement of pension plans throughout the Islands;
 - (c) advise the Minister in respect of the business of the Board; and
 - (d) make recommendations to the Minister in respect of pension plans.

Research

- 81.** (1) The Board shall conduct surveys and research programmes and compile statistical information related to pensions and pension plans.



- (2) The Director may request an employer, an administrator or a member of a pension plan to provide information necessary to compile the statistical information, and such persons shall comply with the request within a reasonable period of time.
- (3) The Board shall use the information only for the purpose of compiling the statistical information.
- (4) A person who, being an employer, an administrator or a member fails to comply with a request under subsection (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Information.

- 82.** (1) The Director or the Board may require an employer, an administrator or any other person to supply to the Director or the Board such information and within such time limits as they may specify for the purpose of ascertaining compliance with this Act and regulations.
- (2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Director or the Board.
 - (3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both .
 - (4) The Director or the Board may require an administrator to secure an appraisal of any or all of the assets of the pension fund by one or more independent valuers, or the Director or the Board may obtain the appraisal at the expense of the administrator.
 - (5) The administrator shall deliver the appraisal to the Board within the period of time in the requirement or within such other period of time as the Director or the Board may specify.
 - (6) An administrator who fails to deliver an appraisal contrary to subsection (5) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.

Liability of members and employees of Board and Director

- 83.** Neither the Director nor a member of the Board or of the staff of the Board shall be personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or regulations or for alleged neglect or default in execution in good faith of such a duty or authority.

Audit

- 84.** The Auditor General shall examine annually the accounts and financial transactions of the Director and the Board.



Annual report

85. (1) The Director and the Board shall report annually to the Minister on the business of the Director and the Board.
- (2) The Minister shall submit the annual report to the Cabinet and shall then lay the report before the Cayman Islands Parliament at the meeting of the Cayman Islands Parliament immediately following the submission of the report.

PART 15 - General

Extension of time

86. The Director or the Board may extend any time limit under this Act or regulations, not including the time limit specified under section 92(4), if the Director or the Board is satisfied that there are reasonable grounds for applying for the extension, and may give such directions required as a result of such extension.

Entry onto workplaces by the Director

87. (1) The purposes mentioned under this section are —
- (a) the administration of this Act and regulations;
 - (b) the enforcement of any section of this Act or regulations;
 - (c) the exercise of a power or the carrying out of a duty under this Act or regulations; and
 - (d) the carrying out of an order made under this Act.
- (2) For any of the purposes mentioned in subsection (1), the Director or a person designated by the Director (“**the designated person**”) in writing may, during normal business hours —
- (a) enter and have access to, through and over any workplaces, where the Director or the designated person has reasonable grounds to believe papers or other documents are kept that relate to a pension plan or pension fund;
 - (b) make examinations, investigations and inquiries, and may require the production of any book, paper or other document related to a pension plan or pension fund; and
 - (c) make, take, remove or require the making, taking and removal of copies or extracts related to an examination, investigation or inquiry.
- (3) The Director or the designated person may not, pursuant to subsection (2), enter a private residence without the consent of the occupier.
- (4) The Director or the designated person may, for any purpose specified under this section, remove, upon giving a receipt, any books, papers or other documents respecting a pension plan or pension fund and may copy such books, papers or



other documents within a reasonable period of time and return them as soon as reasonably practicable after the copying is completed.

- (5) A copy of any book, paper or other document respecting a pension plan or pension fund and made under this section by the Director or the designated person in the course of any investigation, examination or inquiry, and certified by the Director, is admissible in evidence in any action for all purposes for which the original would have been admissible.
- (6) Where an owner or occupier of premises —
 - (a) denies entry or access to, through or over premises to the Director or the designated person;
 - (b) instructs the Director or the designated person to leave the premises;
 - (c) obstructs such person; or
 - (d) refuses to comply with a request for the production of any book, paper or other document the production of which is requested for the purpose of examination and investigation or inquiry or for a purpose mentioned in subsection (1),

the Director may apply to a Justice of the Peace for an inspection order under section 89.

- (7) A person exercising a power under this section shall provide identification at the time of entry.
- (8) For the purposes of this Act —

“**document**” includes any document held or kept by means of a computer.
- (9) Where any documents are held in or kept by means of a computer the powers of the Director or the designated person to require the supply of information and production of documents shall include powers —
 - (a) to require any person having charge of, or otherwise concerned with the operation of a computer or associated apparatus which is or has been in use in connection with such information or documents, to afford to the Director or the designated person such assistance as they may reasonably require; and
 - (b) to require the documents to be produced or copied in any form which the Director or the designated person may reasonably request.
- (10) For the purposes of this section “**workplaces**” means any premises in which any employee is employed to work and, without prejudice to the generality of the foregoing, includes any shop, office, licensed premises or factory; but does not include, in respect of a household domestic employed there, a private home.

Obstruction

- 88.** (1) No person shall hinder or obstruct any person lawfully carrying out a duty under this Act.
- (1A) A person shall not knowingly or wilfully provide false or misleading information in connection with any information the person is required to provide under this Act.
- (2) A person who contravenes subsection (1) or (1A) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (3) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1) unless an inspection order under section 89 has been issued relating to such private residence.

Order by Justice of the Peace

- 89.** (1) Where a Justice of the Peace is satisfied on evidence upon oath or affirmation by the Director or the designated person —
- (a) that there are reasonable and probable grounds for believing that it is necessary —
- (i) to enter and have access to, through and over any premises;
 - (ii) to make examinations, investigations or inquiries;
 - (iii) to make, take and remove photographs, samples, copies or extracts related to an examination, investigation or inquiry;
 - (iv) or to do any such things, for a purpose mentioned in section 87(2); and
- (b) that the Director or the designated person —
- (i) has been denied entry to the premises;
 - (ii) has reasonable grounds to believe that entry to the premises will be denied;
 - (iii) has been instructed to leave the premises;
 - (iv) has been obstructed; or
 - (v) has been refused production of any book, paper or other document related to an examination, investigation or inquiry, by the occupier of the premises,

the Justice of the Peace may issue an inspection order authorising the Director or the designated person to enter the premises and to do anything specified under section 87 together with such police officers as the Director may deem necessary.



- (2) An inspection order issued under this section —
 - (a) shall be executed between the hours of 6 a.m. and 9 p.m. unless the Justice of the Peace otherwise authorises in the order; and
 - (b) shall state the date on which it expires, which shall be a date not later than fifteen days after the issue of the inspection order.
- (3) A Justice of the Peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or occupier of the premises.

Offences

- 90.** (1) Except where specifically provided otherwise, a person who contravenes this Act or any order made under this Act commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (2) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an approved provider, the court may, in addition to imposing any fine, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the approved provider.
 - (3) No summary proceedings under this Act shall be commenced after five years after the date when the subject matter of the proceeding was reported to the Director.
 - (4) After obtaining the written consent of the Director of Public Prosecutions, the Director or Deputy Director may institute criminal proceedings for any offence under this Act, and may appear before the Court to conduct the prosecution in respect of the offence.

Liability of directors, etc. where offence is committed by a body corporate

- 90A.** (1) Where a body corporate commits an offence under this Act, every director or other officer concerned in the management of the body corporate commits that offence unless the director or other officer proves that the offence was committed without the director's or other officer's consent or connivance or that the director or other officer exercised reasonable diligence to prevent the commission of the offence.
- (2) In subsection (1), "**director**" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Power to restrain

91. Where a provision of this Act or regulations or an order or approval of the Board or the Director under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Board, of the Director or of the administrator of the pension plan affected by the contravention.

Service of documents

92. (1) Any notice, order or other document which is required to be served under this Act or regulations may be served —
- (a) by delivering it to the person on whom it is to be served;
 - (b) by leaving it at the usual or last known place of abode of that person;
 - (c) by sending it by prepaid post addressed to that person at that person's usual or last known postal address; or
 - (d) in the case of a body corporate, by delivering or sending it by prepaid post to the secretary of that body at its registered office or other place of business.
- (2) Where the Director is of the opinion that —
- (a) the persons who are to be given any notice or document under this Act or regulations are so numerous; or
 - (b) for any other reason, it is not reasonable to serve the notice or document on all or any of the persons individually,
- the Director may authorise the serving of the notice or document or reasonable notice of the contents of the notice or document to the persons by public advertisement in a newspaper or otherwise as the Director may direct.
- (3) The date on which the notice or document or the reasonable notice of the contents is first published or otherwise given as directed shall be deemed to be the date on which the notice or document is delivered.
- (4) Service effected by post shall be deemed to have been effected three days after the notice or other document is posted.

Time for actions by administrator

93. An administrator of a pension plan who is required to take action under this Act or regulations shall take the action within the prescribed period of time.

Conflict

94. (1) Subject to subsection (2), where there is any conflict or inconsistency between this Act and any other law, this Act shall prevail unless the other law expressly provides otherwise.



- (2) Subsection (1) does not apply to the *Confidential Information Disclosure Act, 2016 [Law 23 of 2016]* which shall prevail over this Act.
- (3) Notwithstanding subsection (2), the Director may share information with Government departments and statutory authorities regarding the compliance of pension plans with this Act and the failure of employers to provide pension benefits or make timely contributions in accordance with this Act.
- (4) Information shared by the Director under subsection (3) shall not include any personal information of any employee and is limited to —
 - (a) the particulars of the employer;
 - (b) the type of contravention under this Act by the employer; and
 - (c) the resulting effect of the contravention of this Act by the employer.

Victimisation

- 94A.** (1) Where an employee reasonably believes that an employer has failed to comply with this Act, the employee may in writing make a disclosure of information to the Director or an authorised officer.
- (2) An employer shall not subject or threaten to subject an employee to any victimisation on account of a disclosure made under subsection (1).
 - (3) An employee shall not be considered to be subject to victimisation where the employer has the right under any law in force in the Islands to take the action complained of or the action is demonstrably unrelated to the disclosure made.
 - (4) An employee who reasonably believes that the employee has been victimised as a result of the employee’s disclosure under subsection (1) may make a complaint to a Labour Tribunal in accordance with the *Labour Act (2021 Revision)*.
 - (5) In this section “**victimisation**” includes the following —
 - (a) dismissal;
 - (b) suspension;
 - (c) denial of promotion;
 - (d) demotion;
 - (e) redundancy;
 - (f) intimidation;
 - (g) reduction of employee earnings;
 - (h) reduction of employee benefits;
 - (i) subsection to any discrimination by an employer or an employee ; or
 - (j) the threat of any action referred to in paragraphs (a) to (h).

Regulations

- 95.** (1) The Cabinet may make regulations prescribing any matter referred to in this Act as to be prescribed by regulations and for carrying this Act into effect.
- (2) Notwithstanding the generality of subsection (1), the Cabinet may make regulations in particular —
- (a) prescribing the times or the last dates for filing, giving, serving, submitting or transmitting of documents that are required to be filed, given, served, submitted or transmitting under this Act or regulations;
 - (b) prescribing reports that shall be submitted to the Director, the contents and the method of preparation of the reports and the persons and their qualifications by whom the reports must be prepared;
 - (c) prescribing and regulating pension benefits and required contributions;
 - (d) prescribing procedures that shall govern the appointment of members of pension committees;
 - (e) prescribing procedures that shall govern the establishment of Advisory Committees and the appointments of members of the Advisory Committees;
 - (f) prescribing procedures, including the times for notice, method of counting votes and such other matters as may be required for the holding of meetings of members, former members and claimants of pension plans;
 - (g) prescribing fees;
 - (h) prescribing the method for the establishment of a pension fund and the methods of calculating the values of assets and liabilities of pension funds;
 - (i) regulating the disposal of surplus funds;
 - (j) prescribing the rate or the method of determining the rate at which an employer shall pay money due from the employer under this Act on the winding up of a pension plan, and related matters;
 - (k) regulating or prohibiting the investment of money from pension funds and prescribing investments or classes of investments in which such money may be invested;
 - (l) prescribing requirements for pension entitlement savings contracts between members of pension plans and trustees from whom administrators may make payment when required in accordance with this Act;
 - (m) requiring the payment of interest on any amount required to be paid under this Act or regulations made thereunder from the date the payment is due and prescribing the rate of interest and the method of calculating interest if such rate or method is not otherwise specified;
 - (n) prescribing forms and records required to be prescribed under this Act and time limits for retention of such records;



- (o) providing for the audit of pension plans and pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits and for connected matters;
 - (p) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable before the 1st June, 1998 or that is attributable to employment on or after the 1st June, 1998;
 - (q) prescribing the manner of division and transfer of pension benefits by court orders under section 43;
 - (r) prohibiting or regulating the reduction or the variation of pension benefits by reference to benefits payable under any approved plan;
 - (s) governing the winding up or partial winding up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on winding up, including priorities in the allocation of assets and related matters;
 - (t) exempting pension plans, pension funds, employees, administrators or other persons from the application of this Act or regulations or any section thereof;
 - (u) governing the receiving, holding and disbursing of benefits by any agency established or designated under this Act;
 - (v) prescribing terms and conditions governing the conversion of a defined benefit to a defined contribution benefit;
 - (w) prescribing the manner of calculating the commuted value of a deferred pension or a pension benefit; and
 - (x) prescribing the manner in which an administrative penalty system may be implemented and for all matters that are necessary or convenient to be prescribed for giving effect to the administrative penalty system, which shall empower the Director where a specified offence is committed under this Act to stay or compound any proceeding for that offence; subject to the conditions the Director may think fit, which may include, but are not limited to, the payment of a levy, being not less than twice and not more than five times the amount of any fees that would have been payable had the provisions of this Act been observed and in the event that no fees are payable under this Act, the Director may impose a fine of up to such amount as may be prescribed.
- (3) A regulation may be general or particular in its application and may be limited as to the time or place or both.
- (4) A regulation may adopt by reference and may require compliance with, in whole or in part, such changes as the Cabinet considers necessary, any code, formula,

standard or procedure as appears to the Cabinet to be expedient for the purposes of this Act or regulations.

- (5) The Cabinet may, after consultation with the employees of the Government, make an order providing that this Act shall apply to —
 - (a) the Government
 - (b) a statutory authority,
 - (c) a corporation wholly owned by the Government; or
 - (d) a corporation, the majority of the shares of which are owned by the Government.
- (6) Regulations under this Act are subject to affirmative resolution.

Verification of compliance

- 95A.** (1) An employer may, for any purpose, by application, request from the Director or administrator, as authorised by the Director verification that the employer has complied with the provisions of this Act and the Director or administrator, as authorised by the Director if satisfied that the employer is in compliance with this Act, shall issue that verification in the form that the Director or administrator as authorised by the Director considers to be appropriate.
- (2) Verification provided by the Director or administrator as authorised by the Director under subsection (1) shall be provided to the employer upon payment, by the employer, of the prescribed fee.
 - (3) Verification given by the Director or administrator as authorised by the Director under this section is evidence that the employer is in compliance with this Act on the date that the verification is issued by the Director or administrator as authorised by the Director.
 - (4) An employer is deemed to be in compliance with this Act if all contributions, interest and fees, under this Act have been paid and the Director or administrator as authorised by the Director has no knowledge that the employer has contravened any of the provisions of this Act.

Transitional

- 96.** (1) Where, prior to the 9th December 2023, the commencement date of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*, a person makes an application for a withdrawal under section 52B or 52C and the application has not been determined at the the 9th December 2023, that application shall be dealt with as if the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]* had not come into force.
- (2) Where a person wishes to vary the amount on an application referred to under subsection (1), the person shall resubmit the application in accordance with the



requirements under the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*.

- (3) Subject to subsections (4) and (5), the terms and conditions in respect of a withdrawal which was granted under section 52B or 52C prior to the 9th December 2023, the date of commencement date of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*, shall continue to apply to the withdrawal as if the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]* had not come into force.
- (4) Where a person has received a withdrawal under section 52B or 52C prior to the 9th December 2023, the commencement date of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*, (“**the original withdrawal**”) and applies for and is granted another withdrawal under section 52B, 52BA or 52C after the 9th December 2023, the terms and conditions of the original withdrawal shall become subject to the provisions of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*.
- (5) Where a person —
 - (a) has received a withdrawal for a deposit under section 52B prior to the the 9th December 2023, the commencement date of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*; and
 - (b) wishes to apply for another withdrawal under that section after the 9th December 2023, the commencement date of the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*, the person shall return the original amount of the deposit to the person’s pension plan account and submit a new application for a withdrawal for a deposit in accordance with the *National Pensions (Amendment) Act, 2023 [Act 23 of 2023]*.

SCHEDULE**FORM***(sections 52B, 52BA and 52C)***NATIONAL PENSIONS ACT (2024 REVISION)****APPLICATION FOR WITHDRAWAL OF DEPOSIT UNDER SECTION 52B
OR REDUCTION PAYMENT ON A MORTGAGE AND, IF APPLICABLE,
ARREARS IN STRATA FEES RELATED TO THE MORTGAGED
PROPERTY OR RESIDENTIAL LAND LOAN UNDER SECTION 52BA OR
TO PAY OFF AN EXISTING MORTGAGE AND, IF APPLICABLE,
ARREARS IN STRATA FEES RELATED TO THE MORTGAGED
PROPERTY UNDER SECTION 52C OF THE ACT****PART A - GENERAL INFORMATION**A1. Full Name of Applicant:

Date of Birth: (DD/MON/YY) _____ Applicant's Phone Number: _____

Email Address: _____ Mailing Address: _____

A2. Name of Applicant's Current Employer 1:

Employer's Email Address: _____ Employer's Phone Number: _____

Mailing Address – Employer 1:

Name of Applicant's Current Employer 2:

Employer's Email Address: _____ Employer's Phone Number: _____

Mailing Address – Employer 2:



A3: Current Contributions

Name of Pension Plan to which the Applicant is currently contributing	Name of Administrator of the Pension Plan to which the Applicant is currently contributing	Pension Plan Account Number	Amount of contributions currently being made (CIS)

A4: Withdrawal Requests

Name of Pension Plan to which the Applicant is requesting a withdrawal	Name of Administrator of the Pension Plan from which the Applicant is requesting a withdrawal	Pension Plan Account Number	Amount of withdrawal being requested (CIS) – Must not be more than \$50,000 for a deposit or reduction payment or \$100,000 to pay off mortgage and, if applicable, arrears in strata fees related to the mortgaged property



A5: Type of Withdrawal

- | | |
|--|---|
| <input type="checkbox"/> Deposit to purchase an existing dwelling unit | <input type="checkbox"/> Deposit to construct a new dwelling unit |
| <input type="checkbox"/> Deposit to purchase residential land | <input type="checkbox"/> Reduction payment on an existing mortgage and, if applicable, arrears in strata fees related to the mortgaged property |
| <input type="checkbox"/> Reduction payment on a residential land loan | <input type="checkbox"/> Pay off an existing mortgage and, if applicable, arrears in strata fees related to the mortgaged property |

A6: Total amount of withdrawal required:

(Must not be more than \$50,000 for a deposit or reduction payment or \$100,000 for paying off an existing mortgage and, if applicable, arrears in strata fees related to the mortgaged property)

A7: Block and Parcel Number of the relevant property:

A8: Will the Applicant be the sole owner of the property? Yes No

If no: Name of the Additional Owner 1: _____

Is the Additional Owner 1 also withdrawing from their pension plan?

Yes No

Name of the Additional Owner 2: _____

Is the Additional Owner 2 also withdrawing from their pension plan?

Yes No

A9: This application is accompanied by the following documents:

(Select as appropriate)

- Evidence that the Applicant is Caymanian
- Evidence that the Applicant has legal title to the dwelling unit
(In the case of withdrawal for reduction payment or to pay off an existing mortgage on a dwelling unit and, if applicable, arrears in strata fees related to the mortgaged property, land register is required)
- Letter from financial institution addressed to the Applicant
- Letter from corporation addressed to the Applicant
- In the case of a previous withdrawal by the Applicant, evidence of compliance with section 52B(10), 52BA(12), 52C(9) and 52D(1), if applicable

**PART B - DECLARATION BY NON-CURRENT HOME OWNER -
REQUIRED FOR ALL APPLICATIONS FOR DEPOSITS ONLY**

(To be completed only by an Applicant who is a non-current home owner for a deposit to purchase an existing dwelling unit, construct a new dwelling unit or purchase residential land. If paying off existing mortgage disregard this Part and go to Part C.)

A10. I, [_____] hereby declare that I
(print full name)
do not currently own a dwelling unit in the Cayman Islands.

Signature of Applicant: _____ Date: _____

**PART C - DECLARATION IN RELATION TO PRIMARY RESIDENCE -
REQUIRED FOR ALL APPLICATIONS**

(To be completed only by an Applicant to purchase, construct, receive a reduction payment or pay off (and, if applicable, make a reduction payment towards or pay off arrears in strata fees in respect of) a new dwelling unit or an existing dwelling unit.)

A11. I, [_____] hereby declare that
(print full name)
the dwelling unit listed in this application serves as my primary residence in the Cayman Islands.

Signature of Applicant: _____ Date: _____



PART D - GENERAL DECLARATION – REQUIRED FOR ALL APPLICATIONS

A12. I [_____] hereby declare that this
(print full name)
application is accordingly made for the withdrawal of [*deposit / reduction payment/
amount to pay off an existing mortgage and, if applicable, make a reduction payment
towards or pay off arrears in strata fees related to the mortgaged property] as specified
above and it is certified that all particulars contained in this application and in the
documents accompanying it or otherwise furnished in support of the application are true
and correct.

I hereby confirm that any changes in the details of this application occurring before a
decision is made regarding the granting or refusal of the withdrawal will be notified to
the Administrator(s).

Signature of Applicant: _____ Date: _____

PART E –WITNESS

A13. I [_____] hereby declare that the
(print full name)
declaration[s] was/were signed in my presence and I am not an immediate family
member of the Applicant.

Print Full Name: _____

Mailing Address: _____

Email Address: _____

Phone Number: _____

WITNESS: _____ Date: _____”
Signature of witness to declaration[s]



Publication in consolidated and revised form authorised by the Cabinet this 30th day of January, 2024.

Kim Bullings
Clerk of Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
33/2023		National Pensions (Amendment) Act, 2023 (Commencement) Order, 2023	8-Dec-2012	LG40/2023/s2
	23/2023	National Pensions (Amendment) Act, 2023	9-Dec-2023	LG40/2023/s1
55/2022		National Pensions (Amendment) Act, 2016 (Commencement) Order, 2022	14-Dec-2022	LG49/2022/s3
24/2022		National Pensions (Amendment) Act, 2020 (Extension of Pension Holiday) (No. 2) Order, 2022 (<i>extended ss. 1, 2, 4, 5A & 6 to 30-Sep-2022</i>)	30-Jun-2022	LG23/2022/s3
8/2022		National Pensions (Amendment) Act, 2020 (Extension of Pension Holiday) Order, 2022 (<i>extended ss. 1, 2, 4, 5A & 6 to 30-Jun-2022</i>) (<i>Repealed by SL 24/2022</i>)	1-Apr-2022	LG11/2022/s1
78/2021		National Pensions (Amendment) Act, 2020 (Extension of Pension Holiday) (No. 2) Order, 2021 (<i>extended ss. 1, 2, 4, 5A & 6 to 31-Mar-2022</i>)	1-Jan-2022	LG64/2021/s1
46/2021		National Pensions (Amendment) Act, 2020 (Extension of Pension Holiday) Order, 2021 (<i>extended ss. 1, 2, 4, 5A & 6 to 31-Dec-2021</i>)	1-Jul-2021	LG36/2021/s1
167/2020		National Pensions (Amendment) Act, 2020 (Extension of Pension Holiday) (No.2) Order, 2020 (<i>extended ss. 1, 2, 4, 5A & 6 to 30-Jun-2021</i>)	1-Jan-2021	LG95/2020/s1
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	41/2020	National Pensions (Amendment) (No. 2) Law, 2020 -	4-Sep-2020	LG64/2020/s7
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
126/2020		National Pensions (Amendment) Law, 2020 (Extension of Pension Holiday) Order, 2020 (<i>extended ss. 1, 2, 4, 5A & 6 to 31-Dec-2020</i>)	29-Sep-2020	LG72/2020/s2
	12/2020	National Pensions (Amendment) Law, 2020 (<i>expired 31-Oct-2020 – ss. 1, 2, 4, 5A & 6 extended to 30-Sep-2022</i>)	01-May-2020	LG30/2020/s3
65/2016		National Pensions (Amendment) Law, 2016 (Commencement) Order, 2016	2-Dec-2016	GE96/2016/s1
	17/2016	National Pensions (Amendment) Law, 2016 (part)*	1-Oct-2023	GE45/2016/s5
		National Pensions Law (2012 Revision)	22-Oct-2012	G22/2012/s3
	25/2011	National Pensions (Amendment) Law, 2011	8-Nov-2011	GE94/2011/s1
		National Pensions Law (2010 Revision)	8-Nov-2010	G23/2010/s16
E1/2010		<i>Erratum:</i> National Pensions (Amendment) Law, 2010	10-May-2010	G10/2010/p733



SL #	Law/Act #	Legislation	Commencement	Gazette
	8/2010	National Pensions (Amendment) Law, 2010	26-Apr-2010	G9/2010/s12
		National Pensions Law (2000 Revision)	13-Mar-2000	G6/2000/s3
	8/1999	National Pensions (Amendment) (Self Employed Persons and Prescribed Maximum) Law, 1999	6-Jul-1999	G14/1996/s9
		National Pensions Law (1998 Revision)	14-Sep-1998	G19/1998/s1
	8/1998	National Pensions (Amendment) Law, 1998	25-May-1998	G11/1998/s3
	28/1997	National Pensions (Suspension) Law, 1997	16-Mar-1998	G6/1998/s20
	10/1996	National Pensions Law, 1996	25-Nov-1996	G24/1996/s11

*Section 18(2)(i) of the National Pensions (Amendment) Act, 2016 [Law of 2016] which amended the period from 'nine' to 'six' months has not yet commenced and is not incorporated in this Revision.





(Price: \$20.00)

