MINISTRY OF
EDUCATION, EMPLOYMENT
& GENDER AFFAIRS
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National Pensions (Amendment) Bill, 2015
Summary Notes
June 2015

The National Pensions (Amendment) Bill, 2015 ("the Bill") has been released for public consultation and the public is invited to provide feedback on the Bill by **August 31, 2015**. The Bill seeks to introduce key amendments to the National Pensions Law (2012 Revision) especially in priority areas for reform which will continue to build on our efforts to have a culture of compliance and which will be of benefit to both employees and employers.

Why is it necessary to amend the National Pensions Law (2012 Revision)?

The National Pensions Law ("NPL") was initially implemented in 1998 and in recent years, specifically, 2010 and 2011, there have been amendments to the NPL focused on specific areas. The current amendments being proposed to the NPL are the first substantive revisions to the National Pensions Law, which governs private sector pensions, since its introduction over 15 years ago. The proposed revisions strive to align the National Pensions Law with the re-organisation of Labour and Pensions Services in the Cayman Islands. Furthermore, the inclusion of other essential changes is envisioned to facilitate enhancements such as greater equity, improved compliance and better information resources to the benefit of employees and employers.

What are the key objectives of the National Pensions (Amendment) Bill 2015?

- To align the National Pensions Law with the re-organisation of Labour and Pensions Services in the Cayman Islands;
- To introduce more requirements for pension plans to educate and inform members;
- To introduce new and enhanced mechanisms to improve compliance with the National Pensions Law;
- To increase the age at which persons become entitled to access their pension, recognizing the longevity of people in today's society; and
- To alter the eligibility criteria in order to create pension equity and consistency for all pensionable employees.

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What are the major changes being proposed in the National Pensions (Amendment) Bill?

A summary of the critical changes proposed in the Bill is listed, as follows:

- **Part I - Introductory:**
    - Amends the definition of "employee" and excludes persons who work for less than 15 hours per week meaning that these individuals will no longer be pensionable (i.e. no longer required to contribute to pensions) under the National Pensions Law;
    - Removes the position of "Superintendent" and establishes the position of "Director" (of the Department of Labour and Pensions);
    - Introduces the term "normal age of pension entitlement" which replaces the common terminology, "normal retirement age";
    - Increases the "normal age of pension entitlement" from 60 to 65;
    - Increases "year's maximum pensionable earnings" (this is the amount that employees and employers are required by law to pay pension contributions on) from CI$60,000 to CI$87,000;
    - Introduces requirements for the Director to publish notice of each pension plan registered along with key service providers;
    - Increases fines from $5,000 to $20,000 or imprisonment for a term of 2 years, or both for the first offense and introduces escalating fines for additional offenses to $100,000 or imprisonment for 5 years for a third or subsequent offence.

- **Part II – Registration and Administration:**
    - Increases the fine for administration of an unregistered pension plan from $5,000 plus further fine of five hundred dollars per day to $10,000 or imprisonment for 1 year or both;
    - Increases the fine for the administration of a pension plan whose registration has been refused or revoked from $5,000 plus further fine of five hundred dollars per day to $100,000 or imprisonment for 5 years or both;
    - Introduces a new fine for the administrator of $100,000 or imprisonment of 5 years or both;
    - Expands the list of information that must accompany an application to register a pension plan to include evidence of ongoing administrator training as well as a statement of investment policy;
    - Expands the duties of the administrator to include activities such as mandatory annual general meetings for members and faster filing of audited financial statements to the Director;

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- Introduces obligations of the employer to "cause to be kept" proper books and records in relation to the pensionable employees.

- **Part III – Disclosure of Information:**
  - Introduces the requirement for pension plan administrators to provide members with details on the investment returns and expense ratios of their pension fund;
  - Increases the frequency of member statements from annually to quarterly and allows statements to be issued electronically with a member's consent;
  - Increases the access to the administrator's records on the pension plan from once a year to every six months and establishes that the access is permitted to those persons stated in the NPL.

- **Part IV - Membership:**
  - Removes the requirement for pensions contributions to be paid by employees (Caymanians and non-Caymanians) for the first six months of employment on the Islands;
  - Changes the timeframe for non-Caymanians to start paying pension contributions from nine months to six months.

- **Part VI – Benefits:**
  - Allows members to claim early retirement and continue collecting benefits if the member resumes employment;
  - Permits members to transfer their deferred benefit to a plan administered under the Public Service Pensions Law;
  - Changes the criteria to be met for members to transfer their pension benefit outside to the Islands to require: termination of employment, cessation of residence for three years and no contributions to a pension plan for three years.

- **Part VII - Contributions:**
  - Allows members to access their additional voluntary contributions prior to the normal age of pension entitlement;
  - Clarifies when a pension contribution is considered delinquent;
  - Introduces specific timeframes for delinquent contributions to be reported and for action to be taken by the Director;
  - Introduces the requirement for the pension plan administrator to notify the affected employees that their employer is delinquent in the payment of their pension contributions;
  - Expands the enforcement actions that the Director can utilise to deal with a delinquent employer including the ability to publish breaches including the employer's name, offence under the NPL and applicable penalty;

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- Increases the fine for failure to pay contributions into a pension plan by the time given by the Director to $20,000 or imprisonment for 2 years or both;
- Permits the Director to share information with other Government departments and agencies on investigations into employers' contributions to pension plans.

- **Part VIII – Locking In:**
    - Removes the ability for members to obtain refunds of their pension account with few very specific exceptions.

- **Part XIV: National Pensions Board:**
    - Establishes the Department of Labour and Pensions and repeals the Office of the Superintendent of Pensions;
    - Increases various fines associated with the provision of research, statistical and/or information requests.

- **Part XV- General:**
    - Increases the fine for general offences from $5,000 to $10,000 or to imprisonment for 1 year or both;
    - Changes the period to allow for summary proceedings from five years to seven years and alters the way that this timeframe is calculated from when the matter occurred to when it was reported to the Director;
    - Introduces liability for the Director or other officer where a body corporate commits an offence;
    - Introduces an administrative fine regime as another enforcement tool to deal with employer non-compliance;
    - Permits the Director to share information with Government Departments and statutory authorities on the compliance of pension plans and employers with the NPL but expressly prohibits the sharing of any personal information of any employee;
    - Introduces a victimisation protection clause for employees;
    - Establishes the ability of employers' to apply for and obtain verification of their compliance with the NPL.

The Ministry and Department of Labour and Pensions invite the public to review the National Pensions (Amendment) Bill, 2015 and provide feedback via email at lpl@gov.ky by **August 31, 2015**. Stakeholder meetings and public District meetings will be held in August to discuss the Bill, and more information as to dates/times of the public meetings will be posted on the Ministry's website in due course.