



GOVERNMENT MOTION NO. 13/2016/2017

THE NATIONAL PENSIONS LAW (2012 REVISION)

The National Pensions (General) (Amendment) Regulations, 2017

WHEREAS section 95 of the National Pensions Law (2012 Revision) provides that the Cabinet, may make regulations, consistent with the National Pensions Law to prescribe anything which by that Law is to be or may be prescribed and generally for the better carrying out of its purposes and provisions;

AND WHEREAS the approval of these Regulations is necessary in order to continue to implement the changes that were made to the Law by the National Pensions (Amendment) Law, 2016;

AND WHEREAS section 95(6) provides that regulations made under the National Pensions Law (2012 Revision) are subject to the affirmative resolution procedure;

AND WHEREAS the National Pensions (General) (Amendment) Regulations, 2017 were approved by the Cabinet on 14th February 2017;

AND WHEREAS the National Pensions (General) (Amendment) Regulations, 2017 were laid on the Table of the Legislative Assembly;

BE IT NOW THEREFORE RESOLVED THAT the National Pensions (General) (Amendment) Regulations, 2017 be affirmed by the Legislative Assembly pursuant to section 95(6) of the National Pensions Law (2012 Revision).

MOVED BY:

Hon Tara Rivers, JP, MLA
Minister of Education, Employment
and Gender Affairs

Received in the Office of the Clerk this 14th day of February, 2017.

Passed by the Cayman Islands Legislative Assembly this 27th day of March, 2017.

Clerk of the Legislative Assembly

CAYMAN ISLANDS



Supplement No. published with Extraordinary
Gazette No. dated , 2017.

**THE NATIONAL PENSIONS LAW
(2012 REVISION)**

**THE NATIONAL PENSIONS (GENERAL) (AMENDMENT)
REGULATIONS, 2017**

**THE NATIONAL PENSIONS (GENERAL) (AMENDMENT)
REGULATIONS, 2017**

ARRANGEMENT OF REGULATIONS

1. Citation
2. Amendment of the National Pensions (General) Regulations (2011 Revision), except regulation 16(h) - substitution of "Director" for "Superintendent"
3. Amendment of regulation 2 - definitions
4. Amendment of regulation 3 - choice of pension plan
5. Amendment of regulation 5 - pensionable earnings maximum
6. Amendment of regulation 7 - meeting respecting amendment to a pension plan
7. Amendment of regulation 9 - filing of annual information return
8. Amendment of regulation 10 - pre-requisite for advisory committee
9. Insertion of regulations 10A - administrator training; 10B - annual general meeting, 10C - publication of expense ratio; and 10D - collection of delinquent contributions
10. Amendment of regulation 11 - disclosure of information under section 20(1)
11. Amendment of regulation 15 - contents of annual statement
12. Amendment of regulation 16 - documents or information available under section 23
13. Insertion of regulation 17A - access to voluntary contributions
14. Amendment of regulation 18 - transfer
15. Amendment of regulation 19 - retirement savings arrangements
16. Amendment of regulation 22 - transfers - defined benefit plans
17. Amendment of section 23 - statement after death of member or former member
18. Amendment of regulation 26 - marriage breakdown
19. Amendment of regulation 27 - contents of termination statement, etc.
20. Amendment of regulation 29 - contributions under pension plan
21. Amendment of regulation 30 - graduated scale of contributions
22. Amendment of regulation 31 - interest
23. Insertion of regulation 33A - fee on notice of proposal to terminate and wind up
24. Amendment of regulation 34 - preparation of winding up report, etc.
25. Amendment of regulation 39 - successor employer
26. Amendment of regulation 40 - adoption of a new pension plan

CAYMAN ISLANDS

**THE NATIONAL PENSIONS LAW
(2012 REVISION)**

**THE NATIONAL PENSIONS (GENERAL) (AMENDMENT)
REGULATIONS, 2017**

The Cabinet, in exercise of the powers conferred by section 95 of the National Pensions Law (2012 Revision), makes the following Regulations -

1. These Regulations may be cited as the National Pensions (General) (Amendment) Regulations, 2017. Citation
2. The National Pensions (General) Regulations (2011 Revision) referred to as the "principal Regulations", with the exception of regulation 16(h), are amended by deleting the word "Superintendent" wherever the word appears and substituting the word "Director". Amendment of the
National Pensions
(General) Regulations
(2011 Revision), except
regulation 16(h) -
substitution of "Director"
for "Superintendent"
3. The principal Regulations are amended in regulation 2 in the definition of the words "joint and survivor annuity" by deleting the words "his spouse" and substituting the words "the person's spouse". Amendment of regulation
2 - definitions
4. The principal Regulations are amended in regulation 3 as follows - Amendment of regulation
3 - choice of pension
plan
 - (a) in subregulation (1) as follows -
 - (i) by deleting the word "his" wherever the word appears and substituting the words "the employer's";
 - (ii) in paragraphs (a) and (b) by inserting after the word "proposed", the words "pension plan"; and
 - (iii) by inserting after paragraph (c) the following paragraph -
"(cc) the investment return and expense ratios of the proposed pension plans;"
 - (b) by inserting after subregulation (1) the following sub-regulation -
"(1A) In the notification under subregulation (1) the employer shall provide the names of at least two proposed pension plan providers.";
 - (c) by inserting after subregulation (2) the following subregulation -
"(2A) The certificate required to be filed with the Director under subregulation (2) shall be in the form specified by the

- Director and shall include the name and signature of each employee who participated.”;
- (d) in subregulation (3) as follows -
- (i) in paragraph (a) by inserting after the words “is taken” the words “and at which a member may vote in person or by proxy”;
 - (ii) by deleting the word “or” at the end of paragraph (a);
 - (iii) by deleting the full stop at the end of paragraph (b) and substituting the words “; or”; and
 - (iv) by inserting after paragraph (b) the following paragraphs -
“(c) a survey sent to members in electronic form.”; and
- (e) by inserting after subregulation (4) the following subregulations -
- “(5) Where a simple majority of employees employed by one employer is dissatisfied with -
- (a) the investment return of the pension plan;
 - (b) expense ratios and fee structure of the pension plan;
 - (c) customer service provided by the pension plan; or
 - (d) for any other reason,

the employees may, in writing, notify the employer of the employees’ dissatisfaction.

(6) The employees under subregulation (5) shall make the notification of the employees’ dissatisfaction to the employer in writing and shall include in the notification the reasons for the employees’ dissatisfaction which may be one or more of the reasons set out in subregulation (5).

(7) The employer shall, within thirty days of the date of receipt of the notification under subregulation (5), provide the employees with the names of at least two proposed pension plan providers together with the information required to be provided under subregulation 3(1) and from which, in accordance with the polling procedure provided in subregulation (3), the employees shall select a pension plan.

(8) The employees making the notification under subregulation (5) may submit to the employer the names of proposed pension plan providers to be considered during the polling procedure provided in subregulation (3).

The National Pensions (General) (Amendment) Regulations, 2017

(9) Pursuant to subregulation (7) the employer may include the name of one proposed pension plan provider which the employer may previously have submitted to the employees.

(10) When a pension plan is selected pursuant to subregulation (7) the employer shall, subject to subregulation (2), establish, select or continue on the coming into effect with the pension plan.”.

5. The principal Regulations are amended in regulation 5 by deleting the words “sixty thousand dollars” and substituting the words “eighty-seven thousand dollars or such other amount as may be prescribed by the Cabinet by Order containing the amount and the period for which that amount applies”.

Amendment of regulation 5 - pensionable earnings maximum

6. The principal Regulations are amended in regulation 7(1) by deleting the word “he” and substituting the words “the administrator”.

Amendment of regulation 7 - meeting respecting amendment to a pension plan

7. The principal Regulations are amended in regulation 9 as follows -

Amendment of regulation 9 - filing of annual information return

- (a) by repealing subregulation (1); and
- (b) in subregulation (4) by deleting the words “subregulation (1)” and substituting the words “section 16 (4)(b)”.

8. The principal Regulations are amended in regulation 10(1) by deleting the words “every two years” and substituting the word “annually”.

Amendment of regulation 10 - pre-requisite for advisory committee

9. The principal Regulations are amended by inserting after regulation 10 the following regulations -

Insertion of regulation 10A - administrator training; 10B - annual general meeting, 10C - publication of expense ratio and 10D - collection of delinquent contributions

“Administrator training

10A. The evidence provided by an administrator pursuant to the requirement of section 16(4)(f) shall, to the satisfaction of the Director, demonstrate that the administrator has, in relation to the pension plan being administered by the administrator, knowledge and an understanding of -

- (a) official documentation relating to the pension plan;
- (b) the statement of investment policy in relation to the pension plan;
- (c) the rules or policies relating to the pension plan;
- (d) the Law and any other laws relevant to the administration of the pension plan;

- (e) the fiduciary duty of an administrator in the capacity as such; and
- (f) the skills and qualifications required for the efficient management and administration of the pension plan and investment in relation to a pension plan.

Annual general meeting

10B. (1) An administrator shall within six months of the date of the end of the financial year of the pension plan, hold an annual general meeting pursuant to section 16(4)(h) and ensure that a report or explanation is presented or discussion held, as applicable, in respect of the following matters -

- (a) the audited financial statements;
- (b) the expense ratio;
- (c) the investment return;
- (d) the formation of advisory committees;
- (e) breaches of the Law reported by the auditor or unreported; and
- (f) any change in respect of the administrator including a change to the membership of the board of trustees.

(2) The administrator shall -

- (a) ensure that the questions of the members are facilitated at the annual general meeting;
- (b) notify, electronically or via any other media, each member, former member and any person entitled to payment from the pension plan of the date on and the time and place at which the annual general meeting will be held;
- (c) prepare the record of attendance and minutes of the annual general meeting;
- (d) forward to members and former members the record of attendance and minutes of the annual general meeting, before or together with the statement due to be forwarded by the administrator following the annual general meeting to which the record of

- attendance and minutes of the annual general meeting pertain; and
- (e) forward to the Director, on the date provided in the Law, in relation to the annual general meeting -
 - (i) the agenda;
 - (ii) the attendance record;
 - (iii) the minutes; and
 - (iv) copies of any documents distributed or presentations given.

Publication of expense ratio 10C. The administrator shall publish the expense ratio and investment return of the pension plan, calculated in the manner prescribed under the National Pensions (Pension Fund Investments) Regulations (1998 Revision).

(1998 Revision)

Collection of delinquent contributions 10D.(1) An administrator shall maintain a record of any effort made by the administrator to collect a delinquent contribution pursuant to section 48(4) and shall forward this record to the Director in the time and manner specified by the Director if the Director makes a written request for the record.

(2) In order to satisfy the requirements of section 48(4) the administrator may take such action as the administrator considers necessary including -

- (a) making contact with the member or the member's employer; and
- (b) negotiating payment of the delinquent contribution under terms approved by the Director,

in a manner that would facilitate the maintenance of a record pursuant to subregulation (1).”.

10. The principal Regulations are amended in regulation 11 as follows -

- (a) by repealing subregulation (1);
- (b) in subregulation (2) as follows -
 - (i) by deleting the words “paragraph (c)” and substituting the words “paragraph (d)”; and
 - (ii) in subregulation (2)(i) by deleting the word “his” and substituting the words “the member’s”; and

Amendment of regulation
11 - disclosure of
information under
section 20(1)

(1998 Revision)

Amendment of regulation
15 - contents of annual
statement

- (c) by inserting after subregulation (2) the following subregulation -
“(3) The following information shall be provided to a person upon becoming a member of a pension plan -
 - (a) the expense ratio published directly before the date that the person becomes a member; and
 - (b) the investment return of the pension fund as calculated in the audited financial statements of the pension fund as prescribed in the National Pensions (Pension Fund Investments) Regulations (1998 Revision).”.

11. The principal Regulations are amended in regulation 15 as follows -

- (a) in subregulation (1) as follows -
 - (i) in paragraph (n) as follows -
 - (aa) by deleting the word “and” at the end of subparagraph (i); and
 - (bb) by inserting after subparagraph (ii) the following subparagraphs -
 - “(iii) the date on which each payment is received by the administrator; and
 - (iv) the amount received as payment of the contribution and the contribution period for which payment is made for each employer and employee;”;
 - (ii) in paragraph (o) as follows -
 - (aa) by deleting the word “and” at the end of subparagraph (ii); and
 - (bb) by inserting after subparagraph (iii) the following subparagraphs -
 - “(iv) the date on which each payment is received by the administrator; and
 - (v) the amount received as payment of the contribution and the contribution period for which payment is made for each employer and employee;”;
 - (iii) in paragraph (m) by deleting the words “by the member”; and
- (b) in subregulation (2) as follows -
 - (i) by deleting the word “annual” and substituting the word “semi-annual”; and
 - (ii) by deleting the words “financial year end of the plan” and substituting the words “end of the second and fourth quarters of the financial year of the pension plan”.

The National Pensions (General) (Amendment) Regulations, 2017

12. The principal Regulations are amended in regulation 16 as follows -

Amendment of regulation
16 - documents or
information available
under section 23

- (a) by inserting after paragraph (g) the following paragraph -
“(gg) copies of the statement of investment policy for the pension plan;” and
- (b) in regulation 16(h) by inserting after the words “National Pensions Board” the word “, Director”.

13. The principal Regulations are amended by inserting after regulation 17 the following regulation -

Insertion of regulation
17A - access to
voluntary contributions

“Access to
voluntary
contributions

17A. Access to a member’s additional voluntary contributions pursuant to section 47(10) is limited to four times in any calendar year.”.

14. The principal Regulations are amended in regulation 18 as follows -

Amendment of regulation
18 - transfer

- (a) by repealing subregulation (1);
- (b) in subregulation (2) by deleting the words “paragraphs (b) and (c)” and substituting the words “paragraphs (a)(ii) and (iii)”;
- (c) in subregulation (3) by deleting the words “section 34(11)” and substituting the words “section 34(14)”;
- (d) by inserting after subregulation (3) the following subregulation -

“(4) An administrator shall -

- (a) provide a pension plan to which funds are to be transferred -
 - (i) an account of the mandatory and voluntary contributions to the pension plan made by the employee;
 - (ii) an account of the mandatory and voluntary contributions made to the pension plan by the employer; and
 - (iii) an account of any additional contributions paid to the pension plan, from which a transfer is to be made, pursuant to section 52D of the Law; and
- (b) provide the pension plan to which funds are to be transferred an attestation as to the accuracy of the information provided by the administrator under paragraph (a).

(5) A transfer of funds from the Public Service Pensions Board to a pension plan to which the Law applies is not considered for the purpose of these regulations to be additional voluntary contributions.”.

The National Pensions (General) (Amendment) Regulations, 2017

- Amendment of regulation 19 - retirement savings arrangements
15. The principal Regulations are amended in regulation 19 (2)(iii) by deleting the words “normal retirement date” and substituting the words “normal pension entitlement date”.
- Amendment of regulation 22 - transfers - defined benefit plans
16. The principal Regulations are amended in regulation 22 as follows -
- (a) in subregulation (1) by deleting the words “his or her” and substituting the words “member’s or member’s spouse’s”; and
 - (b) in subregulation (5)(a) by deleting the words “he” and substituting the words “the administrator”.
- Amendment of section 23 - statement after death of member or former member
17. The principal Regulations are amended in regulation 23(2) as follows -
- (a) by deleting the word “ninety” and substituting the words “one hundred and eighty”; and
 - (b) by deleting the words “normal retirement age” and substituting the words “normal age of pension entitlement”.
- Amendment of regulation 26 - marriage breakdown
18. The principal Regulations are amended in regulation 26 as follows -
- (a) in subregulation (3) by deleting the words “be deemed to be a member who has terminated his employment” and substituting the words “be deemed for the purpose of this regulation to be a member of the plan”;
 - (b) in subregulation (4) by deleting the words “his spouse” wherever the word appears and substituting the words “the member’s spouse”;
 - (c) in subregulation (5) as follows -
 - (i) by deleting the word “his spouse” and substituting the words “the member’s spouse”;
 - (ii) in paragraph (b) by deleting the words “his normal retirement date” and substituting the words “the member’s normal pension entitlement date under section 26”; and
 - (iii) in paragraph (c) by deleting the word “he” and substituting the words “the member”;
 - (d) in subregulation (6) as follows -
 - (i) by deleting the word “his spouse” and substituting the words “the member’s spouse”;
 - (ii) in paragraph (b) by deleting the words “his normal retirement date” and substituting the words “the member’s normal pension entitlement date under section 26”; and
 - (iii) in paragraph (c) by deleting the word “he” and substituting the words “the member”.

The National Pensions (General) (Amendment) Regulations, 2017

19. The principal Regulations are amended in regulation 27 (1) as follows -
 - (a) by deleting the words "normal retirement date" and substituting the words "normal pension entitlement date under section 26"; and
 - (b) by deleting the word "he" and substituting the word "the member".

Amendment of regulation 27 - contents of termination statement, etc.
20. The principal Regulations are amended in regulation 29(3) as follows -
 - (a) by deleting the word "his" and substituting the words "the self-employed person's"; and
 - (b) by deleting the word "he" and substituting the words "the self-employed person".

Amendment of regulation 29 - contributions under pension plan
21. The principal Regulations are amended in regulation 30(c) by deleting the word "his" and substituting the words "the employer's".

Amendment of regulation 30 - graduated scale of contributions
22. The principal Regulations are amended in regulation 31 as follows -
 - (a) in subregulation (1) by deleting the word "annually" and substituting the word "monthly"; and
 - (b) in subregulation (7) by deleting the word "him" and substitute the words "the person".

Amendment of regulation 31 - interest
23. The principal Regulations are amended by inserting after regulation 33 the following regulation -

"Fee on notice of proposal to terminate and wind up

33A. The fee due to be paid by the administrator upon giving notice of a proposal to terminate and wind up a pension plan pursuant to section 58(5) is one thousand dollars."

Insertion of regulation 33A - fee on notice of proposal to terminate and wind up
24. The principal Regulations are amended in regulation 34(3) by deleting the word "him" and substituting the words "the Director".

Amendment of regulation 34 - preparation of winding up report, etc.
25. The principal Regulations are amended in regulation 39(d) by deleting the word "he" and substituting the words "the Director".

Amendment of regulation 39 - successor employer

The National Pensions (General) (Amendment) Regulations, 2017

Amendment of regulation
40 - adoption of a new
pension plan

26. The principal Regulations are amended in regulation 40(d) by deleting the word "he" and substituting the words "the Director".

Made in Cabinet the day of , 2017.

Clerk of the Cabinet.

These Regulations were approved by the
Legislative Assembly on the 27th
day of March 2017 by Government
motion no. 13 of 2017 in compliance
with section 95 of the National Pension
Law (2012 Revision).


Chairman LA.