

CAYMAN ISLANDS



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**THE PENSIONS (AMENDMENT) LAW, 1991
(LAW 10 OF 1991)**

9th August, 1991

A LAW TO AMEND THE PENSIONS LAW (CAP. 121)

Enacted by the Legislature of the Cayman Islands.

Short title and
commencement.

1. (1) This Law may be cited as the Pensions (Amendment) Law, 1991, and shall come into force on the 1st day of January, 1992.

(2) Notwithstanding subsection (1), deductions pursuant to section 3G.(3) may be made forthwith, and shall be deemed to have been authorised to be made from 1st January, 1990, and all sums deducted pursuant to this authorisation shall be accumulated and kept by the Accountant General in a separate account and shall be paid into the Fund on the 1st January, 1992.

(3) Further, and notwithstanding subsection (1), contributions pursuant to section 3G.(4) may be made forthwith and shall be deemed to have been authorised to be made from 1st January, 1991, and all sums deducted pursuant to this authorisation shall be accumulated and kept by the Accountant General in the same separate account as is referred to in subsection (2), and shall be paid into the Fund on 1st January, 1992.

Amendment of section 2
of Cap. 121.

2. Section 2(1) of the Pensions Law (hereinafter called "the principal Law") is amended by inserting the following definitions in the appropriate alphabetical sequence –

""approved investment" means an investment in a category listed in the Third Schedule;

"actuary" means –

- (a) a person who has qualified as an actuary by examination of the Institute of Actuaries in England or the faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America or Canada and who is a current member in good standing of one of those professional associations; or
- (b) a person of good standing with some other actuarial qualification who is in the opinion of the Financial Secretary suitable for recognition as an actuary for the purposes of this Law;

"benefit" means any pension, gratuity or other allowance granted under the provisions of this Law;

"Board" means the Public Service Pensions board established by section 3C;

"contribution" means a contribution to the Fund made or to be made pursuant to section 3G;

"contributor" means a person employed in the public service under the Government of the Islands on pensionable terms;

"the Fund" means the Public Service Pensions Fund established by section 3B;".

Insertion of new sections
3B to 3I.

3. The principal Law is amended by inserting the following eight new sections immediately after section 3A –

"Establishment of
Public Services
Pensions Fund.

3B. (1) There is hereby established a fund to be called the Public Services Pensions Fund into which shall be paid -

- (a) all contributions;
- (b) all rent, interest, dividends, income and other sums derived from the assets of the Fund;
- (c) such other sums as may be provided by the Government for the purposes of Law; and
- (d) such other sums as may be received and accepted by the Board on behalf of the Fund.

(2) There shall be paid out of the Fund –

- (a) all benefits;
- (b) all expenses properly incurred in the administration of this Law and

of the Fund.

Public Service
Pensions Board.

3C. (1) There is hereby established a Board to be called the Public Service Pensions Board in which the fund shall be vested and which shall, subject to the provisions of this Law, be responsible for administering the Fund.

(2) The provisions of the Second Schedule shall apply in respect of the constitution of the Board and its proceedings.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Law, shall have the power of purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(4) Any writ, notice, order or other document required to be served upon the Board, may be served by leaving the same, or sending it through the post in a prepaid letter, addressed to the Board at the office of the Financial Secretary.

(5) The common seal of the Board shall be kept in the custody of the secretary of the Board and shall not be affixed to any instrument except by the authority of a resolution of the Board. The sealing of any instrument shall be authenticated by the signature of the Chairman and of one other member of the Board.

(6) There shall be a secretary of the Board who shall be its chief administrative officer, who shall be a public officer appointed by the Governor.

Accounts,
book-keeping and
reporting.

3D. (1) The Board shall keep such books and records of account and in such form and manner as the Financial Secretary may direct.

(2) Within the period of four months after the 31st day of December of each year the Board shall prepare and submit to the Auditor General in respect of that year –

(a) a balance sheet;

(b) a statement of revenue and expenditure by the Board during

the year; and

- (c) such other statements as may be specified by the Financial Secretary.

(3) On receipt of the statements referred to in subsection (2) the Auditor General shall examine and audit the statements and shall certify the statements subject to such report, if any, which he may think fit.

(4) The Auditor General shall within a period of seven months after the close of the year to which they relate, return to the Board the certified statements together with his report, if any.

(5) On receipt from the Auditor General of the certified statements and his report, if any, the Board shall prepare and submit to the Financial Secretary a report of the financial activities of the Board during the year to which the certified statements relate, which report shall include a copy of the certified statements and of the Auditor General's report, if any.

(6) The report of the Board together with a copy of the certified statements and the Auditor General's report, if any, shall be laid by the Financial Secretary on the table of the Legislative Assembly as soon as practicable after he receives it.

Powers and
duties of the Board.

3E. (1) The Board shall be responsible for:

- (a) receiving into the Fund all sums due to it;
- (b) the payment from the Fund of pensions and other benefits due under this Law;
- (c) the payment from the Fund of the expenditure necessary for the administration of the Fund;
- (d) the investment of the Fund in accordance with the provisions of this Law;
- (e) accounting for all moneys collected, paid or invested under this Law;

- (f) causing a periodic actuarial review of the Fund pursuant to section 3I;
- (g) the sale of investments as necessary to meet immediate liabilities and needs, and for re-investment.

(2) In the performance of its duties under subsection (1) the Board may take such professional advice as it considers appropriate, and pay for it out of the Fund.

(3) No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Investment of the Fund.

3F. (1) The Fund shall be invested by the Board in approved investments.

(2) Notwithstanding subsection (1) the Board may maintain such current and other bank accounts as are necessary for the day to day conduct of its operations.

(3) Notwithstanding subsections (1) and (2) the Board may retain incoming funds in such current or other bank accounts as it may consider appropriate for up to 30 days pending investment in accordance with subsection (1).

(4) Interest, dividends, other income from invested moneys and investments coming due or otherwise realised shall be reinvested in approved investments unless needed for the discharge of the liabilities of the Fund.

(5) The Board may, with the prior written approval of the Financial Secretary, incur overdraft on current account not exceeding in total five hundred thousand dollars.

Contributions to the Fund.

3G. (1) Contributors and Government shall contribute to the Fund in equal proportions.

(2) Contributors shall contribute at the rate specified by regulations, and in default of such specification, at the rate of 4% of their basic salary or wage as the case may be.

(3) A contributor's contribution shall be deducted by the Accountant General from the contributor's basic salary or wage and shall be

paid by the Accountant General into the Fund.

(4) Government's contribution in respect of each contributor shall be a charge on the revenue and shall be paid by the Accountant General into the Fund at the same time as he pays the contributor's contribution into the fund under subsection (3).

(5) Subject to the provisions of this Law, every contributor shall cease to contribute to the Fund on the day on which he ceases to be employed in pensionable employment.

(6) Contributions shall be assessed, and deductions made, on the contributor's actual salary or wage paid to him at the time of the deduction whether or not he is for any reason entitled to a greater payment.

(7) In this section the expression "basic salary or wage" means the basic salary or wage of the post held by the contributor excluding any allowances, gratuities or other benefits to which he may be entitled.

(8) In the case of public employees seconded to Statutory Authorities the employing Authority shall deduct the contributor's contribution from his basic salary and pay it to the Accountant General who shall pay it into the Fund. The employing Authority shall also pay to the Accountant General a sum equal to Government's contribution in respect of that contributor, which the Accountant General shall pay into the Fund.

(9) Regulations fixing or changing the rate of contributions pursuant to subsection (2) may be made by the Governor in Council within six months of the completion of an actuarial review carried out in accordance with the provisions of section 3I, and may fix only the rate recommended by such a review.

Payments of pensions
out of the fund.

3H. (1) From the date fixed in accordance with and for the purposes of subsection (2) the Board shall pay from the Fund all pensions, gratuities and other allowances granted under this Law, together with any increases of such pensions, gratuities or other allowances subsequently approved by the Finance Committee of the Legislative Assembly.

(2) The duty of the Board to pay pensions, gratuities and other allowances from the Fund shall not arise until an actuary has certified in writing that, after taking into account an assessment of future liabilities, contributions and earnings of the Fund, the Fund will be self-sustaining, and the Auditor General has accepted that certificate as fair and reasonable and has so certified in writing to the Board.

(3) The time for the carrying out of an Actuarial assessment for the purposes of subsection (2) shall be determined by the Financial Secretary, and the costs of any such assessment shall be a charge on the Fund.

Ancillary provisions.

3I. (1) In every third year after the time when the Board commences making payments from the Fund under section 3H. (2) the Board shall, and at such other times as it considers appropriate may, cause a review to be carried out to assess and evaluate the assets and liabilities of the Fund in order –

- (a) to determine whether it remains capable of meeting its liabilities at the rate of contribution then in force; and
- (b) if it is not so capable, to ascertain what rate of contribution would be required to reinstate that capability.

(2) The review shall be carried out by an actuary approved by the Auditor General, and shall be completed and a report made within 3 months of its commencement.

(3) The report of the actuarial review carried out pursuant to subsection (2) shall be made to the Board, which shall send a copy to the Financial Secretary, who shall lay it before the next meeting of the Legislative Assembly."

Amendment of section 4.

4. Section 4 of the principal Law is amended by substituting for the word "There" at the start thereof the following –

"Until the date fixed in accordance with and for the purposes of section 3H.(2), there".

Addition of second and third schedules.

5. The principal Law is amended by retitling the existing Schedule as "First Schedule" and by adding the following two new Schedules –

"SECOND SCHEDULE

CONSTITUTION AND PROCEDURE OF THE BOARD

1. The Board shall consist of the Financial Secretary, the Chairman of the Public Service Commission, two Members appointed by the Governor after consultation with the staff representatives of the public service, and one Member appointed by the Governor acting in his discretion.
2. The Financial Secretary shall be Chairman of the Board, and the Chairman of the Public Service Commission shall be Deputy Chairman. In the event that the Chairman is unable to preside at any meeting of the Board the deputy Chairman shall preside.
3. The Members of the Board (other than the Chairman and Deputy Chairman) shall hold office at the Governor's pleasure.
4. In the case of the absence or inability of any member to act the Governor may appoint another person to act temporarily in his place.
5. Any member (other than the Chairman and Deputy Chairman) may resign his office at any time by instrument in writing addressed to the Governor and transmitted through the Chairman, and such member shall cease to be a member of the Board from the date of the receipt of such instrument by the Governor.
6. (1) The Board shall meet at such times and places as the Chairman may appoint and as may be necessary or expedient for the transaction of its business, and in any event shall meet at least one in every calendar month.

(2) A quorum of the Board shall be three members, being the Chairman or Deputy Chairman and two other members.

(3) The secretary appointed pursuant to section 3C. (6) shall keep the minutes of each meeting of the Board in proper form. The secretary may make recommendations to the Board on the management and investment of the Fund, but subject to that shall take no part in the deliberations of the Board and shall not vote.
7. Subject to the provisions of this Schedule the Board may regulate its own proceedings.

THIRD SCHEDULE

Approved Investments

Securities issued or guaranteed by the Government of the United Kingdom, the Government of the United States of America or the Government of Canada and maturing within ten years."

The Pensions Amendment Law, 1991 – 11

Passed by the Legislative Assembly the 26th day of June, 1991.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.

(Price \$ 2.40)