

CAYMAN ISLANDS



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**THE PARLIAMENTARY PENSIONS LAW, 2004
(LAW 20 OF 2004)**

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CAYMAN ISLANDS

Law 20 of 2004.

I Assent

James M. Ryan

Acting Governor.

9th August, 2004

**A LAW TO REFORM THE LAW RELATING TO THE PAYMENT OF
PARLIAMENTARY PENSIONS; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

PART I- PRELIMINARY

1. This Law may be cited as the Parliamentary Pensions Law, 2004.

Short title and
commencement.

2. (1) In this Law unless the context otherwise requires-

Definitions

“account adjustment date” means the date on which a participant’s accounts are adjusted, which date shall be the last day of each calendar year and such other dates as may be prescribed by this Law;

“active participant” means a participant contributing to the Fund for benefits covered under this Law or regulations made hereunder;

“actuary” means a person who-

- (a) has qualified as an actuary by examination of the Institute of Actuaries in England or the Faculty of Actuaries in Scotland or the Societies of Actuaries in the United States of America or the Canadian Institute of Actuaries in Canada;

- (b) who is a current member in good standing of one of those professional associations; and
- (c) who has been appointed by the Board as the actuary for the Plan;

“Administrator” means the employee of the Board responsible for management of the Plan;

“beneficiary” means a spouse or a child;

“benefit commencement date” means the first day of the first period for which a participant or a beneficiary is entitled to receive a pension or other benefit under the Plan;

“Board” means the Public Service Pensions Board established by section 5 of the Public Service Pensions Law (2004 Revision);

“child” means a participant’s child which includes-

- (a) an adopted child who was adopted in a manner recognised by law;
- (b) a posthumous child; or
- (c) a step child (where he is designated by the participant under section 25) and

who is either-

- (i) under the age of 18;
- (ii) under the age of 23 and in full-time education; or
- (iii) mentally or physically incapable of employment, as certified by the Chief Medical Officer;

“CPI” means the consumer price index of the Islands as prepared by the Government;

“credited rate of return” means-

- (a) the rate of investment return to be credited to accounts on an account adjustment date, as determined by the Administrator on the day immediately prior to the date of commencement of this Law and at the end of each calendar year-
 - (i) where an account adjustment date is the last day of a calendar year on or after the date of commencement, the credited rate of return shall be the average rate of investment return on Fund investments for that calendar year and the two preceding calendar years; and

- (ii) where an account adjustment date does not fall on the last day of a calendar year, the credited rate of return shall be the credited rate of return that was applied on the previous account adjustment date prorated for the period of the year up to such account adjustment date; and
- (b) with respect to participant contributions made to the Fund under the prior law credited to a participant contribution account on the date of commencement pursuant to section 11(2), the average rate of investment return on Fund investments for the period commencing on the date the Fund was established under the prior law and ending on the day immediately prior to the date of commencement of this Law, as determined by the Administrator;

“deferred benefit” means a benefit under the Plan payable to a deferred vested participant at retirement age;

“deferred vested participant” means a former participant who is entitled to a deferred benefit under the Plan;

“defined contribution participant” means a person who participates in the defined contribution part of the Plan established in accordance with this Law;

“designated beneficiary” means the person or persons designated by the participant pursuant to section 21 to receive benefits under section 36 in the event of the participant’s death;

“disability retirement” means retirement due to permanent disability pursuant to section 30;

“early retirement” means retirement pursuant to sections 28 on or after attaining early retirement age but before attaining normal retirement age;

“early retirement age” means any age between ages 50 and 54 inclusive, provided that the participant has completed at least one full parliamentary term;

“final pensionable earnings” means a participant’s final month’s basic salary in effect at the time of his death, resignation, retirement, or permanent disability;

“full parliamentary term” means the period commencing on the date a member is sworn in as a member of the Legislative Assembly immediately after a general election and expiring at the date of the next ensuing dissolution of the Legislative Assembly;

“Fund” means the Parliamentary Pensions Fund established under section 15;

“member” means an elected member of the Legislative Assembly;

“normal retirement” means retirement pursuant to section 26 upon attaining normal retirement age;

“normal retirement age” means age 55;

“participant” means an elected member of the Legislative Assembly and the Speaker of the Legislative Assembly where such Speaker is not a member of the Legislative Assembly;

“participant contribution account” means the book-keeping account documenting total participant contributions made by a participant under the Plan plus the interest credited in accordance with rules prescribed by regulations;

“pension” means a pension payable pursuant to this Law;

“pensionable earnings” means a full calendar month’s basic salary paid to the participant;

“pensionable service” means one full parliamentary term;

“permanent disability” means a disability which is likely to render a participant incapable by reason of infirmity of mind or body of discharging the duties of his office, which infirmity is certified by the Chief Medical Officer as likely to be permanent;

“Plan” means-

- (a) the scheme (which is a defined benefit scheme) set up under this Law; and
- (b) the defined contribution scheme referred to in section 4 and 27 and established by regulations,

and which sets out the provisions of pension benefits granted to participants;

“Plan actuarial tables” means actuarial tables prescribed by regulations and used by the Administrator in the determination of the amounts of benefits payable under the Plan and in the determination of actuarially equivalent values;

“prior Law” means the Parliamentary Pensions Law (1995 Revision); and

“spouse”, in relation to a person, means a person who is the legal husband or wife of a participant at the time of his death.

3. The pension rights and benefits of all participants and their beneficiaries shall be determined in accordance with this Law and regulations and pensions and other benefits under this Law shall be administered by the Public Service Pensions Board.

Pension rights to be determined under this Law

PART II- ROLE OF THE PUBLIC SERVICE PENSIONS BOARD

4. (1) The Board shall be responsible for-

Powers and duties of the Board

- (a) the administration of the Fund including-
 - (i) receiving into the Fund all sums due to it;
 - (ii) calculation and payment from the Fund of pensions due under this Law;
 - (iii) payments from the Fund necessary for the administration of the Fund;
 - (iv) investment of the Fund in accordance with this Law;
 - (v) accounting for all moneys collected, paid or invested under this Law;
 - (vi) causing a periodic actuarial review of the Fund pursuant to section 10; and
 - (vii) the sale of investments as necessary to meet immediate liabilities and needs, and for reinvestment;
- (b) liaising with the Financial Secretary regarding collection of data;
- (c) liaising with the Financial Secretary regarding contribution payments;
- (d) accounting and reporting in respect of the Plan, as provided in section 9;
- (e) record keeping, as provided in section 9;
- (f) recommending for approval, amendments to the Plan, as provided in section 19;
- (g) adopting and maintaining a schedule of benefits payable pursuant to this Law with respect to participants who resigned, retired or died prior to the date of commencement of this Law; and
- (h) administering a defined contribution plan in accordance with this Law and regulations made hereunder.

(2) Without prejudice to the generality of subsection (1), in accordance with section 10, the Board shall be responsible for recommending to the Governor contribution rates payable under the Plan from time.

(3) In the performance of its duties under this Law the Board may take such professional advice as it considers appropriate and pay for such advice out of the Fund.

(4) No member or employee 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.

Custody of fund assets 5. The Board shall cause to be established one or more custody accounts into which the assets of the Fund shall be deposited and held.

Calculation of benefits 6. (1) A pension provided under this Law shall be calculated by the Administrator in accordance with the provisions of the Plan in effect on the date of a participant's resignation, death, permanent disability, or retirement except as otherwise provided in this Law.

(2) In calculating a pension the Administrator shall use the Plan actuarial tables.

Correction of mistakes in administering pensions 7. The Board shall establish a procedure which enables any person to bring to the Board's attention a failure of administrative process which has prevented a pension from being paid or that has resulted in the incorrect calculation of the amount of a pension.

Communications to participants 8. The Board shall provide in writing to each participant or beneficiary-

- (a) a handbook summarising the provisions of the Plan;
- (b) an annual benefit statement;
- (c) a statement of retirement benefits at retirement;
- (d) a statement of vested benefits at resignation;
- (e) a death benefit statement at the time of death of the participant; and
- (f) any other information prescribed by regulations.

Accounts, book-keeping and reporting 9. (1) The Board shall prepare and maintain, in accordance with the standards prescribed for this purpose by the Financial Secretary, financial statements relating to the Fund.

(2) Within the period of three months after 30th June 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 financial statements as may be required to comply with subsection (1).

(3) On receipt of the financial statements referred to in subsection (2) the Auditor-General shall –

- (a) examine and audit the financial statements;
- (b) provide an opinion on the financial statements or certify the financial statements, as the case may be; and
- (c) provide such report on the financial statements as he thinks fit.

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

(5) Within thirty days after receipt from the Auditor-General of the financial 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 relating to the Fund during the year to which the financial statements relate, which report shall include a copy of the financial statements and of the Auditor-General's report, if any.

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

10. (1) On the commencement of this Law, and at such other times thereafter as it deems appropriate, but in no event later than the three-year anniversary of the latest review, the Board shall cause a review to be carried out to assess and evaluate the assets and liabilities of the Fund in order-

Actuarial valuation and contribution rates

- (a) to determine whether the Fund remains capable of meeting its long term liabilities at the rate or rates of contribution then in force;
- (b) if it is not so capable, to ascertain what rate or rates of contribution would be required to meet its long term liabilities; and
- (c) to determine the amount to be reflected on the balance sheet,

and the first of such reviews shall assess the assets and liabilities of the Fund as at 1st July, 2005.

(2) The review shall be carried out by the actuary using reasonable actuarial assumptions and methodology agreed upon by the actuary and the Board.

(3) A report of the actuarial review carried out under subsection (1) shall be made to the Board and the Board shall send a copy of the report to the Financial Secretary and may, after considering the report, recommend changes to the contribution rates.

(4) After receiving a report under subsection (3) the Financial Secretary shall submit the report to the Governor and the Governor, shall either-

- (a) accept the report and approve, by regulations, the changes to the contribution rates recommended by the Board; or
- (b) within ninety days of receiving the report, cause its own actuarial valuation to be carried out if it determines that there is good reason to do so.

(5) Where an actuarial valuation carried out by the Governor under subsection (4) (b) corroborates the report submitted by the Board, the Governor shall, no later than six months after receiving the valuation approve, by regulations, the rates recommended by the Board under subsection (3).

(6) The Financial Secretary shall, immediately after an actuarial report is accepted or corroborated, lay the report on the table of the Legislative Assembly for twenty- one days and shall cause such report to be gazetted; and the Financial Secretary shall not be required to lay any report which has not been so accepted or corroborated.

PART III- ACCOUNT ADJUSTMENTS

Participant contribution
account

11. (1) The Administrator shall maintain a participant contribution account on the books of the Fund for each participant who is an active participant, and for each retired and deferred vested participant under the prior Law who made contributions under the prior law and who is entitled to a scheduled benefit under the Plan pursuant to this Law and for any beneficiary of a deceased participant, for so long as the Plan maintains an obligation to pay to or on behalf of such participant or beneficiary a benefit under this Law.

(2) The Administrator shall determine a participant contribution account balance as at 31st December, 2004 for each participant described in subsection (1) who made contributions under the prior law.

(3) The participant contribution account balance shall include all participant contributions paid into the Public Service Pensions Fund prior to this Law, plus any interest credited to such contributions, minus distributions, if any, made to or on behalf of the participant prior to the date of commencement which were attributable to the participant contributions.

(4) The Administrator shall make adjustments to each participant contribution account balance at such times and in such manner as specified in this Part.

12. (1) On each account adjustment date described in section 14, the Administrator shall credit the participant contribution account of each participant with an amount equal to the sum of-
- Participation contribution account adjustments-credits
- (a) the aggregate amount of participant contributions deducted from his pensionable earnings and paid into the Fund since the last account adjustment date;
 - (b) for account adjustment dates falling on or prior to a participant's benefit commencement date, the interest attributable to his participant contribution account since the last account adjustment date determined by applying the credited rate of return for the period ending on the account adjustment date to-
 - (i) the participant contribution account balance on the prior account adjustment date; and
 - (ii) each contribution and distribution credited to or debited from such account since the last account adjustment date, taking into account the date each such contribution and distribution was paid into or out of the Fund.

13. On each account adjustment date described in section 14, the Administrator shall debit an amount equal to the sum of all distributions made to, by, or on behalf of, a participant since the last account adjustment date against his participant contribution account balance until such account balance is exhausted.

Participation contribution accounts adjustments- debits

14. The Administrator shall make the account adjustments described in sections 12 and 13 to the account balances of a participant or beneficiary as at-
- Accounts adjustment dates
- (a) in respect of a participant or beneficiary described in section 11(1), 31st December, 2004 and the last day of each calendar year thereafter that an account balance continues to be maintained on behalf of a participant or beneficiary;
 - (b) the date of retirement, resignation or death of a participant;
 - (c) the benefit commencement date of a participant or beneficiary; and
 - (d) such other date or dates which the Administrator, in his discretion, considers necessary or appropriate.

PART IV- FUNDING AND INVESTMENTS

15. There is established a Parliamentary Pensions Fund and there shall be paid into the Fund-
- The Parliamentary Pensions Fund and payments into the Fund.
- (a) all participant and Government contributions administered under the prior Law;
 - (b) all rent, interest, dividends, income and other sums derived from the assets of the Fund;

- (c) such other sums as may legally be provided by the Government; and
- (d) such other sums as may be received and accepted by the Board on behalf of the Fund.

Disbursements from the Fund

16. (1) There shall be paid out of the Fund-
- (a) all pension benefits;
 - (b) all expenses properly incurred in the administration of the Plan and of the Fund; and
 - (c) such other payments as are permitted by this Law or regulations made hereunder.
- (2) No payments shall be made out of the Fund unless authorised by or under this Law.

Fund investments

17. (1) The Fund shall be invested by the Board in approved investments as set out in Schedule 2 of the Public Service Pensions Law (2004 Revision) and for the purposes of this section subsections (2) to (4) of section 16 of the Public Service Pensions Law (2004 Revision) shall apply.
- (2) The Board may, with the approval of the Financial Secretary, pool the monies of the Fund with the monies of the fund under the Public Service Pensions Law (2004 Revision) and invest such monies in accordance with the provisions of that Law.

Contributions to the Fund

18. (1) Participants shall contribute to the Fund at the rate of 6% of their pensionable earnings and any change in such rate shall be prescribed by the most recent actuarial valuation accepted by the Governor pursuant to section 10.
- (2) The Government shall contribute to the Fund at the rate prescribed by the most recent actuarial valuation accepted by the Governor pursuant to section 10.
- (3) A participant's contribution shall be deducted each pay period by the Government from such participant's pensionable earnings and paid by the Government into the Fund on a monthly basis; and such payments shall be made no later than the 15th day of the month immediately following the date when the payments are due.
- (4) Any participant contributions which are credited pursuant to this Law to a participant's account shall be credited to his account on the date such contributions are received.

(5) The Government's contribution in respect of a contributing participant's service shall be a charge on the revenue of the Islands and shall be determined and paid by the Government into the Fund at the same time as the Government pays the participant's contribution into the Fund under subsection (3).

(6) Subject to the provisions of this Law, every participant shall cease to contribute to the Fund on the day on which he ceases to be a Speaker or a member.

(7) Contributions shall be assessed, and deductions shall be made, based on the pensionable earnings paid to a participant for the period for which the contributions and deductions relate, whether or not he may have, for any reason, been entitled to additional payments for that period.

19. The Board shall determine the financial impact of all amendments to this Law and the regulations and shall advise the Governor in Cabinet of its findings prior to such amendment being considered by the Governor in Cabinet or laid before the Legislative Assembly.

Plan amendments -
financial impact

PART V- PENSION BENEFITS

Eligibility

20. (1) Subject to this Law and to section 27 in particular, a pension shall be payable to a member and to a Speaker (who is not a member) who-

Eligibility-parliamentary
pension

- (a) has served as a member or a Speaker for one full parliamentary term; and
- (b) has attained normal retirement age.

(2) Each participant who retired or resigned prior to the date of commencement of this Law and who was entitled to receive pension benefits under the prior law shall be entitled to receive pension benefits under this Law, pursuant to a schedule of benefits adopted and maintained by the Board pursuant to section 4(1)(g), which benefits shall in no event be lesser in value than the benefits that would have been accrued or payable on the day immediately prior to the date of commencement of this Law.

(3) For the purposes of this Law-

- (a) a person does not cease to be a member by reason only of the dissolution of the Legislative Assembly; and
- (b) a person who immediately before the dissolution of the Legislative Assembly was a member shall be deemed to have

ceased to be a member from the date of such dissolution if he is not elected as a member at the general election next following the dissolution.

(4) No computation of a pension shall be made after a general election until two months have elapsed after the general election.

(5) For the purposes of this section -

- (a) a person does not cease to be Speaker of the Legislative Assembly by reason only of the dissolution of the Legislative Assembly; and
- (b) a person who immediately before the dissolution of the Legislative Assembly was Speaker of the Legislative Assembly shall be deemed to have ceased to be Speaker from the date of such dissolution if he is not elected as the Speaker of the Legislative Assembly at the first sitting of the Legislative Assembly after the general election next following the dissolution.

Miscellaneous

Designation of beneficiary

21. (1) Each participant shall be given the opportunity to designate a beneficiary or beneficiaries who shall be entitled to receive benefits pursuant to this Law in the event of the participant's death.

(2) A participant shall be permitted to change a beneficiary designated under subsection (1) at any time prior to his death.

(3) In the event that a participant dies without designating a beneficiary, or if no designated beneficiary survives the participant, any benefit that would have been payable to the participant's designated beneficiary under this Law shall be paid to the participant's estate.

Payment and administration of children's pensions

22. In all cases of a child's pension provided under this Law, the whole or any part of such pension may be paid, at the discretion of the Administrator, either to the mother, father, to the legal guardian of such child, to the child directly (if he is over the age of 18), or to such other person or persons as the Administrator may, in his discretion, consider to be fit and proper persons, to apply the same for the benefit of such child, and after such payment the Fund shall be free of all responsibility in respect of such payment.

Cessation of payment of children's pensions

23. (1) Any pension payable to a child pursuant to this Law shall cease upon the latest to occur of-

- (a) the child's attainment of age 18;
- (b) if the child is in full-time education on his eighteenth birthday, the first to occur of-
 - (i) the child's attainment of age 23; or
 - (ii) the child's cessation of full-time education; or
- (b) if the child is mentally or physically incapable of employment, as certified by the Chief Medical Officer, on his eighteenth birthday or the date on which the child is capable of employment.

(2) Where the Chief Medical Officer certifies that a child will never be mentally or physically capable of employment the pension payable to such child shall be paid to the child for the duration of his life.

24. Notwithstanding any other provision of this Law, pensions in payment shall be adjusted for inflation on an annual basis as of the first day of each calendar year in accordance with the following paragraphs-

Inflation protection

- (a) when the increase in CPI is less than or equal to 5%, pension benefits shall be increased at a rate equal to 100% of the CPI, providing a maximum increase of 5%;
- (b) when the increase in CPI is greater than 5% but less than or equal to 8%, pension benefits shall be increased at a rate equal to the sum of 5% plus four fifths of the difference between 5% and the CPI, providing a maximum increase of 7.4%;
- (c) when the increase in CPI is greater than 8% but less than or equal to 12%, pension benefits shall be increased at a rate equal to the sum of 7.4% plus six tenths of the difference between 8% and the CPI, providing a maximum increase of 9.8%; or
- (d) when the increase in CPI is greater than 12%, pension benefits shall be increased at a minimum rate of 9.8% and the Board shall determine, and the Governor in Cabinet may approve, any increases in pension benefits in excess of 9.8%.

25. (1) No participant shall lose his right to a pension under this Law because he is adjudicated bankrupt or declared insolvent by a competent Court.

Participant rights

(2) A pension granted under this Law is exempt from execution, seizure, attachment or any other process in respect of any debt or claim of a creditor, except for the purposes specified in subsection (3).

(3) A pension provided under this Law shall not be transferable or assignable by a participant or beneficiary, except for the purpose of satisfying-

- (a) a debt due to the Government; or

- (b) an order of a Court for the payment of periodical sums of money towards the maintenance of the spouse, former spouse or minor child of the participant to whom the pension has been granted; or

subject to, or available to, the creditors of a participant prior to payment thereof

(4) Where any participant is sentenced by a court in the Islands or in any part of the Commonwealth to death or to a term of imprisonment (by what ever name called) exceeding twelve months then such pension shall forthwith cease and not become payable.

(5) Notwithstanding subsection (4), where a participant whose pension has so ceased or not been so paid has completed his sentence of imprisonment the Governor in Cabinet may direct that the pension be restored or paid as from the date of such completion or discharge or any later date, and the pension shall be restored and paid accordingly.

Retirement benefits

Normal retirement benefit

26. (1) Upon the attainment of normal retirement age an active, deferred vested or retired participant shall be entitled to receive immediately a pension determined on the date he attains normal retirement age, subject to the limitations set out in section 32 with respect to maximum pensions.

(2) The pension referred to in subsection (1) shall be at a rate of one-three hundred and sixtieth of the final pensionable earnings for each full month that he has served as a member or a Speaker payable on the date when he becomes entitled to such pension.

(3) Subject to this Law, a pension payable to any person under this Law-

- (a) shall be paid with effect from the date on which that person becomes entitled thereto pursuant to this Law and, subject to this Law, shall continue to be paid during the lifetime of that person; and
- (b) shall be paid monthly in arrears and, as far as possible, in equal instalments.

Participation upon re-election to the Legislative Assembly, to Cabinet etc

27. (1) A retired participant who is receiving a pension and who is subsequently re-elected to the Legislative Assembly or re-employed as Speaker shall continue to receive that pension without interruption upon such re-election or re-employment and he shall continue as an active defined contribution participant upon his return.

(2) Where an active participant becomes eligible for a pension while he is a member or a Speaker –

- (a) he may elect to be paid such pension and if he so elects he shall thereafter continue as an active defined contribution participant until such time as he ceases employment; or
- (b) he may elect not to receive such pension and to continue contributions to the Plan until such time as he reaches the maximum pension and where that occurs he shall continue thereafter as an active defined contribution participant until such time as he ceases employment; or
- (c) and he has reached his maximum pension entitlement, he shall be paid such pension and he shall thereafter continue as an active defined contribution participant until such time as he ceases employment.

(3) A participant shall not be permitted to transfer from the defined contribution part of the Plan to the other part of the Plan under this Law.

(4) The defined contribution part of the Plan shall be administered by the Board in accordance with this Law and regulations made under this Law.

(5) Regulations made under subsection (3) shall be subject to the affirmative resolution of the Legislative Assembly.

(6) In administering the defined contribution part of the Plan the Administrator shall apply such sections of this Law as apply to the administration of a defined contribution plan (with necessary changes).

28. (1) Upon the attainment of early retirement age, a participant shall be eligible to retire as a member or as Speaker with an immediate pension equal to his early retirement benefit, as determined by this section, based on the participant's age, pensionable service and final pensionable earnings at his actual date of retirement.

Early retirement

(2) The early retirement benefit payable pursuant to subsection (1) subject to the limitations set out in this Law with respect to maximum pensions, shall, in the case of a participant who retires with one or more terms upon or after attaining early retirement age, but before attaining normal retirement age, be determined in the same manner as his normal retirement benefit except that-

- (a) the participant's pensionable service and final average pensionable earnings shall be determined on his actual date of retirement; and

- (b) the benefit so determined shall be actuarially reduced by the relevant early retirement reduction factor set out in the Plan actuarial tables to take into account the additional years prior to attaining normal retirement age that he shall be entitled to receive benefit payments.

Resignation prior to retirement

29. (1) An active participant who resigns prior to becoming eligible for a pension under this Law shall have the rights of a deferred vested participant in respect of his accrued benefit.

(2) A deferred vested participant is entitled to receive a deferred benefit commencing on the first day of the month following his attainment of normal retirement age, calculated in accordance with section 26 based on his pensionable service and final pensionable earnings on his resignation date.

(3) In lieu of the benefit described in subsection (2), a deferred vested participant may elect to commence payment of his deferred benefit on the last day of any month following his attainment of early retirement age and in such event, the deferred benefit will be determined in the manner described in subsection (2), except that the benefit so determined shall be actuarially reduced by the relevant early retirement reduction factor set out in the Plan actuarial tables to take into account the additional years prior to attaining age fifty-five that he shall be entitled to receive benefit payments.

Disability retirement

30. (1) A participant who becomes permanently disabled shall be eligible to retire with an immediate pension, effective on the date of his permanent disability, if his permanent disability is certified by the Chief Medical Officer.

(2) Where a participant to whom a pension is being provided under this section (or to whom a pension on medical grounds was granted under the prior law) is found by the Chief Medical Officer to be no longer disabled or resumes his duties as a member or as Speaker, the payment of his pension shall be suspended until the earlier of-

- (a) the participant's attainment of normal retirement age; or
- (b) the attainment of early retirement age.

Disability benefit

31. (1) The pension payable pursuant to section 30 shall be determined in the same manner as the participant's normal retirement benefit, except that his pensionable service and final pensionable earnings shall be determined on his actual date of disability retirement.

(2) If a participant is permanently disabled due to injuries incurred-

- (a) whilst in the actual discharge of his duty; and

(b) without his own default,

and as a result of the injury the participant is eligible for disability retirement under section 30 and retires under that section, the participant shall be provided with an additional pension determined in accordance with this section.

(3) The additional disability pension payable to a participant pursuant to this section shall be equal in amount to one-third of the participant's final pensionable earnings, determined as at his disability retirement date.

(4) This section shall not apply in the case of a participant who as a consequence of his injury is entitled to compensation under the Workmen's Compensation Law (1996 Revision).

1996 Revision

32. In no case shall the total cumulative pension drawn by any person at any time exceed two-thirds of the highest pensionable earnings earned by him when he is Speaker or a member of the Legislative Assembly or the Cabinet as applicable.

Maximum pension

33. Notwithstanding any provision of this Law to the contrary, no pension provided under this Law and payable to a participant shall result in monthly payments, after commutation, of less than one thousand dollars; except that such minimum pension payments shall not apply to benefits payable to a surviving spouse or child upon the death of the participant.

Minimum pension

34. A participant may elect at the time of retirement to be paid-

Forms of benefit payment

- (a) a reduced pension at a rate of not less than seventy-five per cent of the pension to which he is eligible; and
- (b) a commutation lump sum cash payment of not less than twenty-five per cent of such pension.

Death Benefits

35. (1) Upon the death of an active, retired or deferred vested participant there shall be paid to the participant's surviving spouse and children, if any, a pension determined in accordance with this section.

Surviving spouse's and children's pension

(2) Where a participant of the prior plan died before the date of commencement of this Law, the pensions, if any, payable to the deceased participant's beneficiaries under this Law shall be as set out in a schedule of benefits adopted and maintained by the Board pursuant to section 4(1)(g).

(3) Upon the death of a participant there shall be paid to such participant's surviving spouse and children-

- (a) if the deceased was a retired participant, a monthly pension based on the amount of pension he was drawing at the date of his death, or
- (b) if the deceased was an active participant, a monthly pension based on his accrued benefit at the time of his death,

in accordance with the provisions of this section.

(4) Where the participant dies leaving a spouse but no children, subject to the limitations set out in subsection (8), the surviving spouse is entitled to a monthly pension equal to one-half of the pension determined in subsection (3).

(5) Where the participant dies leaving a spouse and children-

- (a) subject to the limitations set out in subsection (6), the surviving spouse is entitled to a monthly pension equal to one-half of the pension determined in subsection (3); and
- (b) each child is entitled, until the date specified in section 23 for cessation of children's pensions, to a monthly pension equal to one-half of the pension determined in subsection (3), divided by the total number of children left by the participant.

(6) Notwithstanding subsection (5), where at the time of a participant's death, the Administrator is in receipt of either-

- (a) an election by the participant to which the participant's spouse has consented in writing; or
- (b) a court order,

directing that upon the participant's death the Administrator shall pay the surviving spouse's pension to the children, then the pension otherwise payable to the participant's surviving spouse, if any, shall be equally distributed among the children; and such pension shall be paid in addition to any other benefit otherwise payable to the children pursuant to this section.

(7) Where the participant dies leaving children, but no surviving spouse, the children shall be entitled to the benefit described in subsection (5) determined as if a surviving spouse existed and the election described in subsection (6)(a) had been made.

(8) Notwithstanding any other provision in this section to the contrary, the benefit payable to a surviving spouse of a deceased retired participant shall be actuarially reduced in accordance with Plan actuarial tables if such surviving spouse is less than fifty-five years of age and more than ten years younger than the deceased retired participant.

(9) This section shall apply to a beneficiary only if application of this section would result in a greater pension payable to the beneficiary than would be payable under section 37; and no pension shall be paid under section 37 to the legal representatives, surviving spouse or children to whom, after application of this subsection, a pension is payable pursuant to this section.

36. (1) If an active participant dies while still a member or a Speaker, upon his death there shall be paid to the deceased participant's designated beneficiary an amount equal to the excess, if any, of the greater of-

In-service death benefit

- (a) twelve times the participant's final pensionable earnings, determined as at the date of his death; or
- (b) his participant contribution account balance determined as at the date of his death,

over the actuarially equivalent present value determined by reference to Plan actuarial tables of the benefits, if any, payable to the participant's beneficiaries in accordance with this Law.

(2) If the deceased participant failed to designate a beneficiary, or if his designated beneficiary has predeceased him and there is no new designated beneficiary, the amount payable under this section shall be paid to the participant's estate.

37. (1) Where a participant dies while serving as a member or as Speaker as a result of injuries received-

Pensions to beneficiaries where a participant is killed on duty

- (a) whilst in the actual discharge of his duties; and
- (b) without his own default,

there shall be paid to the participant's beneficiaries an additional pension.

(2) Where the deceased participant dies leaving a spouse, a monthly pension shall be paid to the surviving spouse, at a rate not exceeding fifteen-sixtieths of such participant's final pensionable earnings on the date of injury.

(3) Where the deceased participant dies leaving a surviving spouse to whom a pension is provided pursuant to subsection (2) and six children or less, a monthly pension shall be paid to each such child, until the date specified in section 23 for cessation of children's pensions, at a rate not exceeding one-sixth of the pension, prior to commutation, provided to the surviving spouse under subsection (2).

(4) Where the deceased participant dies leaving six children or less, but does not leave a surviving spouse, a monthly pension shall be paid to each child,

until the date specified in section 23 for cessation of children's pensions, at a rate of twice the amount specified in subsection (3).

(5) Where the deceased participant dies leaving six children or less and a surviving spouse to whom a pension is provided pursuant to subsection (2) and the surviving spouse subsequently dies, the monthly pension in respect of each child shall be increased at the date of death of the surviving spouse to twice the amount specified in subsection (3).

(6) Where the deceased participant dies leaving more than six children, the aggregate amount of pension payments that would be payable to six children pursuant to subsection (3), (4) or (5), as the case may be, shall be divided equally among all such children during the period in which there are more than six children who are entitled to receive a pension under this section.

(7) Where the deceased participant dies without leaving a spouse and without leaving any children, and if the deceased participant's mother or father or both parents were wholly or mainly dependent on him for financial support and have no other means of financial support, as determined by the Administrator, a monthly pension shall be paid to the mother or father or both, while they are without adequate means of support at a rate not exceeding one-sixth of the deceased participant's final pensionable earnings as at the date of injury.

(8) A pension provided under subsection (7) shall cease on the written instructions of the Administrator if it appears to the Administrator that the mother or father or both parents are receiving adequate financial support by other means.

(9) An active participant who dies as a result of injuries received while travelling in pursuance of official instruction shall be deemed to have died in the circumstances detailed in subsection (1).

(10) This section shall not apply in the case of the death of an active participant if his beneficiaries, as defined in the Workman's Compensation Law (1996 Revision), are entitled to compensation under that law if no pension is paid under this section.

1996 Revision

Payment of
commutation to
surviving spouse

38. A surviving spouse to whom a pension is payable under section 35, 36 or 37 may elect prior to his benefit commencement date to be paid in lieu of such pension-

- (a) a reduced pension at a rate of not less than seventy-five of the pension; and
- (b) a commutation lump sum cash payment of not less than twenty-five per cent of such pension.

39. The Administrator shall recalculate the pensions payable to a deceased participant's children pursuant to section 35 or 37 upon written notice received by the Administrator within ten months after the participant's death or the birth of a posthumous child or posthumous children of such deceased participant.

Recalculation of children's pensions

40. If a participant dies with no spouse and no children surviving him, the amount payable under sections 35 and 37 shall be paid in a single lump sum to the participant's designated beneficiary, or if his designated beneficiary has predeceased him, the amount shall be paid in a single lump sum to his estate.

Benefit paid to beneficiary if no surviving spouse or children

PART VI- SPECIAL RULES REGARDING PENSION PAYMENTS

41. (1) As a condition to the commencement and continued payment of pensions to or on behalf of a participant under the Plan, the Administrator shall require each person who is or will be in receipt of pension payments to submit prior to the recipient's benefit commencement date and annually thereafter (and at such other times as may be prescribed by the Administrator in his discretion) a signed certificate in the form and manner prescribed by the Board that that person is the retired participant or beneficiary who is authorised under the Plan to receive such pension payments.

Payments under Plan conditioned on periodic certification

(2) The signature on the certificate shall be witnessed by a Justice of the Peace, a notary public, a minister of religion, an attorney licensed to practice law in the Islands, a member of the Legislative Assembly, a member of the Board or the Administrator.

(3) If the certificate described in subsection (1) is not received by the date prescribed, or if a certificate is not in the proper form or is otherwise defective, or if the Administrator has reasonable grounds to suspect its authenticity, the pension payments shall be suspended until the Administrator is in receipt of a proper certificate or is satisfied that such person is the appropriate recipient of the payments.

PART VII –GENERAL

42. The Governor in Cabinet may make regulations-

Regulations

- (a) prescribing, where a recipient of any pension benefit is incapable of managing his affairs, that it may be paid to another person on his behalf;
- (b) prescribing anything which may be required to be prescribed for the administration of this Law;
- (c) prescribing plan actuarial tables and

The Parliamentary Pensions Law, 2004

(d) for any other purposes deemed necessary to give effect to this Law.

Repeal

43. The Parliamentary Pensions Law (1995 Revision) is repealed.

Conflict of laws

44. Where there is any conflict between the provisions of this Law and the Public Management and Finance Law (2003 Revision), the provisions of the latter Law shall prevail to the extent of the inconsistency.

Passed by the Legislative Assembly the 29th day of July, 2004.

LINFORD A. PIERSON

Speaker.

SHARON SMITH

Acting Clerk of the Legislative Assembly.