

CAYMAN ISLANDS



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

**THE PARLIAMENTARY PENSIONS (DEFINED CONTRIBUTION
PLAN) REGULATIONS, 2009**

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In accordance with the powers conferred by sections 27 and 42 of the Parliamentary Pensions Law, 2004 the Governor in Cabinet makes the following Regulations-

Citation and commencement

1. (1) These Regulations may be cited as the Parliamentary Pensions (Defined Contribution Plan) Regulations, 2009.

(2) These Regulations are deemed to have come into operation on 23rd August, 2004.

Definitions

2. In these Regulations-

“accrued benefit” means the sum of the balances in a participant’s accounts on the date of determination;

“active defined contribution participant” means a defined contribution participant contributing to the Fund for benefits covered under the Law or these regulations;

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

“approved plan” means any plan registered with the Superintendent of Pensions within the Islands;

(2004 Revision)

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

“fifty per cent joint and survivor annuity” means a reduced annuity (determined by reference to Plan actuarial tables) for the life of the participant, followed, upon the participant’s death, by an annuity for the life of the participant’s spouse to whom the participant was married on the participant’s benefit commencement

date equal to fifty per cent of the reduced annuity that would have been payable to the participant had the participant been alive;

“Law” means the Parliamentary Pensions Law, 2004;

“married participant” means a participant who is legally married on the participant’s benefit commencement date or on the date of the participant’s death;

“normal retirement age” means age 55; and

“participant” means an elected member of the Legislative Assembly and, if the Speaker of the Legislative Assembly is not a member of the Legislative Assembly, the Speaker.

3. The Administrator shall notify a member or a Speaker of his participation in the defined contribution part of the Plan when that member or Speaker first becomes a defined contribution participant pursuant to the Law and the accounts specified in regulation 6 are established on his behalf. Notification of eligibility

4. A participant shall not be permitted to transfer from the defined contribution part of the Plan to the defined benefit part of the Plan. No transfers to defined benefit part

5. The Board may prescribe various standard forms to be used for communication purposes and for such other purposes of these regulations as the Board deems appropriate. Forms

Accounts

6. (1) The Administrator shall maintain on the books of the Fund for each active, deferred vested and retired participant and for any beneficiary of a deceased participant, for so long as the Plan maintains an obligation to pay to or on behalf of the participant or beneficiary a benefit under these regulations- Maintenance of accounts

- (a) a participant contribution account;
- (b) an employer contribution account; and
- (c) such other accounts and sub-accounts which the Administrator may deem appropriate.

(2) The Administrator shall make adjustments to the account balances of a participant’s accounts at such times and in such manner as prescribed by these regulations.

7. On each account adjustment date specified in regulation 11, the Administrator shall credit the participant contribution account of each participant with an amount equal to the sum of- Participant contribution account- 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) the amount, if any, transferred to the Fund on behalf of the participant from an approved plan pursuant to regulation 12 since the last account adjustment date; and
- (c) 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.

Employer contribution
account-credits

8. On each account adjustment date specified in regulation 11, the Administrator shall credit the employer contribution account of each participant with an amount equal to the sum of-

- (a) the employer matching contributions allocated to such participant's employer contribution account pursuant to regulation 13(2) since the last account adjustment date; and
- (b) for account adjustment dates falling on or prior to a participant's benefit commencement date, the interest attributable to the participant's employer 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 employer 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.

Account adjustments-
debits

9. On each account adjustment date specified in regulation 11, 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 firstly, against his participant contribution account balance until such account balance is exhausted; and after his participant contribution account balance is exhausted, any distributions that remain to be debited shall be debited against his employer contribution account balance until that account balance is exhausted.

10. The account adjustments specified in regulation 9 in respect of a participant's accounts shall be made to the accounts, if any, of the surviving spouse, children, designated beneficiary or estate of a deceased participant on each applicable account adjustment date specified in regulation 11 until the balance of such accounts has been fully distributed in accordance with these regulations.

Beneficiary accounts

11. The Administrator shall make the account adjustments specified in regulations 7, 8, 9, and 10 to the account balances of a participant or beneficiary as at-

Account adjustment date

- (a) 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.

12. An active defined contribution participant may elect at any time to have any assets which are or were held in an approved plan on his behalf transferred to the Fund and credited to his participant contribution account.

Transfer of assets into the Fund from an approved plan

Employer Contributions

13. (1) The Government shall contribute to the Fund on behalf of each active defined contribution participant the amount specified by the latest actuarial report, which amount shall not be less than the amount a participant is required to contribute to the Fund for the same period of service.

Employer matching contributions

(2) Out of the amount contributed by the Government to the Fund on behalf of an active defined contribution participant pursuant to paragraph (1), the Administrator shall allocate to the participant's employer contribution account an employer matching contribution equal in amount to his participant contributions which were credited to his participant contribution account pursuant to regulation 7(a) for the period for which the employer contribution relates.

Retirement Benefits

14. Upon retirement at any time after attaining early retirement age, an active defined contribution participant shall be entitled to receive his accrued benefit determined on his benefit commencement date, which shall not be later than his normal retirement age, and distributed in accordance with regulation 22.

Accrued benefit payable upon retirement

Methods of benefit
payment

15. (1) The normal form of payment of the accrued benefit of a participant shall be-

- (a) in the case of an unmarried participant, an annuity for the life of the participant paid by equal monthly payments (subject to annual adjustments for inflation pursuant to section 24 of the Law); or
- (b) in the case of a married participant, a fifty per cent joint and survivor annuity paid by equal monthly payments (subject to annual adjustments for inflation pursuant to section 24 of the Law).

(2) In lieu of the pensions specified in paragraph (1), a participant may elect any one of the following optional forms of payment of his accrued benefit-

- (a) in the case of an unmarried participant an annuity consisting of equal monthly payments (adjusted annually for inflation pursuant to section 24 of the Law) for the life of the participant, but if the participant should die prior to receiving a total of one hundred and twenty monthly payments, the participant's designated beneficiary shall receive an immediate lump sum cash payment upon such death equal to the product of the deceased participant's monthly payment at the time of death times the number of monthly payments which remain to be made to reach one hundred and twenty total payments; and
- (b) in the case of a married participant, subject to the written consent of his spouse to such election-
 - (i) the annuity specified in paragraph (1)(a); or
 - (ii) the annuity specified in paragraph (2)(a).

(3) In addition to any other optional form of payment specified in this regulation, a participant may elect to receive up to twenty-five per cent of his accrued benefit in the form of an immediate lump sum cash payment, subject to the written consent of the spouse in the case of a married participant, and to receive the balance of his accrued benefit in any of the other forms applicable to such participant, as set out in this regulation.

(4) The amount of benefit payable under each of the payment options specified in this regulation shall be determined by reference to Plan actuarial tables based on a defined contribution participant's account balances valued on his benefit commencement date and taking into consideration the age of the participant at the time of retirement (and, in the case of a fifty per cent joint and survivor annuity, the age of the participant's spouse).

16. (1) Upon the request of a participant, or at least three months prior to such participant's normal retirement date, the Administrator shall provide the participant with a form of Application for Retirement (including commutation and optional form of benefit elections). Method of election

(2) In order to elect an optional form of benefit, a participant shall complete the application indicating his election, sign the application (and, if applicable, have his spouse sign the consent to such election) and return it to the Administrator not later than one month prior to his benefit commencement date.

17. (1) An active defined contribution participant who becomes permanently disabled shall be eligible to retire with an immediate pension, effective on the date of his permanent disability, provided such permanent disability is certified by the Chief Medical Officer, and shall be entitled to receive- Disability retirement

- (a) his accrued benefit determined on his benefit commencement date distributed in accordance with these regulations; and
- (b) an amount equal to the excess, if any, of twelve times such participant's final average pensionable earnings determined on the date of his retirement over the actuarially equivalent present value of the participant's accrued benefit, payable to the participant as a lump sum.

(2) Where a participant to whom a pension is being provided under this regulation (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 attainment of early retirement age.

(3) A participant whose pension is suspended pursuant to paragraph (2) shall resume active participation in the defined contribution part on the date of his resumption of duty.

(4) For the purposes of paragraph (3), a participant's account balance shall, as of the date of the suspension of pension, be re-established, based on the account balance prior to receiving any benefit and debited with actual benefits paid and credited with interest for the period during which payments were made.

18. (1) A pension payable to a participant under regulation 17 shall be determined in the same manner as if the participant had retired in accordance with regulation 14. Disability benefit

(2) If an active defined contribution 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 those injuries he is eligible for disability retirement under regulation 17 and retires under that regulation, he shall be provided with an additional pension which shall be equal in amount to one-third of his final average pensionable earnings, determined as at his disability retirement date.

Vesting

19. The accrued benefit of a participant shall at all times be fully vested and shall not be subject to forfeiture for any reason.

Resignation from
Service prior to
retirement

20. (1) An active defined contribution participant who resigns prior to becoming eligible for retirement under section 26 of the Law may, at any time after his resignation date, elect either to leave his accrued benefit in the Fund until he becomes eligible for retirement (in which case such participant's accounts will continue to be credited with interest prescribed by regulations) or to have the Board transfer to an approved plan an amount equal to the sum of-

- (a) the participant's participant contribution account balance; and
- (b) the participant's employer contribution account balance, subject to the limitations prescribed in paragraph (2).

(2) Notwithstanding paragraph (1)(b), the maximum amount that may be transferred by a participant to an approved plan pursuant to paragraph (1) shall be prescribed from time to time by the Board; and-

- (a) if the amount determined under paragraph (1) in the aggregate exceeds the permissible maximum by more than five thousand dollars, the excess of the amount determined under paragraph (1) shall remain in the Fund in the participant's employer contribution account and the participant shall have the rights of a deferred vested participant with respect to the account balance; and
- (b) if the excess amount does not exceed five thousand dollars, the amount determined under paragraph (1) shall be transferred to the approved plan.

(3) Notwithstanding paragraph (2), the Board may further limit the amount, if any, in excess of the amount determined under paragraph (1)(a) that may be transferred to an approved plan if it considers such limitation necessary or advisable to avoid depletion of the Fund's assets.

(4) A former defined contribution participant who does not make the election specified in paragraph (1) shall be deemed to have elected to leave his accrued benefit in the Fund until he becomes eligible for retirement (in which

case such participant's accounts will continue to earn interest credited in accordance with regulations).

21. (1) The aggregate amount of benefit payments under these regulations made to or on behalf of any participant or beneficiary of a participant shall not be less than an amount equal to the participant contribution account balance of the participant at the time of the first to occur of retirement or death.

Distribution of participant contribution account balance

(2) In the event that the total amount of benefits paid to or on behalf of a participant is less than the participant contribution account balance on the date of the participant's death, the remaining balance shall be paid in cash to the participant's or beneficiary's estate.

22. Except as otherwise specifically provided in these regulations, the accrued benefits payable to or on behalf of a retired, deferred vested or deceased participant under these regulations shall be paid in accordance with the forms of benefit and methods of payment as elected by such participant pursuant to these regulations.

Forms of benefit and methods of payment

Death Benefits

23. Upon the death of an active defined contribution participant there shall be paid to the participant's surviving spouse and children, if any, a pension determined in accordance with these regulations.

Pension payable to surviving spouse and children

24. (1) Upon the death of a participant prior to commencement of his benefits, there shall be paid to the participant's surviving spouse and children, if any, a pension in accordance with the provisions of this regulation.

Pension payable to surviving spouse and children of active or deferred vested participants

(2) Where the participant dies leaving a spouse but no children, the surviving spouse is entitled to a pension payable in the form of an annuity equal in value to such participant's account balances as at the date of such participant's death.

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

- (a) the surviving spouse is entitled to one-half of the pension specified in paragraph (2); and
- (b) one-half of the participant's account balances on the date of the participant's death shall be divided equally among the children and paid to the children in a single lump sum cash payment.

(4) Notwithstanding paragraph (3), 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 divided equally among the children and paid to the children in a single lump sum cash payment; and the pension shall be paid in addition to any other benefit otherwise payable to the children pursuant to this regulation.

(5) Where the participant dies leaving children, but no surviving spouse, the deceased participant's account balances on the date of the participant's death shall be divided equally among the children and paid to the children in a single lump sum cash payment.

(6) Where the participant dies leaving no spouse and no children, the full value of the deceased participant's account balances shall be paid in a single lump sum to the participant's designated beneficiary, and if such designated beneficiary predeceases the participant, to the participant's estate.

(7) This regulation shall apply to a beneficiary only if application of this regulation would result in a greater pension payable to the beneficiary than would be payable under regulation 25 and no pension shall be paid under regulation 25 to the legal representatives, surviving spouse or children to whom, after application of this paragraph, a pension is payable pursuant to this regulation.

Pensions to beneficiaries where a participant is killed on duty

25. Where an active defined contribution participant dies while still a member or a Speaker, as a result of injuries received-

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

there shall be paid to the participant's beneficiaries, if any, a pension determined in accordance with regulation 27.

In-service death benefit

26. If an active defined contribution participant dies, upon his death there shall be paid to the deceased participant's designated beneficiary an amount equal to the excess, if any, of twelve times the participant's final average pensionable earnings determined on 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 regulation 24.

27. (1) Where an active defined contribution participant dies in the circumstances mentioned in regulation 25, the pension payable shall be determined in accordance with this regulation.

Determination of
pension for purposes of
regulation 25

(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 the participant's final average pensionable earnings on the date of injury.

(3) Where the deceased participant dies leaving a spouse to whom a pension is provided pursuant to paragraph (2) and six children or less, a monthly pension shall be paid to each child, until the date specified in section 23 of the Law 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 paragraph (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 of the Law for cessation of children's pensions, at a rate of twice the amount specified in paragraph (3).

(5) Where the deceased participant dies leaving six children or less and a surviving spouse to whom a pension is provided pursuant to paragraph (2) and the surviving spouse subsequently dies, the monthly pension in respect of each child shall be increased on the date of death of the surviving spouse to twice the amount specified in paragraph (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 paragraph (3), (4) or (5), as the case may be, shall be divided equally among all the children during the period in which there are more than six children who are entitled to receive a pension under this regulation.

(7) Where the deceased participant dies without leaving a surviving 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 without adequate means of support at a rate not exceeding one-sixth of the deceased participant's final average pensionable earnings as at the date of injury.

(8) A pension provided under paragraph (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 defined contribution 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 paragraph (1).

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

Payment of pensions to surviving spouse 28. A surviving spouse to whom a pension is payable under regulation 24 or 25 may elect prior to his benefit commencement date to be paid in lieu of the pension-

- (a) a reduced pension at a rate of not less than three-fourths of the pension; and
- (b) an immediate lump sum cash payment equal in amount to the present value, determined with reference to Plan actuarial tables, of the difference between the pension and the reduced pension specified in paragraph (a).

Payment of pensions to surviving children 29. Upon written notice received by the Administrator of the possibility of the birth of a posthumous child of a deceased participant, the Administrator shall delay payment of any pension payable to a child pursuant to regulation 24 or 25 for up to ten months after the participant's death in order to determine whether there are any posthumous children of the participant who are entitled to a pension under such regulation.

Commencement of benefits 30. The Administrator shall commence the payment of due benefits (including lump sum cash payments)-

- (a) in the case of a retired participant, at the end of the month following retirement;
- (b) in the case of a deferred vested participant who has yet to receive a full distribution of his account balances, at the end of the month following his attainment of normal retirement age; and
- (c) in the case of a beneficiary, at the end of the month following the participant's death, except as provided in regulation 29.

Death after benefit commencement date 31. Upon the death of a retired participant after the participant's benefit commencement date, the designated beneficiary of the participant shall be

entitled to receive such benefit as is provided under the distribution form elected by the participant pursuant to regulation 22.

32. If a deceased participant has failed to designate a beneficiary, or if his designated beneficiary has predeceased him, the amount payable under regulation 26 and 31 shall be paid to the participant's estate.

Benefit paid to estate if no surviving designated beneficiaries

33. If a deceased participant dies with no spouse and no children surviving him, the amount payable under regulation 24 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

34. Notwithstanding any provision of the Law or these regulations to the contrary, if the present value of a participant's accrued benefit determined by reference to Plan actuarial tables-

Cash out of small benefits

- (a) on such participant's benefit commencement date;
- (b) on the participant's date of death in the event that the participant died while in active service; or
- (c) on the participant's date of death in the event that the participant dies whilst in active service

is less than five thousand dollars, the Board, in its discretion, may direct the Administrator to distribute the benefit to the participant, or the participant's beneficiaries if the participant is deceased, in a single lump sum cash payment payable on the participant's or beneficiaries' benefit commencement date.

35. (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 on each anniversary 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 such person is the 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 a certificate shall be witnessed by a Justice of the Peace, a notary public, a minister of religion, an attorney licensed to practise law in the Islands, a member of the Legislative Assembly or the Administrator.

(3) If the certificate specified in paragraph (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 question 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.

Made in Cabinet the 17th day of November, 2009.

Kim Bullings

Clerk of the Cabinet

Approved in the Legislative Assembly on the 18th day of November, 2009, in accordance with section 27 of the Parliamentary Pensions Law, 2004.

Zena Merren-Chin

Clerk of the Legislative Assembly.