

**CAYMAN ISLANDS**



# **PUBLIC SERVICE PENSIONS ACT**

**(2021 Revision)**

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**CAYMAN ISLANDS****PUBLIC SERVICE PENSIONS ACT****(2021 Revision)****Arrangement of Sections**

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**CAYMAN ISLANDS****PUBLIC SERVICE PENSIONS ACT**  
**(2021 Revision)****PART I – General****Preliminary****Short title**

1. This Act may be cited as the *Public Service Pensions Act (2021 Revision)*.

**Pension rights to be determined under this Act**

2. On and after the 14th April, 1999, the pension rights of all plan members shall be determined under provisions of the Plan as set out in this Act.

**Definitions**

3. In this Act —

“accounts” mean —

- (a) a plan member contribution account for the benefit of a plan member under the defined benefit part of the Plan;
- (b) a plan member contribution account; and
- (c) an employer contribution account for the benefit of a plan member under the defined contribution part of the Plan;

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

**“accrued benefit”** means —

- (a) in the case of the defined benefit part of the Plan, a plan member’s pension under the Plan expressed in the form of an annual benefit commencing at normal retirement age and based on service and pensionable earnings on the date of determination; and
- (b) in the case of the defined contribution part of the Plan, the sum of the balances in a plan member’s accounts on the date of determination;

**“acting allowance”** means a monthly allowance paid in addition to basic salary for carrying out duties in excess of a plan member’s substantive office relating to an acting appointment;

**“actuary”** means a person who —

- (a) either —
  - (i) has qualified as an actuary by examination of the Institute of Actuaries in England, the Faculty of Actuaries in Scotland, the Societies of Actuaries in the United States of America or the Canadian Institute of Actuaries in Canada and who is a current member in good standing of one of those professional associations; or
  - (ii) holds some other actuarial qualification and who is, in the opinion of the Financial Secretary, suitable for recognition as an actuary for the purposes of this Act; and
- (b) who has been appointed by the Board (subject to the approval of the Auditor General) as the actuary for the Plan;

**“Administrator”** means the employee of the Board responsible for management of the Plan or any other person authorised by the Board to act on behalf of such employee;

**“approved investment”** means an investment listed in Schedule 2;

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

**“basic salary”** means a salaried plan member’s full monthly salary for such plan member’s substantive office, not including plan member contributions, or acting, duty or other allowances;

**“basic wages”** means an hourly-rated plan member’s full monthly wages for such plan member’s substantive office, not including plan member contributions, acting, duty or other allowances;





“**beneficiary**” means any person who is entitled under this Act to receive a pension upon the death of a plan member;

“**benefit commencement date**” means the first day of the first period for which a plan member or a beneficiary is entitled to receive an annuity or other benefit under the Plan;

“**Board**” means the Public Service Pensions Board as established by section 5;

“**Chief Executive Officer**” means the Chief Executive Officer appointed under section 5;

“**child**” means a plan member’s child (including an adopted child who was adopted in a manner recognised by law, an illegitimate child, a posthumous child or a step child) who is either —

- (a) under the age of eighteen;
- (b) under the age of twenty-three and in full-time education; or
- (c) mentally or physically incapable of employment, as certified by the Chief Medical Officer;

“**civil partner**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

“**civil partnership**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

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

“**commutation**” means the optional form of benefit whereby a plan member elects to receive upon retirement, in lieu of that person’s full pension under this Act, an immediate lump sum payment of a portion of the present value of that person’s accrued benefit and a reduced pension equal in value to the remainder of that person’s accrued benefit after deducting the lump sum payment, determined in accordance with rules prescribed by regulations;

“**contracted officer’s supplement**” means the supplement paid to employees of the Government Statutory Authorities and Government companies pursuant to local or overseas contracts;

“**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 13th April, 1999, and at the end of each calendar year up to such date as the Cabinet may for this purpose in writing appoint and —
  - (i) where on or after 14th April, 1999 an account adjustment date is the last day of a calendar year the credited rate of return shall be the average rate of investment return on Fund investments for that calendar year and the two immediately 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;
- (b) with respect to a plan member's contributions made to the Fund under the prior law credited to a plan member's contribution account on the 14th April, 1999 under section 30(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 13th April, 1999, as determined by the Administrator; and
- (c) the rate of investment return to be credited to accounts on account adjustment date, as determined by the Administrator with effect from the first calendar quarter following the 31st day of December, 2018 and at the end of each calendar quarter —
  - (i) where on or after the 31st day of December, 2018 an account adjustment date is the last day of the calendar quarter, the credited rate of return shall be the average for the twelve months immediately preceding that calendar quarter; and
  - (ii) where an account adjustment date does not fall on the last day of a calendar quarter, 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 calendar quarter up to such account adjustment date;

**“deferred benefit”** means a benefit under the Plan payable to a deferred vested plan member at normal retirement age;

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

**“designated beneficiary”** means a person designated by the Plan member under section 19 to receive benefits under section 43, 60, 62, 63 or 65 or any other benefits not specified for payment to a plan member's spouse, civil partner or children or an entity in the event of the plan member's death;

**“director”** means a member of the Board;

**“disability retirement”** means retirement due to permanent disability under section 35 or 52;

**“duty allowance”** means a monthly allowance paid in addition to basic salary for carrying out duties in excess of a plan member's substantive office where an acting allowance cannot be paid;

**“early retirement”** means retirement under section 32 or 50 on or after attaining early retirement age but before attaining normal retirement age;

**“early retirement age”** means



- (a) in relation to an active plan member employed prior to the effective date —
  - (i) any age between ages fifty and fifty-nine inclusive, after the plan member has completed at least ten years of qualifying service; or
  - (ii) any age between ages sixty and sixty-four inclusive;
- (b) in relation to a plan member employed on or after the effective date, any age between ages fifty-five and sixty-four inclusive, after the plan member has completed at least ten years of qualifying service;
- (c) in relation to a person who, on or after the effective date, is a deferred vested plan member or retired plan member and incurs a permitted break in service as prescribed in regulations —
  - (i) any age between ages fifty and fifty-nine inclusive, after the plan member has completed at least ten years of qualifying service; or
  - (ii) any age between ages sixty and sixty-four inclusive; and
- (d) in relation to a person who, on or after the effective date, is a deferred vested plan member or retired plan member and does not incur a permitted break in service as prescribed in regulations, any age between ages fifty-five and sixty-four inclusive, after the plan member has completed ten years of qualifying service;

and, for the purposes of this definition, “effective date” means the date of commencement of the *Public Service Pensions (Amendment) Act, 2016 [Law 22 of 2016]*;

“**employee**” means an employee of an employer;

“**employer**” means —

- (a) the Government; or
- (b) a statutory authority or a Government company (approved by the Cabinet) who has opted to join the Plan;

“**employer contribution account**” means the book-keeping account documenting total employer contributions made on behalf of the plan member under the defined contribution part, or transferred from the defined benefit part under paragraph (b) of section 48(1), plus interest credited in accordance with rules prescribed by regulations;

“**final average pensionable earnings**” mean the sum of —

- (a) a plan member’s final full calendar month’s basic salary or basic wage, as the case may be, prior to death, resignation, retirement or permanent disability;
- (b) the average over a plan member’s final thirty-six consecutive calendar months pensionable service of that person’s acting allowances and duty allowances; except that, for the purposes of this paragraph, if a plan member incurs a break in service or an unpaid leave of absence within such

thirty-six month period and is subsequently re-employed, the period during which that person was not in pensionable service shall be disregarded and the last calendar month of that person's pre-break service and first calendar month of that person's re-employment shall be deemed to be consecutive calendar months; and

- (c) if a plan member is employed as a police officer, that person's final month's housing allowance;

**"former plan member"** means a plan member who —

- (a) terminated employment and remains in the Plan; or  
(b) remains in employment but ceases to accrue benefits prior to being qualified for retirement under the Plan;

**"full-time education"** means attendance as a full-time student at a college, university or other institution of tertiary education;

**"Fund"** means the Public Service Pensions Fund which is a continuation of the Public Service Pensions Fund established under section 5 of the prior law;

**"Government company"** means —

- (a) a company in which the Government has a controlling interest; and  
(b) in respect of each such company, includes all subsidiary entities of the company.

**"Investment Committee"** means the Committee established by the Board pursuant to section 5(2A) and specified in Schedule 1;

**"investment grade"** means a grade given to any security or other obligation by any two or more internationally recognised credit rating agencies to indicate that the security or other obligation is eligible for investment and it has at least an adequate capacity to pay interest and repay principal;

**"investment manager"** means a person or entity who meets the qualifications for an investment manager in accordance with rules prescribed by regulations;

**"investment return"** means the annual earnings on Fund investments, less expenses of the Fund for the same period;

**"late retirement"** means retirement under section 33 or 51 after attaining normal retirement age;

**"member"** means a member of the Board or a committee or sub-committee of the Board;

**"normal retirement"** means retirement under section 31 or 50 upon attaining normal retirement age;

**"normal retirement age"** means the age of sixty-five;

**"Other Public Service"** means Service with a statutory authority or Government company that has opted to join the Plan with the approval of the Board;



**“plan member contribution account”** means —

- (a) in relation to a defined contribution plan member, the book-keeping account documenting total plan member contributions made by a plan member under the Plan, or transferred from an approved plan pursuant to section 49, plus the interest credited in accordance with rules prescribed by regulations; and
- (b) in relation to a defined benefit plan member, the book-keeping account documenting the following —
  - (i) the total plan member contributions made by a plan member under the Plan; and
  - (ii) the plan member account opening balance —
    - (A) established as at 1st January 1990 and representing the benefit accrued from the date of the plan member’s employment in Service or from the date that person reaches the age of 18 while employed in Service (whichever date is later) until 31st December 1989; and
    - (B) specified in a schedule maintained by the Board pursuant to section 6(1)(ha); and
  - (iii) the interest credited in accordance with rules prescribed by regulations.

**“pension”** means the benefit, in the form of an annuity, lump sum or other form of benefit, due and payable to the plan member or the plan member’s beneficiaries under the Plan;

**“pensionable earnings”** means for any full calendar month the sum of —

- (a) basic salary or basic wages, as the case may be;
- (b) acting allowances; and
- (c) duty allowances,

paid to the plan member;

**“pensionable service”** means service which, pursuant to rules prescribed by regulations, shall be taken into account in computing benefits under the defined benefit part of the Plan;

**“permanent disability”** means a disability which is likely to render a plan member incapable by reason of infirmity of mind or body of discharging the duties of that person’s office, which infirmity is certified by the Chief Medical Officer as likely to be permanent;

**“Plan”** means the scheme set up by this Act and regulations which set out the provisions of pension benefits granted to plan members under the general, defined benefit and defined contribution Parts;

“**Plan actuarial tables**” mean actuarial tables used by the Administrator, in consultation with the actuary, in the determination of the amounts of benefits payable under the Plan and in the determination of actuarially equivalent values;

“**plan member**” means an employee in Service, an employee on an approved leave of absence or an employee who has retired or resigned from Service on pensionable terms;

“**prior law**” and “**prior plan**” mean the **repealed** *Pensions Law (1999 Revision)* and subsidiary legislation made thereunder, as in effect on the 13th April, 1999 and the pension scheme thereby established;

“**publicly traded company**” means a company whose stock is traded on —

- (a) a stock exchange in the Islands; or
- (b) any other exchange recognised by internationally recognized credit rating agencies on which securities are traded, if the prices at which the securities have been traded on such market are regularly published in a newspaper or business or financial publication of general or regular paid circulation;

“**Public Service**” means employment by the Government;

“**qualifying service**” means service which, under rules prescribed by regulations, may be taken into account in determining whether a plan member is eligible for early retirement under section 32 or 50 or to minimum pension benefits under section 39;

“**regulations**” mean regulations made under section 4;

“**retired plan member**” means a plan member who is no longer in Service and is receiving pension benefits under this Act;

“**retirement**” means normal, early, late, disability or special retirement from Service as provided under this Act;

“**salary grade**” means —

- (a) for plan members within the Public Service, remuneration bands as defined in the *Public Service Management Act (2018 Revision)*; and
- (b) for plan members within the Other Public Service, the applicable pay grades within the salary structure utilized by the statutory authority or government company;

“**Service**” means Public Service and Other Public Service;

“**special retirement**” means retirement under special circumstances under section 37 or 54; and

“**transfer value**” means the amount a plan member may transfer to that person’s defined contribution accounts from the defined benefit part of the Plan under section 48(2) or the amount a former plan member may transfer to an approved



plan from the defined benefit or defined contribution parts under section 34 or 55.

## Pension Regulations

### Regulations

4. (1) The Cabinet may make regulations —
- (a) to prescribe the particulars which may be prescribed under sections 3, 10, 15, 17, 28, 30, 31, 32, 34, 36, 37, 41, 42, 43, 44, 48, 53, 55, 58, 59, 60, 61, 62 and 63; and
  - (b) such as may be required for the effective implementation of this Act.
- (2) The regulations may, from time to time, be amended, added to or revoked by regulations made by the Cabinet after the Board has considered the financial impact of such amendments on the finances of the Fund.
- (3) If the Cabinet is satisfied that it is equitable that any regulation should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person or class of persons, that regulation may be given retrospective effect for that purpose unless the regulation, as amended, would reduce the benefit of a plan member that has accrued prior to such amendment.

## Public Service Pensions Board

### Public Service Pensions Board

5. (1) There is established the Public Service Pensions Board in which the Fund shall be vested and which shall, subject to this Act, be responsible for administering the Fund.
- (1A) The Board shall consist of directors appointed in accordance with Schedule 1.
- (1B) The directors shall be responsible for the policy and general administration of the affairs and business of the Board.
- (1C) The directors in carrying out their duties under this Act shall also comply with the provisions of the *Public Management and Finance Act (2020 Revision)* and where there is any conflict between the provisions of this Act and the *Public Management and Finance Act (2020 Revision)* the provisions of the latter Act shall prevail to the extent of the inconsistency.
- (2) The Board may employ a person to serve as Administrator, a person to serve as Chief Executive Officer, Public Service Pensions (who may be the same person) and such other additional staff as it deems necessary to administer the Plan.
- (2A) The Board may —
- (a) act by committee or sub-committee; and



- (b) delegate by instrument in writing any of its powers and duties to a committee or sub-committee and to any of their members.
- (3) The constitution and procedure of the Board or of any committee appointed by the Board and the duties of the Chief Executive Officer are set out in Schedule 1.
- (4) 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 shall have the power to hold land.
- (5) Any written 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 Secretary of the Board.
- (6) 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 the resolution of the Board. The sealing of any instrument shall be authenticated by the signature of either the Chairperson or the Deputy Chairperson, and of the Secretary.

### **Powers and duties of Board**

- 6.** (1) The Board shall be responsible for —
- (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 Act;
    - (iii) payments from the Fund necessary for the administration of the Fund;
    - (iv) investment of the Fund in accordance with this Act;
    - (v) accounting for all moneys collected, paid or invested under this Act;
    - (vi) causing a periodic actuarial review of the Fund under section 12; and
    - (vii) the sale of investments as necessary to meet immediate liabilities and needs, and for reinvestment;
  - (b) liaising with the Deputy Governor and statutory authorities regarding collection of data;
  - (c) liaising with the Financial Secretary and statutory authorities regarding contribution payments;
  - (d) accounting and reporting in respect of the Plan, as provided in section 11;
  - (e) **repealed** by section 4 of the *Public Service Pensions (Amendment) Act, 2004 [Law 19 of 2004]*;
  - (f) record keeping, as provided in section 11;





- (g) recommending for approval amendments to the Plan, as provided in section 18;
  - (h) adopting and maintaining a schedule of benefits payable under sections 27(2) and 42(2) with respect to persons who resigned, retired or died prior to the 14th April, 1999; and
  - (ha) adopting and maintaining a schedule setting out the plan member account opening balances relating to defined benefit plan members; and
  - (i) administering such other pension plans or *ex gratia* payments as the Cabinet may direct; except that no assets of the Fund shall be used to pay for any benefit or expense of such other pension plans or *ex gratia* payments unless the Government prepaid such amounts.
- (1A) Without prejudice to the generality of subsection (1), in accordance with section 12, the Board shall be responsible for recommending to the Cabinet contribution rates payable under the Plan from time to time.
- (1B) The Board shall be responsible for the oversight and monitoring of the Administrator, the Investment Committee and any other committees or sub-committees appointed by the Board in accordance with section 5; and when exercising its fiduciary responsibility the Board shall act in the best interests of the plan members and beneficiaries of the Fund.
- (2) In the performance of its duties under this Act, the Board may take such professional advice as it considers appropriate and pay for it out of the Fund.
- (3) No director, member of a committee or sub-committee of the Board 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 Plan assets**

7. 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**

8. A pension provided under this Act shall be calculated by the Administrator based on Plan actuarial tables and in accordance with the provisions of the Plan in effect on the date of a plan member's resignation, death, permanent disability or retirement except as provided in sections 22, 27(2) and 42(2).

### **Correction of mistakes in administering pensions**

9. 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 plan members**

- 10.** The Board shall provide in writing to each plan member 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 plan member; and
  - (f) any other information prescribed by regulations.

**Accounts, book-keeping and reporting**

- 11.** (1) The financial statements of the Board shall be prepared and maintained in accordance with the standards prescribed for this purpose by the Financial Secretary.
- (2) Within the period of three months after the 30th June in 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 examine and audit the financial statements and shall certify the financial statements subject to such report, if any, as that Auditor General may think 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 certified financial statements together with that Auditor General's report, if any.
- (5) Within thirty days after receipt from the Auditor General of the certified financial statements and that Auditor General's 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 financial statements relate, which report shall include a copy of the certified financial statements and of the Auditor General's report, if any.
- (6) The report of the Board together with a copy of the certified financial statements and the Auditor General's report, if any, shall be laid by the Financial Secretary on the table of the Cayman Islands Parliament for twenty-one days as soon as practicable after that Financial Secretary receives it, and such report of the Board shall be gazetted.



**Actuarial valuation and contribution rates**

- 12.** (1) On the coming into force of this Act, 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 —
- (a) to determine whether it remains capable of meeting its liabilities for the following period of at least forty years 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 reinstate that capability; 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 the 1st January, 1999.
- (2) The review shall be carried out by the actuary using reasonable actuarial assumptions 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.
- (3A) After receiving a report under subsection (3) the Financial Secretary shall submit the report to the Cabinet and the Cabinet 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.
- (3B) Where an actuarial valuation carried out by the Cabinet under subsection (3A) (b) corroborates the report submitted by the Board the Cabinet shall, no later than six months after receiving the valuation approve, by regulations, the rates recommended by the Board under subsection (3).
- (4) The Financial Secretary shall, immediately after an actuarial report is accepted or corroborated, lay the report on the table of the Cayman Islands Parliament 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.

## Funding and Investments

### Continuation of Public Service Pensions Fund

- 13.** The Public Service Pensions Fund established under the prior law shall be continued under this Act.

### Payments into Fund

- 14.** There shall be paid into the Fund —
- (a) all plan member and employer contributions;
  - (b) all assets transferred from an approved plan on behalf of a defined contribution plan member under section 49;
  - (c) all rent, interest, dividends, income and other sums derived from the assets of the Fund;
  - (d) such other sums as may legally be provided by an employer; and
  - (e) such other sums as may be received and accepted by the Board on behalf of the Fund.

### Disbursements from Fund

- 15.** (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;
  - (c) upon the direction of the Administrator, payment under section 34 or 35 of the plan member's transfer value to an approved plan; and
  - (d) *ex gratia* pensions granted on and after the 14th April, 1999, subject to the Government's pre-payment into the Fund of amounts necessary to pay such *ex gratia* pensions.
- (2) No payments shall be made out of the Fund unless authorised by or under this Act.
- (3) The Cabinet may, by regulations, prescribe the persons to whom, and the circumstances in which, *ex gratia* pensions may be granted under subsection (1)(d) and such regulations may have retrospective effect.

### Fund investments

- 16.** (1) The Fund shall be invested by the Board in a manner consistent with —
- (a) best-practice portfolio management;
  - (b) the Board's duty to avoid undue risk of loss or impairment pursuant to subsection (3);



- (c) the Board's duties of care, diligence and skill pursuant to subsection (4); and
  - (d) the investment policies and procedures formulated in accordance with subsection (5).
- (2) The Board may appoint one or more investment managers to whom the Board may delegate any or all of its investment duties hereunder.
- (3) The Board shall invest the Fund in such a manner to ensure that there is no undue risk of loss or impairment to the Fund, including by ensuring diversification of the investments of the Fund, and pursuant to the advice of the Investment Committee and any investment managers appointed by the Board under subsection (2).
- (4) The Board shall exercise the care, diligence and skill in the investment of the Fund that persons of ordinary prudence would exercise in dealing with the property of another.
- (5) The Board shall establish, maintain and adhere to investment policies and procedures that are consistent with its duties under subsections (1), (3) and (4) and that covers, among any other relevant issues —
  - (a) the classes of investments in which the Fund is to be invested and the selection criteria for investments within those classes;
  - (b) the determination of benchmarks or standards against which the performance of the Fund as a whole, classes of investments and individual investments will be assessed;
  - (c) standards for reporting the investment performance of the Fund;
  - (d) the balance between risk and return in the overall Fund portfolio;
  - (e) the fund management structure;
  - (f) the use of options, futures and other derivative financial instruments;
  - (g) the investment in private equity funds, hedge funds and funds that invest in infrastructure;
  - (h) the management of credit, liquidity, operational, currency, market and other financial risks;
  - (i) the retention, exercise or delegation of voting rights acquired through investments;
  - (j) the method of, and basis for, valuation of investments that are not regularly traded at a public exchange; and
  - (k) the prohibition, restriction, constraint or limit on any investment.

**Contributions to Fund**

17. (1) Plan members shall contribute to the Fund at the rate prescribed by regulations, and in default of such prescription, at the rate of six per cent of their pensionable earnings.
- (2) (a) Employers (including statutory authorities and Government companies to which a plan member has been seconded or employed) shall contribute to the Fund the amount prescribed by the Board under section 6.
- (b) When an active plan member is transferred to a non-participating Statutory Authority or Government company, the non-participating Statutory Authority or Government company may opt, with the approval of the Cabinet, to join the Plan and shall, for the purpose of paying the employer contribution for such active plan member, be deemed a participating Statutory Authority or Government company .
- (3) A plan member's contribution shall be deducted each pay period by the Government (or by an employing Government company with which a plan member has been seconded or employed) from such plan member's pensionable earnings and paid by the Accountant General into the Fund on a monthly basis or, in the case of deductions made by an employing statutory authority, such deductions shall be paid to the Administrator on a monthly basis for payment into the Fund and such deductions shall be sent to the Administrator no later than the 15th day of the month immediately following the date when the deductions are due.
- (4) Any plan member contributions which are credited pursuant to this Act to a plan member's account shall be credited to that person's account on the date such contributions are received by the Administrator.
- (5) The Government's contribution in respect of a contributing plan member's Public 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 plan member's contribution into the Fund under subsection (3).
- (6) A statutory authority's or a Government company's contribution in respect of a contributing plan member's Other Public Service shall be paid to the Administrator for payment into the Fund at the same time the statutory authority or Government company pays the plan member's contribution to the Administrator under subsection (3).
- (7) Subject to the provisions, every plan member shall cease to contribute to the Fund on the day on which that person ceases to be employed in the Service.
- (8) Contributions shall be assessed, and deductions shall be made, based on the pensionable earnings paid to a plan member for the period for which the



contributions and deductions relate, whether or not that person may have, for any reason, been entitled to additional payments for that period.

## **Miscellaneous**

### **Plan amendments: financial impact**

- 18.** The Board shall determine the financial impact of all amendments to this Act and regulations and shall advise the Cabinet of its findings prior to such amendment being considered by the Cabinet or laid before the Cayman Islands Parliament.

### **Designation of beneficiary**

- 19.** (1) Each plan member shall be given the opportunity to designate a beneficiary or beneficiaries who shall be entitled to receive benefits under section 43, 60, 62, 63 or 65 and regulations in the event of the plan member's death.
- (2) A plan member shall be permitted to change a beneficiary designated under subsection (1) at any time prior to that plan member's death.
- (3) In the event that a plan member dies without designating a beneficiary, or if no designated beneficiary survives the plan member, any benefit that would have been payable to the plan member's designated beneficiary under this Act and regulations shall be paid to the plan member's estate.

### **Payment and administration of children's pensions**

- 20.** In all cases of a child's pensions provided under this Act, the whole or any part of such pension may be paid, at the discretion of the Administrator, either to the mother, father, the legal guardian of such child, the child directly (if that person is over the age of eighteen) or to such other person or persons as the Administrator may, in that person's 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 a child's pension**

- 21.** Any pension payable to a child under section 42, 44, 59 or 61 shall cease upon the latest to occur of —
- (a) the child's attainment of the age of eighteen;
  - (b) if the child is in full-time education on that person's eighteenth birthday, the first to occur of —
    - (i) the child's attainment of the age of twenty-three; or
    - (ii) the child's cessation of full-time education; or

- (c) if the child is mentally or physically incapable of employment, as certified by the Chief Medical Officer, on that person's eighteenth birthday, the date on which the child is capable of employment.

### **Inflation protection**

- 22.** (1) Notwithstanding any other provisions of this Act, pensions in payment shall be adjusted for inflation on an annual basis as of the first day of each calendar year as follows —
- (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 Cabinet shall approve, any increases in pension benefits in excess of 9.8%.

### **Participation upon re-employment after retirement**

- 23.** (1) Subject to subsection (2), a retired plan member who is receiving a pension and who is subsequently re-employed in Service shall elect —
- (a) to have payments under that pension suspended and to be eligible, during the period of re-employment, to make contributions and accrue further benefits in a separate account under the defined contribution part of the Plan; or
  - (b) to continue to receive that pension without interruption upon re-employment and to be ineligible to make contributions or accrue further benefits under the Plan.
- (2) A retired plan member who is receiving a pension and who is subsequently re-employed in Service or receives a contract renewal at the same salary grade or higher before attaining normal retirement age, is deemed to have payments under that pension suspended and to be eligible, during the period of re-employment, to make contributions and accrue further benefits in a separate account under the defined contribution part of the Plan.





- (3) Where a plan member who is eligible for early retirement opts for phased retirement by retiring and being subsequently re-employed in Service in a position on a lower salary grade or in a part time capacity, the plan member is eligible to receive a pension without interruption and is ineligible to make contributions or accrue further benefits under the Plan.

### **Plan member rights**

- 24.** (1) No plan member shall lose that person's right to a pension under this Act because that person is —
- (a) adjudicated bankrupt or declared insolvent by a competent Court; or
  - (b) sentenced to a term of imprisonment by a competent Court for any offence.
- (2) A pension granted under this Act 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 paragraph (a)(i) and (ii) of section 25.

### **Pensions not to be assignable**

- 25.** (1) A pension provided under this Act shall not be —
- (a) transferable or assignable by a plan member or beneficiary, except for the purpose of satisfying —
    - (i) a debt due to the Government; or
    - (ii) an order of a Court for the payment of periodical sums of money towards the maintenance of the spouse, civil partner, former spouse, former civil partner or minor child of the plan member to whom the pension has been granted; or
  - (b) subject to, or available to, the creditors of a plan member prior to payment thereof.
- (2) A pension provided under this Act shall not be transferable or assignable by the Administrator, except for the purpose of satisfying —
- (a) a debt due to the Government, a statutory authority or a Government company, where there is no dispute as to the debt or the amount of any deduction from a pension to satisfy that debt; or
  - (b) an order of a court for the payment of periodical sums of money towards the maintenance of the spouse, civil partner, former spouse, former civil partner or minor child of the Plan member to whom the pension has been granted.
- (3) Where there is a dispute, a party to the dispute may submit the dispute to binding arbitration under the *Arbitration Act, 2012 [Law 3 of 2012]*.

**Non-resident non-Caymanians**

- 26.** (1) Notwithstanding any provision to the contrary, a retired or deferred vested plan member who became a plan member before the date of the commencement of the *Public Service Pensions (Amendment) Act, 2019 [Law 23 of 2019]*, who —
- (a) is not the holder of Caymanian status as defined in section 26 of the *Immigration (Transition) Act (2021 Revision)*; and
  - (b) ceases to reside in the Islands,
- may, upon such cessation in residency, elect to receive the present value of the remainder of that person's accrued benefit (actuarially adjusted to take into account any benefits already paid to the plan member pursuant to any of the other forms of benefit available to the plan member or due to any prior distribution) in a single lump sum cash payment payable within one month after the plan member so ceases to be resident in the Islands.
- (1A) For the purposes of subsection (1)(b), a person shall be considered to have ceased to be resident in the Islands when that person no longer has a legal right to reside in the Islands and has been absent from the Islands for a period of not less than two months; and, in calculating a period of absence, no account shall be taken of a period of stay in the Islands, as a visitor or transit passenger, for a continuous period of three weeks or less.
- (1B) Notwithstanding any provision to the contrary, a retired or deferred vested plan member who became a plan member after the date of the commencement of the *Public Service Pensions (Amendment) Act, 2019 [Law 23 of 2019]*, who —
- (a) is not the holder of Caymanian status as defined in section 26 of the *Immigration (Transition) Act (2021 Revision)*; and
  - (b) ceases to reside in the Islands,
- may, upon such cessation in residency, elect to receive the present value of the remainder of that person's accrued benefit (actuarially adjusted to take into account any benefits already paid to the plan member pursuant to any of the other forms of benefit available to the plan member or due to any prior distribution) in a single lump sum cash payment payable within one month after the plan member so ceases to be resident in the Islands.
- (1C) For the purposes of subsection (1B)(b), a person shall be considered to have ceased to be resident in the Islands when the person no longer has a legal right to reside in the Islands and has been absent from the Islands for a period of two years or more; and, in calculating a period of absence, no account shall be taken of a period of stay in the Islands, as a visitor or transit passenger, for a continuous period of three weeks or less.
- (1D) The provisions of subsections (1) to (1C) shall not apply until 1st January 2020 and the provisions of the principal Act which are in force immediately prior to 8th August, 2019, the date of the commencement of the *Public Service Pensions*



*(Amendment) Act, 2019 [Law 23 of 2019]*, shall continue in force until such commencement

- (2) The Administrator shall exempt from the coverage of the Plan any non-resident of the Islands who is not the holder of Caymanian status as defined in section 2 of the *Immigration (Transition) Act (2021 Revision)* if the non-resident, non-Caymanian requests such exemption and can demonstrate to the satisfaction of the Administrator that that person is a current plan member in another pension plan.
- (3) An employee who is entitled to a contracted officer's supplement shall not be entitled to coverage of the Plan and the Administrator shall exempt such an employee from the coverage of the Plan.

## PART II - Defined Benefits

### Applicability and Eligibility

#### Applicability

27. (1) This Part shall apply to all defined benefit plan members.

(2) Any employee —

- (a) who retired or resigned from Service prior to 14th April, 1999, the date of commencement of the *Public Service Pensions Act, 1999 [Law 6 of 1999]*, and who was entitled to receive pension benefits under the prior law; or
- (b) who was employed in the Service after 1 January 1940 for a continuous period of ten years or more in a pensionable post and who resigned from Service on or before 31 December 1982 and who was not entitled to receive pension benefits;

shall be entitled to receive pension benefits under this Act, pursuant to a schedule of benefits adopted and maintained by the Board pursuant to section 6(1)(h) and

- (i) in the case of an employee specified in paragraph (a), such pension benefits shall in no event be less than the benefits that would have been accrued or payable on the day immediately prior to 14th April, 1999, the date of commencement of the *Public Service Pensions Act, 1999 [Law 6 of 1999]*; and
- (ii) in the case of the plan members specified in paragraphs (a) and (b), such pension benefits shall in no event be less than the minimum pension set out in section 39 or less than the minimum *ex-gratia* pension payable under the *Public Service Pensions (Ex-gratia Pensions) Regulations (2019 Revision)*, whichever is the greater.

**Defined benefit eligibility**

- 28.** (1) An active plan member under the prior plan on the 13th April, 1999 shall become an active defined benefit plan member under this Plan on the 14th April, 1999 and the plan member shall be entitled to benefits under this Plan which shall not be lesser in value than the benefits that person would have been entitled to under the prior plan on the 13th April, 1999.
- (2) An employee in the Service who does not fall within either paragraph (a) or (b) of section 27(2) shall be ineligible to participate in the defined benefit part of this Plan.
- (3) An active defined benefit plan member who transfers from Service to a non-participating statutory authority or Government company may, with the approval of the Board and the employing statutory authority, continue as an active defined benefit plan member.
- (4) An active defined benefit plan member who incurs a permitted break in service (as prescribed in regulations) may continue as an active defined benefit plan member upon that person's return to Service.

**Option to transfer to defined contribution part**

- 29.** (1) An active defined benefit plan member may transfer that person's participation from the defined benefit part to the defined contribution part of the Plan.
- (2) A plan member who transfers to the defined contribution part shall not accrue or receive benefits under the defined benefit part, but shall, from the date of transfer, be governed by the provisions of the defined contribution part of the Plan.

**Accounts****Plan member contribution account**

- 30.** (1) The Administrator shall maintain on the books of the Fund for each plan member who is an active defined benefit plan member, and for each retired and deferred vested plan member of the prior plan who made contributions under the prior law and who is entitled to a scheduled benefit under the Plan under section 27(2), and for any beneficiary of a deceased defined benefit plan member, for so long as the Plan maintains an obligation to pay to or on behalf of such plan member or beneficiary a benefit under this Act, a plan member contribution account.
- (2) The Administrator shall determine a plan member contribution account balance as at the 31st December, 1997 for each plan member described in subsection (1) who made contributions under the prior law. The plan member contribution account balance shall include all plan member contributions made to the Fund



by the plan member under the prior law, plus interest credited in accordance with rules prescribed by regulations, minus distributions, if any, made to or on behalf of the plan member prior to the 14th April, 1999 which were attributable to the plan member contributions.

- (3) The Administrator shall make adjustments to each plan member contribution account balance at such times and in such manner as prescribed by regulations.

## **Retirement Benefits**

### **Normal retirement**

31. Upon the attainment of normal retirement age, an active defined benefit plan member shall be entitled to receive an immediate pension equal to that person's normal retirement benefit under this defined benefit part, as determined pursuant to rules prescribed by regulations, based on the plan member's pensionable service and final average pensionable earnings at normal retirement age.

### **Early retirement**

32. Upon the attainment of early retirement age, an active defined benefit plan member shall be eligible to retire from Service with an immediate pension equal to that person's early retirement benefit under this defined benefit part, as determined pursuant to rules prescribed by regulations, based on the plan member's age, pensionable service and final average pensionable earnings at that person's actual date of retirement.

### **Late retirement**

33. An active defined benefit plan member who continues employment with an employer after attaining normal retirement age shall be deemed to have retired from Service on the date that person attained normal retirement age and to have been re-employed in Service the following day, and section 23 shall apply to any such plan member.

### **Resignation from Service prior to retirement**

34. (1) An active defined benefit plan member who resigns from Service prior to becoming eligible for retirement under this Act may, at any time after that person's resignation date, elect either to leave that person's accrued benefit in the Fund until that person becomes eligible for retirement (in which case that person's plan member contribution account will continue to be credited with interest in accordance with rules prescribed by regulations) or to have the Board transfer to an approved plan, subject to the limitations prescribed in subsection (2), an amount equal to the greater of —
  - (a) the plan member contribution account balance of a plan member; or
  - (b) the actuarial equivalent present value of the former plan member's accrued benefit on the date of resignation (determined by reference to Plan

actuarial tables and based on pensionable service and final pensionable earnings on the date of resignation).

- (2) Notwithstanding paragraph (b) of subsection (1), the maximum amount that may be transferred by a plan member to an approved plan under subsection (1) shall be prescribed from time to time by the Board. In the event that the amount determined under subsection (1) in the aggregate exceeds the permissible maximum by more than five thousand dollars, the excess of the amount determined under subsection (1) shall remain in the Fund in the plan member's employer contribution account and the plan member shall have the rights of a deferred vested plan member with respect to such account balance. Where the excess amount does not exceed five thousand dollars, the amount determined under subsection (1) shall be transferred to the approved plan.

### **Disability retirement**

- 35.** (1) An active or a deferred vested defined benefit plan member who becomes permanently disabled shall be eligible to retire from Service with an immediate pension, effective on the date of that person's permanent disability, if that person's permanent disability is certified by the Chief Medical Officer.
- (2) Where a plan member 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 is re-appointed to that person's prior office or appointed to an office in Service which the Administrator determines to be similar, the payment of that person's pension shall be suspended until the earlier of —
- (a) the plan member's attainment of normal retirement age; or
  - (b) the later to occur of the plan member's subsequent termination from Service or attainment of early retirement age.
- (3) A plan member whose pension is suspended under subsection (2) shall become an active defined contribution plan member on the date of that person's re-employment.
- (4) Where a plan member to whom a pension is being provided under this section (or to whom a medical pension was granted under the prior law) is re-appointed to an office in Service which the Administrator determines to be dissimilar to the office that person held immediately prior to the onset of permanent disability, section 23 shall apply to the plan member.

### **Disability benefit**

- 36.** (1) The pension payable under section 35 shall be determined in the same manner as the plan member's normal retirement benefit, except that that person's pensionable service and final average pensionable earnings shall be determined on that person's actual date of disability retirement.



- (2) If an active defined benefit plan member is permanently disabled due to injuries incurred —
- (a) whilst in the actual discharge of that person's duty; and
  - (b) without that person's own default,
- and as a result of the injury the plan member is eligible for disability retirement under section 35 and retires under that section, the plan member shall be provided with an additional pension determined in accordance with regulations.

### **Retirement under special circumstances**

- 37.** (1) An active defined benefit plan member shall be eligible to retire from Service with an immediate pension equal to the actuarial equivalent of that person's normal retirement benefit under this Part, as determined pursuant to regulations and with reference to Plan actuarial tables, based on the plan member's age, pensionable service and final average pensionable earnings on that person's actual special retirement date, upon —
- (a) the abolition of the plan member's office; or
  - (b) the plan member's removal from office for the purpose of facilitating improvement in the organisation of the department to which the plan member belongs.
- (2) The Cabinet may determine that a plan member who retires due to special circumstances may, in addition to the pension provided in subsection (1), be provided an *ex gratia* pension. In that event, as required by paragraph (d) of section 15, the Government shall make a pre-payment to the Fund of an amount equal to the actuarial value of the *ex gratia* pension commitments as agreed between the Board and the Government based on the recommendation of the actuary which shall take into account any related death or inflation protection obligations.

### **Maximum pensions**

- 38.** (1) No pension provided under the defined benefit part of this Act to a plan member shall, prior to commutation, exceed a monthly amount equal to two-thirds of the highest pensionable earnings drawn by that person during any full calendar month of that person's Service, except as provided in section 39.
- (2) No pension provided under the defined benefit part of this Act to a plan member who has been granted a pension in respect of Other Public Service shall, prior to commutation, exceed, when added to the amount of any such pension or pensions drawn in respect of Other Public Service, a monthly amount equal to two-thirds of the highest pensionable earnings drawn by that person during any full calendar month of that person's Service, except as provided in section 39.
- (3) For purposes of subsections (1) and (2), an additional pension benefit provided under section 36(2) in respect of an injury occurring in the actual discharge of a

plan member's duties shall not be taken into account; but where a defined benefit plan member is provided such an additional pension under this Act, the monthly amount thereof together with the remainder of that person's monthly pension or pensions shall not, prior to commutation, exceed five-sixths of that person's highest pensionable earnings during any full calendar month of that person's Service.

- (4) Where a plan member —
- (a) is fifty-five years of age or older but less than sixty-five years of age; and
  - (b) the plan member has attained the maximum pension eligibility under this Act,

the pension benefits accrued to that person at the date that person achieved such pension eligibility shall be determined and frozen and the plan member shall be enrolled on that date in the defined contribution plan.

- (5) A plan member enrolled in the defined contribution plan pursuant to subsection (4) shall contribute to the plan until that person reaches normal retirement age or until that person ceases to be employed, whichever is earlier.
- (6) Where a plan member reaches normal retirement age or that person ceases to be employed that person shall be paid both —
- (a) the pension benefits accrued under the defined pensions benefit plan which have been frozen pursuant to this section; and
  - (b) the pension benefits, if any, accrued under the defined contribution plan.
- (7) A plan member who —
- (a) reaches normal retirement age, is receiving a pension and continues to be employed in Service; or
  - (b) reaches normal retirement age, retired from the Service, is receiving a pension and is subsequently re-employed in Service,

shall receive that person's pension without interruption but shall be ineligible to make contributions or to accrue benefits under the Plan.

### **Minimum pension payments**

39. (1) Notwithstanding any provision of this Act to the contrary, no pension provided under Part II and payable to a plan member with ten or more years of qualifying service shall result in monthly payments, after commutation, of less than four hundred dollars except that such minimum pension payments shall not apply to benefits payable to a surviving spouse, civil partner or child upon the death of the plan member.
- (2) The aggregate amount of pension payments under this Act made to or on behalf of any defined benefit plan member shall in no event be less than an amount equal to that person's plan member contribution account balance at the time of





retirement or death. Where the total amount of pension paid to or on behalf of a defined benefit plan member is less than that person's plan member contribution account balance on the date of the plan member's death or the death of the plan member's last surviving beneficiary, the difference shall be paid in cash to the plan member's or beneficiary's estate.

### **Vesting**

- 40.** The accrued benefit of a defined benefit plan member shall, at all times, be fully vested and shall not be subject to forfeiture for any reason, except that where the pension or a part of the pension is transferred or assigned under section 25(1)(a)(i) the accrued benefit shall not vest.

### **Forms of benefit and methods of payment**

- 41.** The pension payable to or on behalf of a retired, deferred vested or deceased defined benefit plan member under this Act shall be paid in accordance with the forms of benefit and methods of payment as elected by such plan member pursuant to regulations.

## **Death Benefits**

### **Pensions payable to surviving spouse, civil partner and children**

- 42.** (1) Upon the death of an active, retired or deferred vested defined benefit plan member there shall be paid to the plan member's surviving spouse, civil partner and children, if any, a pension determined in accordance with regulations.
- (2) Where a plan member of the prior plan died before the 14th April, 1999, the pension, if any, payable to the deceased plan member's beneficiaries under this Act shall be as set out in a schedule of benefits adopted and maintained by the Board under paragraph (h) of section 6(1).

### **In-service death benefit**

- 43.** (1) If an active defined benefit plan member dies in Service, upon that person's death there shall be paid to the deceased plan member's designated beneficiary an amount equal to the excess, if any, of the greater of —
- (a) twelve times the plan member's final average pensionable earnings, determined as at the date of that person's death; or
  - (b) the plan member's contribution account balance determined as at the date of that person's death,
- over the actuarially equivalent present value determined by reference to Plan actuarial tables of the benefits, if any, payable to the plan member's beneficiaries in accordance with section 42 and regulations.

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

### **Pensions to beneficiaries where a plan member is killed on duty**

- 44.** Where an active defined benefit plan member dies while in Service as a result of injuries received —
- (a) whilst in the actual discharge of that person's duty; and
  - (b) without that person's own default,
- in addition to any benefit payable to the deceased plan member's designated beneficiaries or estate under section 43, there shall be paid to the plan member's beneficiaries, if any, a pension determined in accordance with regulations.

## **PART III - Defined Contributions**

### **Applicability and Eligibility**

#### **Applicability**

- 45.** This Part shall apply to all defined contribution plan members.

#### **Defined contribution eligibility**

- 46.** An employee who is not participating in the defined benefit part shall, unless exempted pursuant to section 26(2) or 26(3), become an active defined contribution plan member —
- (a) on or after 1 January, 2000;
  - (b) on the first day of the month next following the date on which the employee attains the age of eighteen; or
  - (c) on the date that person is first employed in Service,
- whichever date is latest.

#### **No transfers to defined benefit part**

- 47.** No transfers of participation will be permitted from the defined contribution part to the defined benefit part of the Plan.



## Accounts

### Maintenance of accounts

- 48.** (1) The Administrator shall maintain on the books of the Fund for each active, deferred vested and retired defined contribution plan member (and each former defined benefit plan member who, under section 34(2), has the rights of a deferred vested defined contribution plan member with respect to the portion of that person's deferred vested benefit which remains in the Fund), and for any beneficiary of a deceased defined contribution plan member, for so long as the Plan maintains an obligation to pay to or on behalf of the plan member or beneficiary a benefit under this Act —
- (a) a plan member contribution account;
  - (b) an employer contribution account; and
  - (c) such other accounts and sub-accounts which the Administrator may, from time to time, deem appropriate.
- (2) The Administrator shall determine for each active defined benefit plan member who elects to transfer to the defined contribution part from the defined benefit part under section 29 a plan member contribution account balance and, based on Plan actuarial tables, an employer contribution account balance on the date of transfer.
- (3) The plan member contribution account balance for each such plan member shall equal the sum of the contributions made by the plan member up to the date of transfer plus interest credited in accordance with regulations.
- (4) The employer contribution account balance for each such plan member shall equal the excess, if any, of the actuarial equivalent present value of the plan member's accrued benefit under the defined benefit part on the date of transfer (determined by reference to Plan actuarial tables and based on pensionable service and final pensionable earnings on such date) over an amount equal to the value of that person's plan member contribution account balance on that date.
- (5) The Administrator shall make adjustments to the account balances of a defined contribution plan member's accounts at such times and in such manner as prescribed by regulations.

### Transfer of assets into Fund from an approved plan

- 49.** An active defined contribution plan member may elect at any time to have any assets which are or were held in an approved plan on that person's behalf transferred to the Fund and credited to that person's plan member contribution account.

## **Retirement Benefits**

### **Accrued benefit payable upon retirement**

- 50.** Upon retirement from Service at any time after attaining early retirement age, an active defined contribution plan member shall be entitled to receive that person's accrued benefit determined on that person's benefit commencement date, which shall not be later than that person's normal retirement age, and distributed in accordance with section 58.

### **Late retirement**

- 51.** An active defined contribution plan member who continues employment with an employer after attaining normal retirement age shall be deemed to have retired from Service on the date that person attained normal retirement age and to have been re-employed in Service the following day, and section 23 shall apply to any such plan member.

### **Disability retirement**

- 52.** (1) An active or a deferred vested defined contribution plan member who becomes permanently disabled shall be eligible to retire from Service with an immediate pension, effective on the date of that person's permanent disability, provided such permanent disability is certified by the Chief Medical Officer, and shall be entitled to receive —
- (a) his accrued benefit determined on that person's benefit commencement date distributed in accordance with section 58; and
  - (b) an amount equal to the excess, if any, of twelve times such plan member's final average pensionable earnings determined on the date of that person's retirement over the actuarially equivalent present value of the plan member's accrued benefit, payable to the plan member as a lump sum.
- (2) Where a plan member to whom a pension is being provided under subsection (1) is found by the Chief Medical Officer to be no longer disabled or is re-appointed to that person's prior office or appointed to an office in Service which the Administrator determines to be similar, the payment of that person's pension shall be suspended until the earlier of —
- (a) the plan member's attainment of normal retirement age; or
  - (b) the later to occur of the plan member's subsequent termination from Service or attainment of early retirement age.
- (3) A plan member whose pension is suspended under subsection (2) shall resume active participation in the defined contribution part on the date of that person's re-employment.
- (4) Where a plan member to whom a pension is being provided under this section is re-appointed to an office in Service which the Administrator determines to be



dissimilar to the office that person held immediately prior to the onset of permanent disability, section 23 shall apply to the plan member.

### **Disability benefit**

- 53.** (1) A pension payable to a plan member under section 52 shall be determined in the same manner as if the plan member had retired in accordance with section 50.
- (2) If an active defined contribution plan member is permanently disabled due to injuries incurred —
- (a) whilst in the actual discharge of that person's duty; and
  - (b) without that person's own default,
- and as a result of those injuries that person is eligible for disability retirement under section 52 and retires under that section, that person shall be provided with an additional pension determined in accordance with rules prescribed by regulations.

### **Retirement under special circumstances**

- 54.** (1) Upon the occurrence of any of the circumstances described in section 37(1), an active defined contribution plan member shall be eligible to retire from Service with an immediate pension equal to that person's accrued benefit determined on that person's benefit commencement date and distributed in accordance with section 58.
- (2) The Governor may determine that a plan member who retires due to special circumstances may, in addition to the pension provided in subsection (1), be provided an *ex gratia* pension.

### **Resignation from Service prior to retirement**

- 55.** (1) An active defined contribution plan member who resigns from Service prior to becoming eligible for retirement under this Act may, at any time after that person's resignation date, elect either to leave that person's accrued benefit in the Fund until that person becomes eligible for retirement (in which case such plan member'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 plan member's plan member contribution account balance; and
  - (b) the plan member's employer contribution account balance, subject to the limitations prescribed in subsections (2) and (3).
- (2) Notwithstanding paragraph (b) of subsection (1), the maximum amount that may be transferred by a plan member to an approved plan under subsection (1) shall be prescribed from time to time by the Board. If the amount determined under subsection (1) in the aggregate exceeds the permissible maximum by more than five thousand dollars, the excess of the amount determined under

subsection (1) shall remain in the Fund in the plan member's employer contribution account and the plan member shall have the rights of a deferred vested plan member with respect to the account balance. If the excess amount does not exceed five thousand dollars, the amount determined under subsection (1) shall be transferred to the approved plan.

- (3) Notwithstanding subsection (2), the Board may further limit the amount, if any, in excess of the amount determined under paragraph (a) of subsection (1) 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 plan member who does not make the election described in subsection (1) shall be deemed to have elected to leave that person's accrued benefit in the Fund until that person becomes eligible for retirement (in which case such plan member's accounts will continue to earn interest credited in accordance with regulations).

### **Vesting**

- 56.** The accrued benefit of a defined contribution plan member shall, at all times, be fully vested and shall not be subject to forfeiture for any reason, except that where the pension or a part of the pension is transferred or assigned under section 25(1)(a)(i) the accrued benefit shall not vest.

### **Distribution of plan member contribution account balance**

- 57.** The aggregate amount of benefit payments under this Act made to or on behalf of any defined contribution plan member or beneficiary of a plan member shall not be less than an amount equal to the plan member contribution account balance of the plan member at the time of the first to occur of retirement or death. In the event that the total amount of benefits paid to or on behalf of a defined contribution plan member is less than the plan member contribution account balance on the date of the plan member's death, the remaining balance shall be paid in cash to the plan member's or beneficiary's estate.

### **Forms of benefit and methods of payment**

- 58.** Except as otherwise specifically provided in this Act, the accrued benefits payable to or on behalf of a retired, deferred vested or deceased defined contribution plan member under this Act shall be paid in accordance with the forms of benefit and methods of payment as elected by such plan member pursuant to regulations.



## **Death Benefits**

### **Pensions payable to surviving spouse, civil partner and children**

- 59.** Upon the death of an active or deferred vested defined contribution plan member there shall be paid to the plan member's surviving spouse, civil partner and children, if any, a pension determined in accordance with the rules prescribed by regulations.

### **In-service death benefit**

- 60.** If an active defined contribution plan member dies in Service, upon that person's death there shall be paid to the deceased plan member's designated beneficiary an amount equal to the excess, if any, of twelve times the plan member's final average pensionable earnings determined on the date of that person's death over the actuarially equivalent present value determined by reference to Plan actuarial tables of the benefits, if any, payable to the plan member's beneficiaries in accordance with section 59 and rules prescribed by regulations.

### **Pensions to beneficiaries where a plan member is killed on duty**

- 61.** Where an active defined contribution plan member dies while in Service as a result of injuries received —
- (a) whilst in the actual discharge of that person's duty; and
  - (b) without that person's own default,
- in addition to any benefit payable to the deceased plan member's designated beneficiaries or estate under section 60, there shall be paid to the plan member's beneficiaries, if any, a pension determined in accordance with regulations.

### **Death after resignation but prior to benefit commencement date**

- 62.** Upon the death of a deferred vested defined contribution plan member prior to the plan member's benefit commencement date, the deceased deferred vested plan member's designated beneficiary shall be entitled to receive an immediate lump sum cash payment equal to the excess, if any, of the plan member's accrued benefit determined on the date of that person's death, less any prior distributions, over the actuarially equivalent present value determined by reference to Plan actuarial tables of the benefits, if any, payable to such plan member's beneficiaries in accordance with section 59 and regulations.

### **Death after benefit commencement date**

- 63.** Upon the death of a retired defined contribution plan member after the plan member's benefit commencement date, the designated beneficiary of the plan member shall be entitled to receive such benefit as is provided under the distribution form elected by the plan member under section 58 or as may be prescribed by regulations.

**Benefit paid to estate if no surviving designated beneficiaries**

64. If a deceased plan member has failed to designate a beneficiary, or if that person's designated beneficiary has predeceased that person, the amount payable under sections 60, 62 and 63 shall be paid to the plan member's estate.

**Benefit paid to beneficiary if no surviving spouse, civil partner or children**

65. If a deceased plan member dies with no spouse, no civil partner and no children surviving that person, the amount payable under section 59 shall be paid in a single lump sum to the plan member's designated beneficiary, or if that person's designated beneficiary has predeceased that person, the amount shall be paid in a single lump sum to that person's estate.

## **PART IV - Transitional Provisions**

**Payment of *ex gratia* allowances under prior law**

66. Where a plan member had applied for an *ex gratia* allowance under the prior law but had not attained the age of sixty prior to the 14th April, 1999, in the year in which the plan member attains the age of sixty the Government shall either make a pre-payment to the Fund of an amount equal to the actuarial present value of such *ex gratia* allowance commitments as agreed between the Board and the Government based on the recommendation of the actuary or shall prepay by the 30th January of such year, and for each year thereafter, an amount equal to the full year's payments to such plan member.

**Calculation of pension in cases of temporary reduction of salary or wages**

67. Notwithstanding anything in this Act or in the *Public Service Management Act (2018 Revision)*, in any case where pursuant to the *Public Service Management Act (2018 Revision)*, there has been a temporary reduction in a plan member's salary or wages, the pension of the plan member that is based on that person's salary or wages shall be calculated on the salary or wages that would, but for the temporary reduction in that person's salary or wages, have been payable to that plan member.

**Savings**

68. Where, prior to the date of the commencement of the *Public Service (Amendment) Act, 2019 [Law 23 of 2019]* an application was made under the *Public Service Pensions Act (2017 Revision)* and the application has not been determined at the date of commencement of the *Public Service (Amendment) Act, 2019 [Law 23 of 2019]* that application shall be determined as if the *Public Service (Amendment) Act, 2019 [Law 23 of 2019]* had not come into force.





## SCHEDULE 1

(section 5)

### **PART 1 - Constitution and Procedure of Board and of any committee appointed by the Board**

1. (1) Subject to sub-paragraph (3), the Board shall consist of the following directors —
  - (a) the Financial Secretary (*ex officio*);
  - (b) the Chief Officer, Portfolio of the Civil Service (*ex officio*);
  - (c) the President of the Cayman Islands Civil Service Association (CICSA) (*ex officio*) or that person's nominee;
  - (d) subject to paragraph 2, five directors appointed by the Governor who are neither employees in the Public Service nor Other Public Service; and
  - (e) the Chief Executive Officer (*ex officio* and non-voting).
- (2) Notwithstanding section 9(6)(c) of the *Public Authorities Act (2020 Revision)*, the *ex officio* directors of the Board as specified in sub-paragraph 1(a) to (c) are permitted to vote on any matter before the Board in accordance with this Part.
- (3) The Board, after being constituted under sub-paragraph (1) may appoint as a member of the Board a retired defined contribution plan member under the Plan who has been nominated by active defined contribution members.
2. In appointing the directors under paragraph 1(1)(d) the Governor shall ensure that —
  - (a) one of the directors has substantial professional investment experience;
  - (b) one of the directors is an attorney-at-law with substantial fiduciary expertise; and
  - (c) one of the directors is a retired plan member under the Plan.
3. The chairperson shall be appointed by the Governor from among the five directors appointed by the Governor and, in the absence of the chairperson, a temporary chairperson may be approved by the directors in attendance.
4. The Chief Executive Officer may designate an officer of the staff or other staff of another entity to act as secretary to the Board, the Investment Committee and any other committees or sub-committees established under this Act.
5. A director who is appointed by the Governor or by the Board shall hold office at the Governor's or the Board's pleasure respectively, for a four year term but, at the discretion of the Governor or the Board as the case maybe, may be appointed for two additional consecutive terms of two years.



6. A director who is appointed by the Governor or by the Board may resign that person's office at any time in writing addressed to the Governor or the Board and shall cease to be a director from the date of the receipt of such resignation by the Governor or by the Board.
7. Where a director resigns under paragraph 6 the Governor shall appoint or the Board select a new director for the remaining term of the former director.
8. The Board shall meet at least once in every three calendar months.
9. A director shall be deemed to be present at a meeting of the Board, the Investment Committee or of any other committee or sub-committee of the Board if the member physically attends or participates in the meeting by conference telephone or by some other conference facility.
10. The Board's proceedings shall be governed by standing orders prepared by the Board and such standing orders shall be kept under review, and may be amended, by the Board.
11. There is established a committee to be known as the Investment Committee to whom the Board may delegate its authority with respect to the investment of Fund assets.
12. (1) The Investment Committee shall be comprised of the following members —
  - (a) the Chief Executive Officer;
  - (b) a plan member representative who is a director;
  - (c) the member with substantial professional investment experience from the Board appointed under paragraph 1(1)(d); and
  - (d) not more than two other individuals with substantial professional investment experience, who may be a current director of the Board (excluding the Chairperson).(2) In addition to delegating any of its powers set out in the principal Act with respect to the investment of the Fund, the Board may delegate to the Investment Committee the authority to set *asset allocation* ranges, evaluate and monitor investment performance and make recommendations to the Board in respect of all other areas related to the Fund's investment strategy and programme.
13. The Governor or the Board, respectively shall terminate the appointment of any director so appointed by the Governor or the Board who —
  - (a) resigns that person's office;
  - (b) becomes of unsound mind or incapable of carrying out that person's duties;
  - (c) becomes bankrupt, suspends payment to or compounds with that person's creditors;
  - (d) is convicted in the Islands or any other jurisdiction of an offence involving dishonesty, fraud or any indictable offence;
  - (e) commits serious misconduct in relation to that person's duties; or



- (f) is absent without leave for three or more consecutive meetings.

## **Part 2 - Duties of the Chief Executive Officer**

The Chief Executive Officer is entrusted with the day to day operations of the Plan and any other plan administered by the Board and has the following duties —

- (a) providing instructions to any investment managers appointed by the Board under section 16(2);
- (b) managing the cash flow of the Fund;
- (c) delegating tasks relating to the overall management of the Fund to selected employees and or selected agents retained by the Board, including the actuaries, investment advisor and other fiduciaries of the Plan;
- (d) assisting auditors;
- (e) developing funding policies;
- (f) interpreting the Plan or any other Plan administered by the Board;
- (g) execution of adopted strategies including plan design and structure;
- (h) ensuring an education programme is in place for the Board, its committees and sub-committees;
- (i) the preparation of reports of the Board required under this Act;
- (j) hiring staff and providing oversight and monitoring of the administration of the Plan among other operational responsibilities; and
- (k) reporting to the Board on activities, at least annually, and performing such other duties as the Board, in its discretion, may assign.

## SCHEDULE 2

*(section 16)*

### Approved Investments

1. This Schedule of approved investments is intended to provide guidance to the Board with respect to Fund investments and is not intended to be restrictive to the specific asset classes and sub-classes designated below.
2. The Fund's investment policy is designed to be a fully invested portfolio, reflecting the broad spectrum of long-term risks and opportunities in the global economy and financial markets (without taking undue risk of loss or impairment), taking into account the actuarial assumptions and funding requirements of the Plan and maintaining adequate liquidity to meet required benefit payments to plan members and expenses of the Plan.
3. Subject to paragraph 4, the list of approved investments in paragraph 5 may be held in segregated arrangements or through holding units in an open-end or closed-end mutual, collective or pooled fund, a private equity fund, a hedge fund, or a fund that invests in infrastructure.
4. Funds specified under paragraph 3 must be listed on a recognised international stock exchange, other than private equity funds, hedge funds or funds that invest in infrastructure.
5. The approved investments, by asset class, are as follows —
  - (a) Fixed Income Portfolio —
    - (i) treasury bills;
    - (ii) bonds and notes, including domestic and foreign government bonds, commercial paper and investment grade corporate bonds;
    - (iii) cash and cash equivalents; and
    - (iv) guaranteed insurance company contracts;
  - (b) Equity Portfolio —
    - (i) large cap value and growth of stocks of publicly traded companies;
    - (ii) small and mid-cap stocks of publicly traded companies;
    - (iii) convertible securities of publicly traded companies;
    - (iv) emerging markets stocks; and
    - (v) private equity funds;
  - (c) Alternative Investment Portfolio —
    - (i) real estate, including real estate investment trusts;
    - (ii) mortgages, asset-backed securities and bank loans;



- (iii) energy and natural resources;
- (iv) derivative investment contracts which provide for portfolio protection, such as currency hedging, warrants, options and future contracts;
- (v) absolute return funds;
- (vi) hedge funds which are pools of capital from accredited investors or institutions which invest in a variety of assets using risk management techniques; and
- (vii) funds that invest in infrastructure.

**Publication in consolidated and revised form authorised by the Cabinet this 5th day of January, 2021.**

**Kim Bullings**  
*Clerk of the Cabinet*



## ENDNOTES

*Notes: (not forming part of this Act) The Public Service Pensions (Amendment) Act, 2000 [Law 1 of 2000] contained certain validation and consequential provisions which are set out hereafter in revised form —*

### ***Validation of failure to transfer***

*The Pensions Law (1999 Revision) (now **repealed**)*

- A. *Where on the 14th April, 1999 there was a failure to transfer contributions made in accordance with section 10(1) of the **repealed** Pensions Law (1999 Revision), contrary to section 10(8) of that Law, such failure is validated and the contributor concerned shall lawfully remain a defined benefit plan member under the principal Act in all respects as though that person had entered into Public Service before the 14th April, 1999.*

### ***Validation of failure to treat as defined contribution plan member***

*The Public Services Pensions Act, 1999 [Law 6 of 1999]*

- B. *Where, after the 14th April, 1999 and before the 4th July, 2000 —*
- (a) there was a failure to make an employee in Service a defined contribution plan member, and to deduct and make contributions in accordance with Part III of the Public Service Pensions Act, 1999 [Law 6 of 1999] and regulations made thereunder; and*
  - (b) contributions were made and deducted in respect of the employee referred to in paragraph (a) as though that person were a defined benefit plan member participant, the failure to treat the employee as a defined contribution plan member is validated and the employee shall lawfully remain a defined benefit plan member under the Public Service Pensions Law (2021 Revision).*

### ***Validation of failure to include contracted officers in the Plan***

- C. *Where, between the 14th April, 1999 and the 4th July, 2000, there has been a failure to treat an employee in Service who is entitled to a contracted officer's supplement, as defined in section 3 of the Public Service Pensions Law (2017 Revision), as a plan member contrary to that Law, such failure is validated and the employee shall continue in all respects as though that person were exempted from the coverage of the Plan from the 14th April, 1999.*

### ***Effect of sections A, B and C on proceedings***

- D. *Sections A, B and C shall have effect for the purposes of any proceedings begun on or after the 14th April, 1999, whether before or after the 4th July, 2000, but shall not affect proceedings begun before the 14th April, 1999.*

## Table of Legislation History:

SL #	Law #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	44/2020	Public Service Pensions (Amendment) Law, 2020	4-Sep-20	LG64/2020/s10
		<b>Public Service Pensions Law (2020 Revision)</b>	16-Jan-20	LG6-2020/s7
	23/2019	Public Service Pensions (Amendment) Law, 2019	8-Aug-19	LG28/2019/s14
		<b>Public Service Pensions Law (2017 Revision)</b>	31-May-17	GE45/2017/s32
51/2016		Public Service Pensions (Amendment) Law, 2016 (Commencement) Order, 2016	9-Sep-16	GE71/2016/s2
	22/2016	Public Service Pensions (Amendment) Law, 2016	9-Sep-16	GE54/2016/s3
		<b>Public Service Pensions Law (2013 Revision)</b>	21-Oct-13	G21/2012/s12
	17/2012	Public Service Pensions (Amendment) Law, 2012	13-Sep-12	GE88/2012/s3
		<b>Public Service Pensions Law (2011 Revision)</b>	21-Nov-11	G24/2011/s7
	18/2010	Public Service Pensions (Amendment) Law, 2010	29-Jun-10	GE36/2010/s3
		<b>Public Service Pensions Law (2004 Revision)</b>	19-Apr-04	G8/2004/s2
	19/2004	Public Service Pensions (Amendment) Law, 2004	12-Aug-04	GE25/2004/s2
		<b>Public Service Pensions Law (2003 Revision)</b>	28-Jul-03	G15/2003/s10
	12/2002	Public Service Pensions (Amendment) Law, 2002	30-Jul-92	GE26/2002/s4
		<b>Public Service Pensions Law (2001 Revision)</b>	26-Feb-01	G5/2001/s9
	1/2000	Public Service Pensions (Amendment and Validation) Law, 2000	4-Jul-00	G14/2000/s2
	6/1999	Public Service Pensions Law, 1999	14-Apr-99	G12/1999/s5

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