

PRESENTATION TO
CAYMAN ISLANDS SOCIETY
OF
HUMAN RESOURCE
PROFESSIONALS

NATIONAL PENSIONS OFFICE

APRIL 2005

THE PRESENTATION

1. THE LAW
2. THE NATIONAL PENSION OFFICE/MINISTRY/BOARD
3. EMPLOYER'S RESPONSIBILITIES
4. ADMINISTRATORS' RESPONSIBILITIES
5. SUPERINTENDENT'S/OFFICE'S RESPONSIBILITIES
6. ENFORCEMENT/COMPLIANCE
7. STATISTICS
8. THE ROAD AHEAD

THE LAW

- The National Pensions Law (2000 Revision)
 - The National Pensions (General) Regulations (1998 Revision)
 - The National Pensions (Pension Fund Investments) Regulations (1998 Revision)
 - The National Pensions (Actuarial & Management) Regulations (1998 Revision)
-
- Confidential Relationships (Preservation) Law (1995 Revision)
 - Labour law (2001 Revision) & Regulations
 - The Immigration Law, 2003 & Regulations

The Law

1. The Law was established to apply to pension plans established and maintained for the benefit of employees in the Islands.

2. Became effective in 1998, there was a phase-in period which has long since expired.

3. Pension Plan is a Defined Benefit or Defined Contribution Plan constituted and administered to provide pension benefits for employees, but does not include:
 - Employees' profit sharing plan
 - Cash withdrawal a lump sum payment plan
 - Plan Funded solely by members (exclude self-employed)
 - Supplemental plan to a registered pension plan

CAYMAN ISLANDS NATIONAL PENSIONS OFFICE

- National Pensions Office is in the Ministry of Education, Human Resources & Culture (the People Ministry)
- Sections 78 & 79 of the Law establishes the National pensions Board and the Office of the Superintendent of Pensions.
- The Board consists of a chairman, a deputy chairman and between five and nine other members.
- The Superintendent is the Chief Administrative Officer of the Board and shall exercise the powers and duties vested in or imposed upon.

C.I. National Pensions Office

- The Board and Superintendent are somewhat interchangeable, however only the Superintendent can do certain things.
- The Auditor General is the watchdog of the Superintendent and the Board (Section 84).
- The Superintendent and the Board shall report annually to the Minister and shall submit an annual report to the Governor and Legislative Assembly (Section 85).
- Currently five full time employees and a part-time external legal counsel (consultant).

EMPLOYER'S RESPONSIBILITIES

- 4(1) Every employer in the Islands shall provide a pension, or make contributions to a pension plan for every person employed by him, (Defined Benefit or Defined Contribution).
- 2) A person is deemed to be employed in the Islands
 - a. where he reports to work in the Islands or
 - b. where he is normally a resident of the Islands and the office that remunerates him is situated in the Islands

Employer's Responsibilities

- 25 (1) Subject to (2) all employees between 18 and 60 shall be members of a pension plan.
- (2) A plan is not required for employees who do not have Caymanian status or are not permanent residents and who
 - a. Have been working for a continuous period of 9 months or less or
 - b. Are employed to do housework in private residences
- (3) All self-employed's must be covered.
- (4) More than one

Employer's Responsibilities

- (47) 1 Subject to 25(2), a member and his employer shall contribute to a pension plan on behalf of that member.
- (2) Self-employed's shall contribute to a pension plan or an individual retirement account 10% of his earnings.
- (3)(a) a member shall not be required to contribute (Defined Contribution) more than 5% of his earnings.
- (b) an employer shall not contribute (Defined Contribution) less than 5% of a member's earnings.

Employer's Responsibilities

- (5) Contributions are due to the pension fund directly following deduction from the employee's earnings.
- Reg. 29 – all employee deductions are due to the pension fund within 15 days after the last day of the month when they were deducted (or earnings received).
- Employer contributions within 15 days as well.
- (49) Employees money deducted and employers contributions due are deemed to be held “in trust” by the employer, whether or not the money has been kept separate and apart.
- (50) Employers are liable to pay interest on money owed at current prime rate in the Islands plus 5%

ADMINISTRATORS RESPONSIBILITIES

- 8. Only the following may administer a pensions plan:
employer
 - (a) a pension committee (at least 50% of representing members)
 - (b) an approved provider
 - (c) a board of trustees (at least 50%)
 - (d) a board, agency or other person made responsible by Law
 - (e) a trust company
- An administrator shall ensure that administration, custodianship, and investment are undertaken by qualified and experienced persons or bodies.
- 9. An administrator must apply for registration within 60 days.

Administrators Responsibilities

- The administrator is responsible for all filing of documentation for registration and for amendments and for holding required “voting” meetings with employees.
- 14. A plan that has been registered is deemed to also be amended so as to comply with the Law.
- 16. And an administrator ensures that
 - (a) A pension plan and fund are administered in accordance with the Law
 - (b) A pension plan and any amendments are administered in accordance with documents filed.

Administrators Responsibilities

- 18. The employer who is not an administrator is required to supply information to the administrator.
- Members and former members, by majority vote, may establish a pension advisory committee (not applicable is administration by a pension committee or board of trustees).
- Administrators shall notify the Superintendent in writing of contributions in arrears within 45 days of becoming aware.

SUPERINTENDENT'S/OFFICE'S RESPONSIBILITIES

- 49(2) Where the Superintendent is notified (by administrator) that an employer is delinquent he “shall direct the relevant employer to pay the arrears within two weeks”.
- If not paid the Superintendent may commence or direct the administrator to commence proceedings for recovery.
- 70. The Superintendent may issue an order to the employer, administrator, agents, wind-up plans, administer plans, redo reports, costings, etc.
- 72. Orders are subject to appeal to the Board.

Superintendent's/Office's Responsibilities

- 80. The Board (Superintendent) shall
 - (a) administer the Law & regulations
 - (b) promote establishment, extension & improvement of pension plans throughout the Islands
 - (c) advise the Minister with respect to business of the Board
 - (d) make recommendations to the Minister in respect of pension plans

- Conduct surveys and research programs and compile statistical information.

ENFORCEMENT/COMPLIANCE

- Implementing automated complaint tracking system.
- Implemented prioritization system for complaints.
- Engaged pension inspector and currently developing roles & responsibilities.
- Formalizing procedures/double checking evidence and court requirements.
- Contacting past/chronic offenders, ensuring they know the requirements.

THE ROAD AHEAD

- Continue to work on five external outputs:
 - (a) Registration of pension plans
 - (b) Investigation of non-compliance
 - (c) Advice and support to the National Pensions Board & Ministry
 - (d) Public education campaign
 - (e) Oversight of pension plans
- And one internal output:
 - (a) Effective organization and administration

The Road Ahead

- Specifically
 - (a) Continue automation
 - (b) Establish a web presence
 - (c) Explore interdepartmental co-operation
 - (d) Complete actuarial valuation
 - (e) Complete benchmarking exercise
 - (d) Review and reissue all guidance notes/forms/etc.
 - (f) Complete review of the Law
 - (g) Communicate with and educate stakeholders

DISCUSSION