BELIZE

PRIVATE PENSIONS ACT
CHAPTER 30:01

REVISED EDITION 2020

SHOWING THE SUBSTANTIVE LAWS AS AT
31ST DECEMBER, 2020

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2020.

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CHAPTER 30:01

PRIVATE PENSIONS

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19 of 2017.
S.I. 1 of 2017.

[15th March, 2016]

PART 1

Preliminary

1. This Act may be cited as the Short title.

2.–(1) For the purpose of this Act, and unless the context otherwise requires– Interpretation.

"account balance" in respect of a member under a defined contribution pension plan means the market value of all employer contributions and member contributions, if any, plus earnings thereon;

"actuarial equivalent" for the purpose of determining the lump sum amount that is equivalent to a pension benefit, means the value of the pension benefit certified by an actuary as of a fixed date;

"actuary" means a person who–

(a) has qualified as an actuary by examination of the Institute and Faculty of Actuaries in the United Kingdom, the Societies of Actuaries in the United States of America or the Canadian Institute of Actuaries, and who is a current member in good standing of one of those professional associations; or

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(b) is a Fellow of a professional body of actuaries which is internationally recognised and who is, in the opinion of the Supervisor, suitable for recognition as an actuary for the purposes of this law;

"additional voluntary contribution" means a contribution to the pension fund by a member of the applicable pension plan beyond any amount that the member is required to contribute;

"administrator" means the person or persons that administer the pension plan;

"affiliated employer" has the meaning given in sub-section (2);

"ancillary benefit" has the meaning given in section 25;

"approved provider" means an insurance company or other company lawfully licensed to undertake pension plans in Belize;

"beneficiary" means the person who has been appointed in writing by a member or former member as the beneficiary for the purposes of the applicable pension plan;

"commencement date" means the date on which this Act comes into operation

"common law union" means the relationship that is established when a man and woman who are not legally married to each other and to any other person cohabit together continuously as husband and wife for a period of at least five years;

"court" means the Supreme Court;

"custodial agreement" means a trust agreement or insurance contract providing that–

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(a) an investment made or held on behalf of a pension plan pursuant to the agreement or contract–

(i) constitutes part of the plan's pension fund; and

(ii) shall not at any time constitute an asset of the custodian; and

(b) records shall be maintained by the custodian that are sufficient to allow the ownership of any investment to be traced to the plan at any time;

"custodian" means a trustee or insurance company that holds the assets of a pension plan under a custodial agreement;

"deferred pension" means a pension benefit to which a former member is entitled, payment of which is deferred until the former member reaches normal retirement age under the pension plan;

"defined benefit" means a pension benefit determined in advance with reference to various factors including level of earnings and length of employment, or any other benefit that is not a defined contribution benefit;

"defined benefit pension plan" means a plan providing a defined benefit;

"defined contribution benefit" means a pension benefit that is determined solely with reference to, and is provided by, accumulated contributions made by or for the credit of a member together with the investment yield of such accumulated contributions and that is determined on an individual account basis and "defined contribution pension plan" means a pension plan providing a defined contribution benefit;

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"disabled" in relation to a member means unable because of a physical or mental condition to perform most or all of the tasks related to that member's employment;

"employee" means a natural person in Belize who is employed by an employer, and includes a self-employed person;

"employer" means an individual or entity in Belize that employs employees, and includes a self-employed person;

"entity" includes a body corporate, partnership, or other unincorporated association;

"financial institution" means–

CAP. 263.

(a) a bank licensed under the Domestic Banks and Financial Institutions Act;

CAP. 251.

(b) an insurer licensed under the Insurance Act;

CAP. 314.

(c) a credit union licensed under the Credit Unions Act; or

(d) any other company approved by the Supervisor for the purposes of this Act.

"financial institution pension plan" means a pension plan established by a financial institution and approved by the Supervisor to offer a defined contribution pension plan for individuals, whether employees or not;

"former member" means a member who has terminated employment applicable to or membership in a pension plan and–

(a) is entitled to a deferred pension payable from the pension fund;

(b) is in receipt of a pension payable from the pension fund; or

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(c) is entitled to receive any other payment from the pension fund;

"initial valuation date" means the valuation date of the initial valuation report;

"initial valuation report" means the report referred to in section 7(2).

"insurance contract", means an insurance contract that is approved by the Supervisor and is issued by a company authorized to carry on a life insurance business in Belize and under which the funds held under the contract are segregated for the benefit of the plan;

"member", in relation to a pension plan, means a person who is or may become entitled to a pension benefit or refund of the person's contributions under the pension plan as a result of the person's employment;

"multi-employer pension plan" means a pension plan established and maintained for employees of two or more employers who are not affiliated employers and who contribute or on whose behalf contributions are made to a pension fund in accordance with an agreement between the employers, but does not include a financial institution pension plan;

"Minister" means the Minister responsible for pensions; "normal retirement date" means the normal retirement age specified in the pension plan stipulated under section 22;

"pension" means a pension benefit that is in payment; "pension benefit" means the periodic payment due to a person in accordance with the rules of a pension plan, including any early retirement or other ancillary benefits provided under the pension plan;

"pension fund" means the fund maintained to provide benefits under or related to the pension plan;

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"pension plan" means an occupational retirement scheme organized and administered to provide pensions for employees, or a financial institution pension plan;

"registration" means registration under this Act;

"regulations" means regulations made under this Act;

"spouse" means a man or a woman who is married to or in a common law union with a member at the relevant time, being a person who is of the opposite sex to the member, but does not include such a person who is living separate and apart from the member;

"statement of investment policy" means the statement of investment policy in relation to a pension plan, referred to in section 35;

"Supervisor" means the Supervisor of Pensions appointed under section 55;

"surplus" in respect of–

(a) an ongoing defined benefit pension plan, means the amount by which the assets of the plan exceed the liabilities of the pension plan where;

(i) the assets of the plan are calculated on the basis of the market value of the investments held by the fund plus any cash balances and accrued or receivable items; and

(ii) the liabilities of the plan are calculated to be the greater of the going concern liabilities and the solvency liabilities;

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(b) an ongoing defined benefit pension plan that is or is being wound up, means the amount by which the assets of the plan exceed the solvency liabilities where the assets of the plan are calculated on the basis of the market value of the investments held by the fund plus any cash balances and accrued or receivable items; and

(c) a defined contribution pension plan, means the forfeited employer contributions that have not yet been allocated.

"termination" in relation to–

(a) employment, includes retirement and death; and

(b) winding up of a pension plan, means the cessation of the accrual of benefits under the plan by members of the plan;

"winding up", in relation to a pension plan, means the distribution of the assets of the pension plan after the plan is terminated.

(2) For the purposes of this Act, "affiliated" in relation to an employer, means that the employer is affiliated with another employer by virtue of both employers being companies and–

(a) one of them is the subsidiary of the other;

(b) both are subsidiaries of the same company; or

(c) each of them is controlled by the same person.

(3) The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension

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benefits or ancillary benefits more advantageous to members and former members than those required by this Act and the regulations.

Application.

3.–(1) This Act applies to every pension plan that is established by an employer for persons employed in Belize or in respect of which an employer makes contributions for his employees except for the following plans–

(a) National Assembly Pension Plan for members of the National Assembly;

(b) Public Pension for public officers;

(c) School Teachers Pension for teachers;

(d) Social Security Pensioners;

(e) A pension plan, established prior to the commencement date, for employees of any of the following entities–

(i) Belize Electricity Limited;

(ii) Belize Tele media Limited;

(iii) Belize Water Services Limited.

(2) Notwithstanding sub-section (1) and subject to sub-section (3), the Supervisor may exempt a pension plan from the application of this Act if the plan is registered in a jurisdiction other than Belize that is acceptable to the Supervisor and the employer provides such undertakings as the Supervisor may require, and for this purpose the Supervisor may request a copy of the plan text and actuarial reports.

(3) Notwithstanding sub-section (1), the Supervisor may exempt a pension plan established prior to the commencement date from the application of certain provisions of this Act or

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specify a transition period for compliance with certain provisions of this Act.

PART II

Registration and Administration of Pension Plans

Registration.

4.–(1) Subject to sub-section (2), a person shall not administer a pension plan for the benefit of employees unless the plan has been registered by the Supervisor and a certificate has been issued in respect of the plan by the Supervisor.

(2) Notwithstanding sub-section (1), the Supervisor may exempt a pension plan by regulation from the requirement to be registered under this Act.

Application for registration.

5. A person seeking to administer a pension plan shall submit an application for registration of the pension plan to the Supervisor in the prescribed form, which application shall be accompanied by–

(a) the documents establishing the pension plan and the related pension fund, as specified in section 7(1);

(b) the name, occupation, qualification and address of each person constituting the board of trustees or the name and address of the employer or other body that administers the pension plan;

(c) the name and address of each person responsible for holding the assets of the pension fund;

(d) the statement of investment policy;

(e) the custodial agreement;

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(f) every information booklet for members;

(g) the most recent valuation report, as provided for in section 7(2), where it is a defined benefit pension plan;

(h) such other document or information relating to the pension plan as the Supervisor may require; and

(i) the prescribed fee.

Administrator.

6.–(1) A pension plan is not eligible for registration unless it is administered by an administrator, which administrator shall be–

(a) the employer participating in the pension plan;

(b) a board of trustees composed of one or more representatives of the employer or employers participating in the pension plan and one or more representatives of the members or former members of the pension plan;

(c) a board of trustees wholly consisting of members or former members of the pension plan;

(d) an entity which by virtue of this Act or any other law, is vested with responsibility for the administration of a pension plan or pension fund;

(e) a financial institution licensed in the prescribed manner as an administrator under this Act.

(f) any other person approved by the Supervisor,

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and shall be resident in Belize, being a person that the Supervisor is satisfied is fit and proper to administer the pension plan.

(2) For the purposes of sub-section (1), "employer" includes an affiliated employer or parent company.

Content of documents.

7.–(1) The documents establishing a pension plan and its related pension fund, shall set out the following information–

(a) the objects for which the pension plan is established, and the rules governing the administration of the pension plan and the pension fund;

(b) the method by which the documents establishing the pension plan and pension fund may be amended;

(c) the method of appointment and removal of the administrator and the custodian of the pension fund;

(d) the powers and duties of the administrator, including the power to delegate the administration of the pension plan to another person;

(e) the conditions for membership in the pension plan;

(f) the pension benefits and rights that are to accrue upon disability, termination of employment, termination of membership, retirement or death;

(g) the normal retirement age under the pension plan;

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(h) the requirements for entitlement under the pension plan to any pension benefit and ancillary benefit including the vesting schedule for the pension plan;

(i) the contributions or the method of calculating contributions under the pension plan, including a description of the member's right to make additional voluntary contributions if they are permitted;

(j) the method of determining pension benefits payable under the pension plan;

(k) the method of calculating interest or earnings to be credited to contributions or pension benefits payable under the pension plan;

(l) the mechanism for payment of the cost of administration and investment of the pension plan and the pension fund;

(m) the circumstances in which the pension plan may be wound up and the method by which the assets of the pension fund are to be allocated consequent on such winding up;

(n) the method for allocation of gains and losses in a defined contribution plan;

(o) the obligation of the administrator to provide members with information, and documents required by or under this Act, to be disclosed;

(p) the method of receiving or transferring a member's accrued pension benefit from or to other pension plans;

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(q) the treatment of surplus during the existence of the pension plan and on the winding up of the pension plan;

(r) particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits; and

(s) such other information as may be prescribed by regulations or required by the Supervisor.

(2) As regards a defined benefit pension plan, the most recent valuation report shall set out, on the basis of a going concern valuation–

(a) the normal cost in the year of registration of the plan ("the initial year") and the formula for computing normal cost in subsequent years up to the scheduled date of the next such valuation report ("subsequent years");

(b) an estimate of the normal cost in each of the subsequent years up to the date of the next report;

(c) a calculation of the employer's required contributions in each of the initial year and the subsequent years in accordance with Section 32(3);

(d) estimated total employee contributions, if any, during each of the initial year and subsequent years up to the date of the next report;

(e) the past service unfunded liability or surplus, if any, as at the initial valuation date;

(f) where there is a past service unfunded liability, the special payments required to

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amortize it over a term not exceeding fifteen years;

(g) information respecting escalated adjustments, if any; and

(h) such other information that may be required by the Supervisor.

(3) If the actuary is of the opinion that there is a solvency deficiency, the report shall also set out, on the basis of a solvency valuation–

(a) the amount of the solvency deficiency and the special payments needed to amortize it over a term not exceeding five years; an

(b) whether the transfer ratio is less than 1.00 and if it is, the transfer ratio.

(4) Where a pension plan is established pursuant to a trust deed or agreement, the documents constituting such agreement shall set out the powers and duties of the trustees.

Amendment.

8.–(1) An administrator shall apply to the Supervisor within thirty days after the date on which the documents establishing the pension plan or pension fund, the custodial agreement or the statement of investment policy is amended for registration of the amendment.

(2) An application under sub-section (1) for the registration of an amendment shall be made in the prescribed form and shall be accompanied by–

(a) the prescribed fee;

(b) a certified copy of the applicable document with the proposed amendment; and

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(c) any other document or information required by the Supervisor.

(3) If the amendment is in conformity with the documents establishing the pension plan and pension fund, this Act and the regulations, the Supervisor shall register the amendment.

(4) Before the registration of an amendment to a pension plan, by virtue of any amendment referred to in sub-section (1), an administrator shall–

(a) give notice containing–

(i) an explanation of the amendment;

(ii) its impact on plan benefits;

(iii) the contact information of the Administrator and Supervisor;

(iv) a statement setting out the right of the member or former member to obtain a copy of the proposed amendment from the administrator;

(b) invite the submission of written comments on the amendment to the administrator and the Supervisor; and

(c) provide the Supervisor with a copy of the notice of the proposed amendment.

(5) The notice required under sub-section (4) shall be given whether electronically or otherwise to–

(a) each member who is affected by the proposed amendment;

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(b) each former member who is affected by the proposed amendment;

(c) each beneficiary who is affected by the proposed amendment; and

(d) and any registered trade union representing members of the pension plan.

(6) The Supervisor shall not register an amendment until forty-five days after the date of the notice of amendment to members, former members and beneficiaries.

(7) An administrator shall notify each member of the date of registration of an amendment.

(8) The Supervisor may, upon the written application of an administrator, exempt that administrator from the requirements of sub-section (1) where the Supervisor is of the opinion that the amendment-

(a) is of a technical nature;

(b) will not substantially affect the pension benefits, rights or obligations of a member, former member or beneficiary;

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(c) will not adversely affect any person entitled to payments from the pension fund; or

(d) is required as a result of changes in the law.

Reduction of benefits.

9.–(1) An amendment to a pension plan by virtue of any amendment referred to in section 8(1) is void if the amendment purports to reduce–

(a) the amount or the actuarial equivalent of a pension benefit accrued under the pension

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plan with respect to employment before the effective date of the amendment;

(b) the amount or the actuarial equivalent of a pension or deferred pension accrued under the pension plan; or

(c) the amount or the actuarial equivalent of an ancillary benefit for which a member or former member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

(2) The Supervisor may approve an amendment which would otherwise be void under sub-section (1), subject to any conditions specified by the Supervisor and prescribed by regulations, if the amendment is in the best interests of the members, former members and beneficiaries of the pension plan.

Refusal of registration.

10.–(1) Subject to the provisions of this Act relating to hearings and appeals, the Supervisor may–

(a) refuse to register a pension plan that is not in compliance with this Act and the regulations;

(b) cancel the registration of a pension plan if at any time after registration, the plan is not in compliance with or is not administered in accordance with this Act and the regulations; or

(c) refuse to register an amendment to a pension plan if the amendment or the pension plan as sought to be amended would result in the pension plan ceasing to comply with this Act and the regulations.

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(2) Where the Supervisor refuses to register a pension plan or revokes the registration of a plan, the administrator shall wind up the pension plan in accordance with this Act and the regulations.

Duties of Administrator.

11. The administrator of a pension plan shall ensure that the pension plan and the pension fund are, at all times, administered in accordance with–

(a) the documents establishing the pension plan and the pension fund as approved by the Supervisor for the registration or the continued registration of the pension plan; and

(b) this Act and the regulations.

Standard of care of Administrators and Agents.

12.–(1) An administrator shall and in accordance with the prudent person rule–

(a) exercise the care, diligence and skill in the administration of a pension plan and in the management and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another; and

(b) use in the administration of a pension plan and in the management and investment of a pension fund all relevant knowledge and skill that, by reason of the administrator's profession, business or calling, he ought to possess.

(2) An administrator or, where the administrator is a board of trustees, a member of the board, shall not knowingly permit the administrator's private interests to conflict with his duties and powers in respect of a pension fund.

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(3) Where it is reasonable and in the interests of the members of a plan so to do, an administrator may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the management and investment of the pension fund.

(4) Every actuary, accountant or other professional person who has been engaged by an administrator to provide professional services with respect to the administration, management and investment of a pension plan or pension fund, shall be deemed to be an agent of the administrator.

(5) An administrator who employs an agent shall–

(a) select the agent;

(b) be satisfied of the agent's suitability to perform the acts for which the agent is employed; and

(c) supervise the agent as far as practicable and reasonable.

(6) An agent of an administrator is subject to the standards that apply to the administrator under sub-sections (1) and (2).

Information reporting requirements.

13.–(1) The administrator of a pension plan shall,

(a) within six months after the end of a fiscal year of a pension plan, submit to the Supervisor, an annual information report on the pension plan in the form prescribed by regulations;

(b) within six months after the end of a fiscal year of a pension fund, submit to the Supervisor, the financial statements of the pension fund as prescribed by regulations; and

(c) in relation to–

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(i) a pension plan which provides defined benefits, within six months after the expiration of every three fiscal years of the pension plan, submit to the Supervisor a report prepared by an actuary;

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(ii) a pension plan which provides defined contribution benefits, within six months after the expiration of every three fiscal years of the pension fund, submit to the Supervisor a report prepared by an accountant, an actuary, or a person who is authorized by a financial institution and who is independent of the administrator; and

(iii) a pension plan that has $1,000,000 or more in assets at the end of the fiscal year calculated at the market value, submit to the Supervisor an auditor's report respecting the financial statements within six months of the fiscal year;

(d) give annually or at such shorter periods as may be specified in a pension plan to each member and former member a written statement containing–

(i) the prescribed information in respect of the pension plan;

(ii) in the case of a defined benefit pension plan, the member's expected pension benefits as at his normal retirement date or, in the case of a defined contribution pension plan, the account balance; and

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(iii) any ancillary benefits for which the member is eligible.

(2) For the purposes of this section, "auditor" means–

(a) a person entitled to practice as a public accountant in Belize; or

(b) a person who has qualified as an accountant by examination of one of the Institutes of Chartered Accountants of England and Wales, Ireland or Scotland, the Canadian Institute of Chartered Accountants, the American Institute of Certified Public Accountants or any other professional body recognized by the Supervisor;

Duties of employer.

14. An employer shall provide the administrator of a pension plan with any information required by the administrator for the purpose of administering the pension plan or complying with this Act or the regulations.

Accrual of benefits.

15.–(1) The Supervisor shall not register a pension plan or amendment to the pension plan where–

(a) the pension plan does not provide for the accrual of pension benefits, with the exception of ancillary benefits, in a gradual and uniform manner; or

(b) the formula for computation of the employer's contributions to the pension fund or, in the case of a defined benefit pension plan, the pension benefits provided under the pension plan, are variable at the discretion of the employer or the administrator.

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(2) Notwithstanding sub-section (1), the Supervisor shall register a pension plan or amendment in respect of additional voluntary contributions except where not required.

PART III

Information Disclosure

Information booklet.

16.–(1) An administrator shall provide, in writing, to each person who is eligible or is required to become a member of a pension plan–

(a) an explanation of the provisions of the plan that apply to the person;

(b) an explanation of the person's rights and obligations under the pension plan; and

(c) any other information prescribed by the regulations.

(2) An administrator shall provide the information mentioned in sub-section (1)–

(a) to each member, within ninety days of the date of establishment of the plan; and

(b) to each person who becomes eligible to become a member of the pension plan upon being employed by the employer, within thirty days after the date on which the person becomes employed.

Access to documents.

17.–(1) On written request, an administrator shall make available the prescribed documents and information in respect of a pension plan and the pension fund for inspection without charge to–

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(a) a member;

(b) a former member;

(c) a beneficiary;

(d) an agent authorized in writing by a person mentioned in paragraph *(a)*, *(b)*, or *(c)*;

(e) an employer who is or was required to make contributions to the pension plan;

(f) a receiver or trustee in bankruptcy of an employer referred to in paragraph *(e)*; and

(g) such other person as may be prescribed.

(2) A person mentioned in sub-section (1) is entitled to inspect, at the offices of the Supervisor during business hours of the Supervisor, the documents that comprise the pension plan and the pension fund and other documents relating to the pension plan or the pension fund and, upon payment of the fee required by the Supervisor, to copies of those documents.

(3) A person shall not be permitted to inspect documents or personal information that relates to a member or former member without the consent of that member or former member, or that member's or former member's legal representative.

(4) A person inspecting the documents may copy the documents or purchase from the administrator, at a reasonable fee, copies of the documents.

Termination statements.

18. An administrator shall, where a member ceases to be a member of a plan, give to that member or any other person who is, as a result, entitled to a benefit under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and options of the former member.

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Retirement and other option statement.

19. An administrator shall, where a former member becomes eligible to retire or reaches normal retirement age, or where a person becomes entitled to a benefit pursuant to the death of a former member, give to that former member or beneficiary a written statement setting out the prescribed information in respect of that person's benefits, rights and options.

PART IV

Membership, Vesting and Retirement Age

Eligibility for membership.

20.–(1) Subject to sub-sections (2) and (3), every employee of a category of employees for whom a pension plan is established shall be eligible to be a member of the pension plan.

(2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer, with 720 or more hours of employment with the employer to whom the pension plan relates in any given calendar year prior to membership in the pension plan.

(4) A member of a pension plan does not cease to be a member by reason only that he is employed for fewer than seven hundred and twenty hours in a calendar year.

Vesting.

21.–(1) Every pension plan shall provide for the full vesting of accrued pension benefits in each of its members within a period which does not exceed five years after the commencement of membership.

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(2) Notwithstanding sub-section (1), the accrued pension benefits of a member of a pension plan which is in existence on the commencement date shall be fully vested on the date

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determined in accordance with the plan provisions or on the fifth anniversary of the commencement date, whichever is earlier.

(3) *Repealed.* 19 of 2017.

(4) A member shall be fully vested upon the winding- up of the plan.

(5) Amounts that have been forfeited upon termination prior to vesting may be used to–

(a) offset employer contributions;

(b) offset member contributions;

(c) pay plan expenses;

(d) increase member benefits; or

(e) some combination of options *(a)*, *(b)*, *(c)*, and *(d)*.

Normal retirement age.

22.–(1) The normal retirement date under a pension plan registered under this Act shall be not later than the date the member or former member attains the age of sixty- five years.

(2) The first instalment of a member's pension shall be due not later than the first day of the month following the normal retirement date, unless the member elects otherwise.

Early Retirement age.

23.–(1) A former member of a pension plan with a fully vested pension benefit may elect to receive an early retirement pension at the age specified by the pension plan, which shall be no earlier than age 50 and no later than age 55.

(2) The member's early retirement pension benefit must be not less the actuarial equivalent of the member's pension benefit. 19 of 2017.

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Postponed Retirement age.

24. A member of a pension plan who, after his normal retirement date, continues in employment may elect to continue accruing pension benefits under the pension plan or retire, and shall receive the first instalment of his pension on the first day of the month following–

(a) the date of termination of employment; or

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(b) a date selected by the member, which shall not be later than the member's 70th birthday.

PART V

Ancillary and Death Benefits

Ancillary benefits.

25.–(1) A pension plan may provide the following ancillary benefits in relation to the pension benefit–

(a) disability benefits;

(b) survivor benefits;

(c) supplemental benefits payable for a temporary period of time;

(d) early retirement options and benefits in excess of those provided by this Act;

(e) benefits arising from additional voluntary contributions; or

(f) any other ancillary benefits approved by the Supervisor.

(2) The pension benefit to which a member is entitled on the date of termination of employment of the member shall include an ancillary benefit for which the member has met, on that date, all eligibility requirements under the pension plan.

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(3) The actuarial equivalent to a pension benefit shall include an ancillary benefit to which a member is entitled pursuant to sub-section (2).

Pre-retirement death benefits.

26.–(1) If a member dies before payment of his pension has commenced, his beneficiary shall receive a lump sum payment equal to the aggregate of–

(a) the value of the member's vested defined contribution account balance, including accumulated additional voluntary contributions, if any; and

(b) the actuarial equivalent of the member's vested pension benefit under a defined benefit provision, if any.

(2) A beneficiary who is a spouse may elect to receive an immediate or deferred survivor pension in a form which the pension plan may elect to provide, which shall be the actuarial equivalent of the lump sum payment specified in sub-section (1).

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(3) Where no beneficiary has been appointed, or where the beneficiary predeceases the member, the benefit described in sub-section (1) shall be paid to the estate of the member.

(4) If a member dies before becoming fully vested in the pension plan, his beneficiary or estate shall receive a lump sum payment equal to the member's contributions, if any, plus investment earnings thereon.

Post-retirement death benefits.

27.–(1) A member who has a spouse on the date the pension commences may elect to receive a joint and survivor pension.

(2) The joint and survivor pension under sub-section (1) shall be the actuarial equivalent of the pension benefit that would be payable under the pension plan to the member.

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(3) The amount of the pension payable to the survivor of the member shall not be less than 60 per cent of the pension paid to the member during the joint lives of the member and his or her spouse.

(4) Sub-sections (1) to (3) do not apply in respect of a pension benefit if payment of the pension has commenced before the commencement date.

Remarriage of spouse.

28. The surviving spouse who is receiving a pension benefit under a pension plan remains entitled to such pension benefit notwithstanding the subsequent remarriage of such surviving spouse.

PART VI

Contributions, Funding and Investments

Required contributions.

29.–(1) A pension plan must provide for funding sufficient to provide the pension benefits under the pension plan in accordance with this Act and the regulations.

(2) An employer required to make contributions under a pension plan, or a person or entity required to make contributions under a pension plan on behalf of an employer, shall make the contributions in accordance with the prescribed requirements for funding and shall make the contributions in the prescribed manner and at the prescribed times, to the pension fund.

(3) Members of a pension plan that provides contributory benefits shall make the contributions required under the plan in the manner and at the time prescribed by regulations.

Custodian of Pension Fund.

30.–(1) Every plan shall provide that the moneys of the pension fund are to be invested–

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(a) in a name that clearly indicates that the investment is held in trust for the plan and, where the investment is capable of being registered, registered in that name, or

(b) in the name of a financial institution, or in accordance with a custodial agreement, entered into on behalf of the plan with the financial institution, that clearly indicates that the investment is held for the plan.

(2) The administrator of a plan shall maintain a current record that clearly identifies every investment held on behalf of the plan, the name in which the investment is made and, where appropriate, the name in which the investment is registered.

(3) The administrator may invest in mutual or pooled funds, provided that the number of units allocated to each plan is identifiable and the mutual or pooled fund complies with sub-section (1) as a whole.

Duty to monitor contributions.

31.–(1) The administrator of a pension plan and the custodian of the pension fund shall ensure that all contributions are paid when due.

(2) If a contribution is not paid when due, the administrator and the custodian of the pension fund, if any, shall notify the Supervisor in the prescribed manner and within the prescribed period.

(3) The administrator shall give the custodian of the pension fund, if any, a summary of the contributions required to be made in respect of the pension plan, and shall do so within 30 days of the start of the plan's fiscal year and at any time the contribution rate of the plan is amended.

(4) If the administrator is also the custodian of the pension fund, the administrator shall provide the summary of contributions to the Supervisor.

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(5) The custodian of the pension fund, if any, shall notify the Supervisor within 30 days if the person is not given the summary in accordance with sub-section (3).

(6) The administrator and the custodian of the pension fund, if any, shall notify the Supervisor within 30 days if a contribution is not paid when due.

Deemed trust.

32.–(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund.

(2) Money withheld by an employer, whether by payroll deduction or otherwise, from money payable to an employee shall be deemed to be money received by the employer from the employee.

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the members, former members and beneficiaries of the pension plan an amount of money equal to the employer's contributions due and not paid into the pension fund.

(4) Where a pension fund is wound up, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the members, former members and beneficiaries of the pension plan an amount of money equal to the employer's contributions accrued on the date of the winding-up but not yet due under the plan or regulations.

(5) An administrator has a lien and charge on assets of the employer in an amount equal to the amounts deemed to be held under sub-sections (1), (3) and (4).

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(6) Sub-sections (1), (3) and (4) apply whether or not the money has been kept separate and apart from other money or property of the employer.

Interest of overdue contributions.

33. An employer shall be liable to pay interest to a pension fund on all money that is due to be paid by him to that pension fund at a rate prescribed by regulation.

Investments.

34.–(1) Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by regulation.

(2) Sub-section (1) shall not apply to an individual who is provided investment options by the pension plan.

Statement of Investment policy.
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35.–(1) A pension plan must adopt a statement of investment policy.

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(2) The statement of investment policy must include the information prescribed by regulation.

(3) The statement of investment policy shall be filed with the Supervisor.

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(4) Where, in the opinion of the Supervisor, the statement of investment policy adopted by a pension plan under sub-section (1), is incorrect or incomplete, or is not prepared in accordance with this Act, he may, by notice in writing call upon the company to amend the statement or to furnish a correct statement, as the case may be.

PART VII

Locking-In and Portability

Void transactions.

36.–(1) A transaction is void to the extent that it purports to convey, assign, charge, anticipate or give as security–

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(a) a right to receive money payable under a pension plan; or

(b) assets being transferred from a pension fund.

(2) Sub-section (1) does not apply to a transfer required by a court order or pursuant to a property settlement agreement relating to the transfer of assets on a divorce or to an order or settlement agreement for the maintenance of a spouse.

Exemption From execution, seizure or attachment.

37.–(1) Money payable under a pension plan or an annuity purchased with moneys transferred from a pension fund is exempt from execution, seizure or attachment or any other process taken by a creditor.

(2) The assets of a pension plan, pension fund or an annuity purchased with moneys transferred from a pension fund are exempt from execution, seizure or attachment or any other process taken by a creditor.

(3) Sub-sections (1) and (2) do not apply to a transfer required by a court order or pursuant to a property settlement agreement relating to the transfer of assets on a divorce or to an order or settlement agreement for the maintenance of a spouse.

(4) Sub-sections (1) and (2) do not apply to a loan to a member or former member by the pension fund that is secured by the assets of the pension fund.

Commutation of surrender.

38. Except as provided under this Act a pension benefit of a person under a pension plan shall not be commuted or surrendered during that person's life and any commutation or surrender is void.

Portability.

39.–(1) A member of a pension plan who terminates employment shall be entitled to require the administrator to pay an amount actuarially equivalent to the member's pension benefit in the case of a defined benefit pension plan or the

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account balance in the case of a defined contribution pension plan–

(a) to the pension fund of a new employer, if one exists and agrees to accept the transferred funds;

(b) for the purchase for the member of a prescribed life annuity that will commence on a date not earlier than the earliest date on which the member would have been entitled to receive payment of pension benefits under the pension plan; or

(c) to a financial institution pension plan.

(2) Notwithstanding sub-section (1), a pension plan may restrict the right of a member of a defined benefit pension plan to make the transfer if the termination takes place on or after the member's early retirement age.

(3) A former member may exercise his right under sub-section (1) by delivering to the administrator within ninety days from his date of termination a direction in a form determined by the administrator.

(4) The administrator shall comply with the direction within thirty days after delivery of the direction.

(5) The administrator is discharged from its obligations to the former member on making the payment or transfer in accordance with sub-section (2) if the payment or transfer complies with this Act and the regulations

Locking-In.

40.–(1) Except as otherwise provided under this Act, a member of a pension plan is not entitled to a refund from a pension fund of contributions made or any interest on such contributions.

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(2) Sub-section (1) does not prohibit the refund of any additional voluntary contributions and interest thereon to a member or former member in accordance with the provisions of the pension plan.

(3) Sub-section (1) does not prohibit the refund of any contributions made and interest thereon to a member or former member in respect of his employment before the commencement date.

(4) Sub-section (1) does not prohibit the payment of an actuarially equivalent lump sum or account balance as set out in section 41.

(5) A former member whose benefits have not vested under the terms of a pension plan shall receive an amount that is not less than–

(a) in the case of a defined contribution pension plan, the portion of the former member's account balance attributable to his contributions; or

(b) in the case of a defined benefit pension plan, the former member's contributions made to the pension plan together with interest at the prescribed rate.

Unlocking. 19 of 2017.

41.–(1) A pension plan that provides defined benefits may provide for payment of a lump sum cash payment that is actuarially equivalent to the former member's pension benefit if the actuarial equivalent is not more than the amount prescribed by regulations.

(2) A defined contribution pension plan may provide for payment of the former member's account balance to the former member if the account balance is not more than the amount prescribed by regulations.

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Draw down account.

42.–(1) A defined contribution pension plan may provide and a financial institution pension plan must provide that a member who retires with a defined contribution benefit may elect to have the member's account balance transferred to a draw down account within the pension fund.

(2) The draw down account may be established no earlier than the date the member reaches the early retirement age under the pension scheme.

(3) The Supervisor shall publish the draw down percentage, which may vary based on the age of the owner of a draw down account.

(4) The owner of a draw down account shall withdraw from the draw down account each fiscal year not more than the draw down percentage times the owner's draw down account balance at the beginning of the fiscal year.

(5) The owner may elect to use the balance in the draw down account to purchase an annuity from an insurance company at any time.

PART VIII

Wind Up

Wind up.

43.–(1) The administrator may wind up a pension plan in accordance with the plan documents and this Act.

(2) Where the administrator proposes to wind up a pension plan, or the Supervisor has ordered a wind- up, the administrator shall give written notice of that proposal or order to–

(a) the Supervisor;

(b) each member of the pension plan;

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(c) each former member of the pension plan;

(d) each registered trade union that represents members of the pension plan; and

(e) any other person entitled to a payment from the pension fund.

(3) The notice of a proposal to wind up shall contain such information and be filed by the date as may be prescribed in regulations.

(4) Subject to sub-section (5), in the case of a contributory pension plan, the effective date of the wind up shall not be earlier than the date members' contributions, if any, cease to be deducted or, in any other case, on the date notice of the wind up is given to the members.

(5) Notwithstanding sub-section (4), the Supervisor may direct that a different date be taken as the effective date of wind up if it is satisfied that there are reasonable grounds for the change.

(6) The Supervisor may order the wind up of a pension plan–

(a) if all or a significant part of the business of the employer is discontinued;

(b) if the employer becomes insolvent;

(c) if an application for its registration is not granted, or if the registration of the pension plan is revoked;

(d) if the employer becomes bankrupt;

(e) if there has been a cessation or suspension of the employer's or employees' contributions or accrual of benefits to the pension fund;

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(f) if the employer fails to make contributions to the pension fund as required by this Act or the regulations;

(g) if there are no more members accruing benefits in the pension plan; or

(h) if any other event or circumstance occurs such that the Supervisor considers that the wind up of the pension plan would be in the best interests of members, former members and beneficiaries.

Wind up report. 19 of 2017.

44.–(1) The administrator shall, at the commencement of the wind up, submit a report to the Supervisor for its approval.

(2) The contents of the wind up report shall be prescribed in regulations.

(3) The Supervisor may refuse to approve a wind up report if the report–

(a) is not in accordance with the requirements of this Act or regulations; or

(b) in its proposals or recommendations, does not protect the interests of the members and former members.

Payments from Plan wind up.

45. With effect from the effective date of the wind up of a pension plan–

(a) except as otherwise provided in paragraphs *(b)* and *(c)*, no payment shall be made out of the pension fund of a pension plan until the Supervisor has approved the report of the person wind up the pension plan;

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(b) a pension or any other benefit the payment of which commenced before the effective date of the wind up may continue to be paid after that date; and

(c) any payment out of the pension fund, other than a payment under paragraph *(b)* or for reasonable costs relating to the person appointed to wind up the pension fund as determined by the Supervisor, may be made only with the approval of the Supervisor or as prescribed in regulations;

(d) the pension plan and the pension fund continue to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed; and

(e) an employer shall remain liable for the contributions which he was, immediately before the effective date of the wind up, liable to pay into the pension fund.

Wind up statements.

46. On the wind up of a pension plan, the administrator shall give to each person entitled to a benefit in respect of the pension plan a statement setting out–

(a) the person's entitlement under the pension plan; and

(b) the options available to the person regarding the immediate payment of a pension benefit if he is eligible therefore or, if not so eligible, for the payment of a pension commencing on such future date and on such terms as may be prescribed; and

(c) any other information prescribed by regulations or required by the Supervisor.

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47. For the purpose of determining the amount of pension benefits and any other rights, benefits and entitlements on the wind up of a pension plan, the employment of each member affected by the wind up shall be deemed to have been terminated on the effective date of the wind up.

Deemed termination of employment.

48.–(1) Where a pension plan is wound up, the employer shall pay into the pension fund an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund.

Liability of employer upon wind up.

(2) The employer shall pay the money due under sub-section (1) in the prescribed manner and at the prescribed times.

(3) In any case where–

(a) any warrant of distress is executed against the property of an employer and the property is seized or sold in pursuance of the execution; or

(b) on the application of a secured creditor the property of an employer is seized or sold,

the property or the proceeds of sale of the property shall not be distributed to any person entitled thereto until the court ordering the seizure or sale has made provision for the payment into a pension fund of any amount payable by the employer.

49. Where the money in a pension fund is not sufficient to pay all the benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

Underfunded pension plan.

50.–(1) No surplus may be paid out of a pension fund that is to be wound up without the prior consent of the Supervisor.

Surplus on wind up.

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(2) In consenting to the payment of surplus out of a pension fund, the Supervisor shall consider the factors prescribed in the regulation.

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(3) If a pension plan does not provide for payment of surplus to the employer on the wind up of the pension plan, the pension plan shall be construed to require that surplus shall be distributed in a fair and reasonable manner on the wind up of the pension plan among members, former members, retired members and other persons entitled to payments under the pension plan on the date of the wind up.

(4) A written agreement among the following persons may provide for payment of surplus to the employer if the surplus is to be paid to the employer on the wind up of the pension plan–

(a) the employer;

(b) at least two-thirds of the active members of the pension plan (and, for this purpose, a registered trade union that represents or represented members on the date of the wind up may agree on behalf of those members); and

(c) the number which is considered appropriate in the circumstances by the Supervisor of former members and other persons who are entitled to payments under the pension plan as of the date of the wind up.

(5) If the surplus is to be paid to the employer on the wind up of the pension plan and no agreement under sub-section (4) has been reached, the Supervisor may refer the matter to binding arbitration.

(6) An arbitrator may be appointed by an agreement entered into by the persons who would be authorized to make an agreement under sub-section (4) and, if no agreement to appoint

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an arbitrator is reached within 60 days after the Supervisor has referred the matter to arbitration, the Supervisor shall appoint an arbitrator.

(7) When making an arbitration award, the arbitrator may consider the factors that he or she considers appropriate, including such factors as may be prescribed.

PART IX

Surplus, Asset Transfers and Conversions

Surplus Ongoing Plan.

51.–(1) No surplus may be paid out of an ongoing pension fund without the prior consent of the Supervisor.

(2) In consenting to the payment of surplus out of a pension fund, the Supervisor shall consider the factors prescribed in the regulation.

(3) A pension plan that does not provide for the withdrawal of surplus money while the pension plan continues in existence shall be construed to prohibit the withdrawal of surplus money.

(4) A written agreement among the following persons may provide for payment of surplus to the employer if the surplus is to be paid to the employer from an ongoing pension plan–

(a) the employer;

(b) at least two-thirds of the active members of the pension plan (and, for this purpose, a registered trade union that represents or represented members on the date of the wind up may agree on behalf of those members); and

(c) the number which is considered appropriate in the circumstances by the Supervisor of former

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members and other persons who are entitled to payments under the pension plan as of the date of the wind up.

Sale of business.

52.–(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of his business or all or part of the assets of his business, and a member of the pension plan as a result becomes an employee of the successor employer, that member–

(a) continues to be entitled to the benefits provided under the employer's pension plan in respect of his employment up to the effective date of sale, assignment or disposition, without further accrual;

(b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and

(c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

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(2) Sub-section (1)*(a)* does not apply if the successor employer assumes responsibility for the accrued benefits of the employer's pension plan and the pension plan of the successor employer shall be deemed to be a continuation of the employer's plan with respect to any benefits or assets transferred.

(3) Where a transaction described in sub-section (1) takes place, the employment of the employee shall be deemed, for the

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purposes of this Act, not to be terminated by reason of the transaction.

(4) Subject to sub-section (5), where a transaction described in sub-section (1) occurs and the successor employer assumes responsibility in whole or in part for the benefits provided under the employer's pension plan, with the prior approval of the Supervisor, a transfer of assets shall be made from the pension fund related to the employer's pension plan to the pension fund related to the plan provided by the successor employer.

(5) The Supervisor shall not approve a transfer of assets that does not–

(a) protect the pension benefits of the members and beneficiaries; or

(b) meet the prescribed requirements and qualifications provided for under this Act or the regulations.

(6) The Supervisor may by order require a transferee to return to the pension fund, with interest at a rate to be prescribed, assets transferred without the prior approval required by sub-section (4).

(7) The Supervisor may set out additional conditions for the asset transfer.

Adoption of new pension plan.

53.–(1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan shall be deemed not to be wound up and the new pension plan shall be deemed to be a continuation of the original pension plan.

(2) The benefits and rights under the original pension plan in respect of employment before the establishment of the new

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pension plan shall be deemed to be benefits and rights under the new pension plan.

(3) Sub-section (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.

(4) No assets may be transferred from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior approval of the Supervisor or contrary to the prescribed terms and conditions.

(5) The Supervisor shall not approve a transfer of assets that does not protect the pension benefits of the members and beneficiaries of the original pension plan or that does not meet the prescribed requirements and qualifications.

(6) The Supervisor may by order require a transferee to return to the pension fund assets, with interest at a rate to be prescribed in the regulations, transferred to him by the administrator without the prior approval of the Supervisor or transferred contrary to the prescribed terms or conditions.

Conversion from defined benefit to defined contribution.

54.–(1) The Supervisor shall not approve an amendment converting defined benefits to defined contributions unless he is satisfied that the account balance for each member after the conversion is at least equal to the value of the defined benefits for each member as if the plan had terminated on the date of conversion.

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(2) A member shall not be required by the administrator or employer to convert defined benefits earned under a pension plan to a defined contribution account balance, but may opt to purchase an annuity that retains the original periodic pension benefit payment.

(3) The Supervisor may set out additional conditions for the conversion.

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PART X

Powers of the Supervisor

Supervisor of Pensions.

55.–(1) For the purposes of this Act there shall be a Supervisor of Pensions who is appointed by the Minister and subject to the directions of the Minister, shall be responsible for the general administration of this Act and whose office shall be a public office.

(2) The Supervisor shall be appointed for a term of office fixed by the Minister and shall only be removed by the Minister for misconduct, neglect, dereliction of duty or other just cause.

(3) Where any function is by this Act or any other Act or by any statutory instrument made or issued thereunder, required, permitted or otherwise to be performed by the Supervisor, that function may be performed by some other public officer or person or entity authorized in that behalf by the Supervisor.

(4) Neither the Minister nor the Supervisor nor any officer or person acting pursuant to any authority conferred by the Minister or the Supervisor, as the case may be, shall be liable to any action, suit or proceeding for, or in respect of any act or matter done or omitted to be done in good faith in the exercise or purported exercise of the functions conferred by or under this Act or any Regulations made there under.

(5) Information acquired by the Supervisor in the course of carrying out his functions shall be regarded as confidential except to the extent that its disclosure appears to the Supervisor to be necessary–

(a) to enable the Supervisor to carry out any of his statutory functions;

(b) in the interests of the prevention or detection of crime;

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(c) in connection with the discharge of any international obligation to which Belize is subject;

(d) to assist, in the interests of the public, any authority which appears to the Supervisor to exercise in a place outside Belize corresponding to those of the Supervisor; or

(e) to comply with the directions of the Court of Belize.

Fees.

56.–(1) In accordance with regulations made under section 66*(m)* prescribing fees to be paid, there shall be paid to the Financial Secretary, by every pension plan registered under this Act, annual and any other fees prescribed and on the basis or rate indicated.

(2) The fees payable under sub-section (1) together with an additional penalty if any, payable thereunder, and the fee payable under any regulations made under 66*(m)* shall be recovered as a debt in civil proceedings.

Liability.

57. The Supervisor or any officer, employee or agent of the Supervisor shall not be personally liable in damages for anything done or omitted to be done in the discharge or purported discharge of the Supervisor's functions under this Act unless the act or omission was in bad faith.

Orders.

58.–(1) The Supervisor may, in the circumstances mentioned in sub-section (2), order an administrator or any other person to take or refrain from taking any action in respect of a pension plan or a pension fund.

(2) The Supervisor may make an order under this section if he is of the opinion–

(a) that the pension plan or pension fund is not being administered in accordance with this

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Act, and the regulations or the pension plan; or

(b) that the pension plan does not comply with this Act and the regulations; or

(c) that the administrator of the pension plan, the employer or any other person dealing with a pension plan is contravening a requirement of this Act or the regulations.

(3) In an order made under this section the Supervisor may specify the time or times when or the periods of time within which the persons to whom the order is directed must comply with the order.

(4) An order under this section is not effective unless the reasons for the order are set out in the order.

Order for Correction.

59.–(1) The Supervisor, in the circumstances mentioned in sub-section (2), may order an administrator to take the action specified in sub-section (3).

(2) The Supervisor may make an order under this section where he is of the opinion that–

(a) the assumptions or methods used by the administrator in the preparation of a report required under this Act or regulations in respect of a pension plan are inappropriate for a pension plan;

(b) the assumptions or methods used in the preparation of a report required under this Act or regulations in respect of a pension plan do not accord with accepted actuarial principles or such other requirements as may be prescribed; or

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(c) a report submitted in respect of a pension plan does not meet the requirements of this Act, the regulations or the pension plan.

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Appointed administrator.

60.–(1) The Supervisor may appoint a person (who may be a corporation, partnership, association or other organization) who shall have the powers and functions of the administrator in any of the following circumstances–

(a) when the pension plan is being wound up;

(b) when the administrator or employer (other than an employer who participates in a multi-employer pension plan or financial institution pension plan) is bankrupt or insolvent;

(c) when the administrator has resigned, been dissolved, or is unable or unwilling to fulfill its duties; or

(d) where the Supervisor considers that the pension fund or member benefits are at risk from mismanagement or non-compliance with the Act or regulations.

(2) The appointed administrator shall–

(a) perform any act for and on behalf of the pension plan and represent it in and out of court;

(b) safeguard the assets of the pension plan;

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(c) collect outstanding employer and member contributions to the pension fund;

(d) determine the amount each member is entitled to receive from the pension fund;

(e) determine the amount due to former members of the pension plan and other persons;

(f) recommend to the Supervisor whether the pension plan should be wound up;

(g) if the pension plan is to be wound up, set out the method of allocating and distributing the assets of the pension plan and the priorities for payment of benefits; and

(h) perform any other function as may be prescribed or ordered by the Supervisor.

(3) The Supervisor may make a temporary or permanent appointment under this section, and may revoke the appointment at any time.

(4) The reasonable costs of the person appointed by the Supervisor may be paid out of the pension fund.

Extension of time.

61. The Supervisor may extend any time limit under this Act or the regulations, before or after the expiration of the time limit, if satisfied that there are reasonable grounds for granting the extension and may give such directions as the Supervisor considers proper consequent upon the extension.

Powers of investigation.

62.–(1) For the purposes of the administration or enforcement of this Act and the regulations or any matter relating to the Act or the regulations, the Supervisor, an officer or employee of the Supervisor may or any other person authorized by the Supervisor may, either alone or together with another person or persons–

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(a) at any reasonable time, enter any premises, where that person has reasonable grounds to believe that documents or other things relating to a pension plan or a pension fund are kept;

(b) examine, investigate or make inquiries or require the production of any document or thing relating to a pension plan or a pension fund;

(c) make, take, remove or require the making, taking or removal of copies or extracts relating to an examination, investigation or inquiry.

(2) A person exercising powers under sub-section (1)–

(a) shall provide identification of himself at the time of entry; and

(b) may not enter a private residence without the consent of the owner or occupier except on the authority of an inspection order issued under sub-section (4).

(3) A copy of any book, paper or other document respecting a pension plan or pension fund and made under this section by the Supervisor or the designated person in the course of any investigation, examination or inquiry, and certified by the Supervisor, is admissible in evidence in any action for all purposes for which the original would have been admissible.

(4) Where an owner or occupier of premises denies entry to any person referred to in sub-section (1) or orders him to leave the premises, or obstructs him or refuses to comply with a request for the production of any document required under that sub-section, that person may apply to a magistrate for an inspection order authorising him to enter the premises and do anything for the purpose of any matter set out in sub-section (1).

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63. For the purpose of ascertaining compliance with this Act and the regulations, the Supervisor may order an employer or an administrator of a pension plan to provide the Supervisor with such information or report and within such time limits as he may specify.

Power to order Information and reports.

PART 11

Miscellaneous

64.–(1) A person who contravenes a provision of this Act or the Regulations is guilty of an offence.

Offences.

(2) A person who contravenes an order made under this Act is guilty of an offence.

(3) A person who hinders or obstructs another person lawfully carrying out a duty under this Act or the Regulations is guilty of an offence.

(4) A person convicted of an offence under this Act is liable–

(a) on conviction by a court of summary jurisdiction, to a fine not exceeding $10,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment ; or

(b) on conviction on indictment, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(5) Where a person is convicted of an offence relating to the failure to submit or make payment to a pension fund, the court may, in addition to any penalty, assess the amount not submitted or paid and order the person to pay the amount to the pension fund.

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Administrative penalties.

65.–(1) The Supervisor may, after giving 14 days written notice, impose an administrative penalty of five thousand dollars where the Supervisor is of the opinion–

(a) that the pension plan or pension fund is not being administered in accordance with this Act, and the regulations or the pension plan;

(b) that the pension plan does not comply with this Act and the regulations;

(c) that the administrator of the pension plan, the employer or any other person dealing with a pension plan has failed to co-operate with an investigation under section 62 or failed to provide information under section 63;

(d) that the administrator of the pension plan, the employer or any other person dealing with a pension plan is contravening a requirement of this Act or the regulations; or

(e) the administrator of the pension plan, the employer or any other person dealing with a pension plan has failed to comply with an order for correction. but an appeal shall lie to the court within thirty days of the imposition of such penalty.

(2) Where after the imposition of a penalty in accordance with sub-section (1) the violation continues for three months, a company commits an offence and shall be liable on summary conviction to a fine of ten thousand dollars and to a penalty of one thousand dollars for each day on which the offence is continued after conviction.

(3) A person who pays an administrative penalty for an incident of non-compliance cannot be charged with an offence

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in respect of that non-compliance, unless the non-compliance continues after the penalty is paid.

Regulations.

66. The Minister may, after consultation with the Supervisor, make regulations–

(a) for the administration of pension plans, pension funds and benefits;

(b) prescribing the method of calculating the actuarial equivalent of a pension or benefit in a pension plan;

(c) prescribing the methods of calculating the values of assets and liabilities of pension funds; and the carrying out of periodic actuarial valuations of pension plans;

(d) prescribing criteria to be complied with in connection with the paying of surplus out of pension funds;

(e) regulating the investment of money from pension funds and prescribing the investments or categories of investment in which such money may be invested and the provision of investment options to members;

(f) prescribing the required content of a statement of investment policy;

(g) prescribing the requirements for life annuity contracts purchased from benefits paid or payable under this Act;

(h) prescribing rates of interest and the method of calculating interest payable or referenced under this Act or the regulations;

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(i) requiring the audit of pension plans and pension funds and prescribing the persons who may perform, and the manner of performing, such audits;

(j) governing the winding-up of pension plans and prescribing priorities or the method of determining priorities on winding up, including priorities in the allocation of assets and related matters;

(k) prescribing reports to be submitted to the Supervisor, the contents and method of preparation of such reports, the persons by whom such reports are to be prepared and the qualification, if any, required in respect of such persons;

(l) prescribing forms and records required to be prescribed under the Act and time limits for retention of such records;

(m) prescribing any fees payable to the Supervisor under any provision of this Act or the Regulations;

(n) prescribing requirements for financial institution pension plans and draw down accounts;

(o) prescribing the information that shall be provided by an administrator of a pension plan to members and the period of time for which such information shall be provided;

(p) prescribing rules in respect of the payment of plan administration and investment expenses and the disclosure of such expenses to members;

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(q) exempting pension plans, pension funds, employees, administrators or other persons from the application of this Act or the regulations or from any section of this Act or the regulations; and

(r) generally prescribing all other matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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