

In many ways, a pension plan is a method in which an employee transfers part of his/her current income stream towards retirement income. There are two main types of Pension Plans: Defined-Benefit Plans and Defined-Contribution Plans.

In a *Defined-Benefit Plan*, the employer guarantees that the employee will receive a definite amount of benefit upon retirement, regardless of the performance of the underlying investment pool.

In a *Defined-Contribution Plan* the employer and employee make predefined contributions, but the final amount of benefit received by the employee depends on the investment's performance.

Though the Insurance Act No. 8 of 2009 does not make any distinction between the two, the role of the Financial Services Regulatory Commission (FSRC) is to regulate/supervise Private Pension Plans and to ensure that the plans are compliant with the provisions for Private Pension Fund Plans within the Act.



Application for registering a Private Pension Plan

The applicant must complete the following :

- Complete FSRC-approved Application Forms
- Application forms must be signed by the Trustees of the plan
- Specify the address at which communication concerning the plan will be received ("Address of the Plan")

Application forms must be accompanied by

- * Trust Deed;
- * Rules of the Pension Plan;
- * Copy of the actuarial report on which the plan is based;
- * A list of the names and addresses of the Trustees of the plan;
- * In the case of an insured plan a copy of the policy of insurance related to benefits provided by the plan; and
- * Any other documents or further information that may be required by the Registrar.

Fees

To register a Private Pension Plan with the FSRC, there is a one-time (non refundable) registration fee of EC\$1000.00.

The registration fee for an amendment/change to a registered Private Pension Plan is EC\$300.00.

Please note that any amendment to the Trust Deed or the Rules, or both, of a registered plan, must be registered in order to be considered valid. (Section 189)

Topics Discussed:

- * **Types of Private Pension Plans**
- * **Application for registering a Private Pension Plan**
- * **Fees**
- * **Amendments**
- * **Trust Deed & Plan Rules**
- * **Accountability for Private Pension Fund Plan**
- * **Penalties for Default**
- * **Legislative References**

Amendments

Should any of the following changes take effect, Trustees must apply for the registration of the amendment of the registered plan within 21 days of the amendment. The following would constitute as an amendment:

- A. change in Trust Deed and/or the Rules of a registered Plan;
- B. change in address of the registered plan; and
- C. change in name and/or addresses of the trustees of the registered plan.

A Company may qualify to establish a fund under trusts that are subject to the laws in effect in St. Kitts and Nevis in connection to an undertaking or combination of undertakings (meaning a Company and its sub-companies), if the main purpose of the pension plan is:

- * To make provision allowances on retirement to persons employed in the Company;
- * To make provision for the spouses, and periodical allowances for children of employees; and
- * To make the assurance of capital sums on the death of employees.

Trust Deed & Plan Rules

The Trust Deed and the Rules of the Pension Plan must make provisions for the following in order to be registered under the Insurance Act No.8 of 2009.

- A. the whole of the objects for which the plan is established (employees);
- B. The appointment and removal of Trustees;
- C. The vesting in the Trustees of all property belonging to the plan;
- D. The investment in the name of the Trustees of all capital monies belonging to the plan and the authorization of the investments in which, in addition to those authorized by law, that the Trustees may invest the monies with a bank;
- E. The making of contributions to the plan by the employed in the undertaking or combination of undertakings in connection with which the plan is established;
- F. The contribution payable to and the rates of benefits payable from the fund or the method of calculating benefits payable;
- G. The conditions on which persons may become and may cease to be, contributors to, and entitled to benefits from the fund;
- H. The protection of the vested rights of the contributors to the plan;
- I. The preparation of all statements of accounts, balance-sheets and reports required by this Act to be prepared;
- J. The supply (in demand) to every person having rights in the plan, being a person who is or has been employed in the undertaking in connection with which the plan is established, of a copy of the rules of the plan and of all amendments to the plan, and of the latest statements of accounts, balance-sheet and actuarial report prepared in accordance with the requirements of this Act;
- K. The circumstances in which the plan may be wound up and in the event of a winding-up, the application of any surplus in the fund and the use of the plan to purchase immediate annuities for contingent pensioners;

- L. The person or persons to whom any surplus is payable upon the winding-up of the plan; and
- M. The method by which the rules may be amended.

Accountability for Private Pension Fund Plan

In accordance with Section 195 of the Act, the Trustees of a registered pension fund plan has the responsibility of submitting annual Balance Sheet and Statement of Accounts for each accounting year (a grace period of 6 months after fiscal year is allotted for submission of financial reports). The Balance Sheet and the Statement of Accounts must be audited by an Auditor, and be in accordance with the format set out in the Fifth Schedule (Part II).

Section 197 of the Act, requires Trustees to invest the funds of the plan only in the assets prescribed in the Fourth Schedule. They are: Bonds and Debentures, Ordinary and Preference Shares, Mortgages, Real Estate, Deposit Certificates and Unit Trusts. The Trustee may not invest in the assets of a pension fund in the equity, debentures, or other evidence of indebtedness of the employer or any subsidiary or associate of the Employer, so pay attention to the Limitations on Investment in Fourth Schedule Part B. (Section 197 (2)).

The FSRC examines financial statements for the registered Private Pension Fund Plan in accordance with the Fifth Schedule; Part II (Form A and Form B).

Penalties for Default

Please be cautioned that a Trustee who is found to be non-compliant – that is, failing to furnish any information required by the Registrar commits an offence that upon summary conviction is subject to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Also be advised that a registered plan that defaults in complying to provide proof of default on the registered pension plan commits an offence and is liable upon conviction to a fine not exceeding EC\$5,000 or to imprisonment for a term not exceeding one year or to both.



Legislative References:

- * *Financial Services Regulatory Commission Act, No. 22 of 2009*
- * *Insurance Act, No. 8 of 2009*
- * *Financial Services (Implementation of Industry Standards) Regulations (FSR), No. 51 of 2011*

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