



# **GUIDANCE NOTES**

## **SMALL PENSIONS REFUND BY PENSION PLAN AND/OR LOCAL RETIREMENT ACCOUNT ADMINISTRATORS**

**10 August, 2020**

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APPENDIX 1 – Application Form

## **1.0 Introduction**

This Guidance has been issued by the Pension Commission (“the Commission”) to assist pension plan or local retirement product administrators (“Administrators”) in administering requests for a refund of Small Pensions under the National Pension Scheme (Occupational Pensions) Act 1998. (the “Act”). It will be updated as necessary and revised versions published from time to time. This Guidance reflects the Commission’s understanding and expectations of such Administrators in reviewing such applications.

An Administrator may seek further guidance from the Commission if it is unsure of how to address any of the scenarios or conditions presented below or matters not covered by this guidance.

## **2.0 Regulatory Scope**

The National Pension Scheme (Occupational Pensions) Act 1998 and the National Pension Scheme (General) Regulations are the statutory basis for the establishment and administration of private, occupational pension schemes and local retirement products in Bermuda. Effective 10 August, 2020, Section 35 of the Act specifically provided for a former member of a pension plan or a member of a local retirement product, who has attained normal retirement age (normally 65 years of age) to be able to receive a lump sum refund of their account balance (for defined contribution plans or local retirement products) or commuted value (for defined benefit plans) if not more than \$50,000. Small Pensions refunds are not applicable to multi-employer plans.

Please note that the Act requires occupational pension plans and local retirement products to provide for such refunds in their respective pension plan or retirement product rules and any other related documents.

## **3.0 Applications**

A request for a Small Pensions refund under the Act to an Administrator should primarily be in the Form suggested by the Commission. Administrators may customize this Form by adding their name (see Form for specific sections), logo, trademarks or other distinguishing marks.

In considering an application, the Commission expects Administrators to: -

- a) carry out any enquiries which it considers appropriate (e.g. approaching other Administrators or the Commission if necessary);
- b) ask the applicant, if necessary, to attend a meeting with the Administrator to answer questions and explain any matter(s) the Administrator considers relevant to the application;

- c) seek additional information from the applicant or other Administrators when necessary;
- d) request any information furnished by the applicant to be verified in such manner as the Administrator may specify; and
- e) take into account any other information which the Administrator considers relevant in relation to the application.

Please note that when an Administrator approaches another Administrator for information relating to the applicant, the Administrator should be willing, when requested by the other Administrator, to provide a copy of the Certification and Authorization section of the completed application form. It is recognized that this may be necessary so that the Administrator receiving the information request from the requesting Administrator, can satisfy any confidentiality/authorisation requirements they may have related to the applicant.

Administrators should be aware that an applicant, at the time of application, with more than \$50,000 in their account due to investment earnings or benefits received since their normal retirement age can be considered for a refund. However, the Administrator will have to confirm that when the applicant reached their normal retirement age they had an account balance or commuted value of \$50,000 or less.

Furthermore, Administrators should recognize that all pension contributions may not have been paid into the applicant's account at the time of their making an application. There are two possible scenarios:

- (a) The last amount of required contributions to be paid following the month of the applicant's reaching their normal retirement age has not yet been made, as the 30 days in which to make the payment has not expired. In such cases, the Administrator should wait until this last payment has been received from the employer in order to determine the final account balance. The Administrator should advise the applicant accordingly to explain any applicable delay.
- (b) Additional, past contributions from the employer are due but not yet paid (other than the last, single month of contributions in (a) above) and the applicant's current account balance is \$50,000 or less. Notwithstanding that the outstanding contributions due would, when added, make the applicant's account balance greater than \$50,000, the Administrator should still make the refund payment if all other criteria are satisfied.

In addition, Administrators should note that an applicant only has to have reached normal retirement age (normally 65 years of age). Whether they have retired or still working are not relevant factors. Furthermore, an applicant who is already receiving a pension withdrawal from their plan or local retirement product will also be able to apply provided that at the time they reached normal retirement age (normally 65 years of age) they did not have an account balance (for defined

contribution plans or local retirement products) or commuted value (for defined benefit plans) more than \$50,000 in value.

Thus, Administrators are expected to be able to provide a statement to an applicant confirming what their account balance or commuted value was at that time of their reaching normal retirement age (normally 65 years of age) as well as their current value. Please note that if, for example, an applicant had a \$50,000 account balance at their normal retirement age which now, at the time of application, is greater than \$50,000 (resulting from not taking any pension payments and/or subsequent investment gains), the Commission advises that they are still eligible for a refund.

An Administrator may not make a Small Pensions refund payment where an applicant has purchased an annuity (life, term certain or other) as these refunds are not applicable from an annuity. In addition, multi-employer pension plans are not eligible for such refunds.

The Administrator should not apply any refund unless it is satisfied that the applicant has provided all of the requested information in an accurate and truthful manner and the Small Pensions amount under the Act has been satisfied. If information comes to the attention of the Administrator which calls into question or refutes the information provided by the applicant, the Administrator shall not refund the requested Small Pensions.

The Act imposes no time limit within which applicant must receive any approved Small Pensions refund. However, the Commission expects Administrators to deal with applications as promptly as possible. The time required to complete its initial enquiries may vary, however, depending on the nature of the issues which may arise and the difficulty or otherwise in obtaining any additional information which may be necessary. Generally, the Commission would not expect an application to normally remain outstanding for a period in excess of 3 weeks; and in most cases the timetable should be appreciably less.

**If an Administrator receives an application that is not readily addressed by the above guidance, they should contact the Commission for further clarification and guidance.**

#### **4.0 Reporting Requirements**

The Commission will require Administrators to provide a monthly statistical report on the total number of such applications received, numbers of applications approved and not approved as well as the total amount approved. The Commission may also request additional information such as the age or gender of the applicant. The Commission expects Administrators to submit the relevant information by the 15th day of the month following the respective reporting month (e.g. report for applications received in January, 2020 is to be submitted by

15 February, 2020). If an Administrator is unable to submit the information in the expected timeframe, the Commission expects to be notified immediately and the reasons for not being able to do so and the expected submission date.

## **5.0 Disclosure of Information**

As the information provided above will not normally include any specific individual personal information, the Commission will be free to share such information with any person it deems appropriate both internally and externally, including in its annual report, statistical bulletins or other releases to members of the general public or other interested parties.