



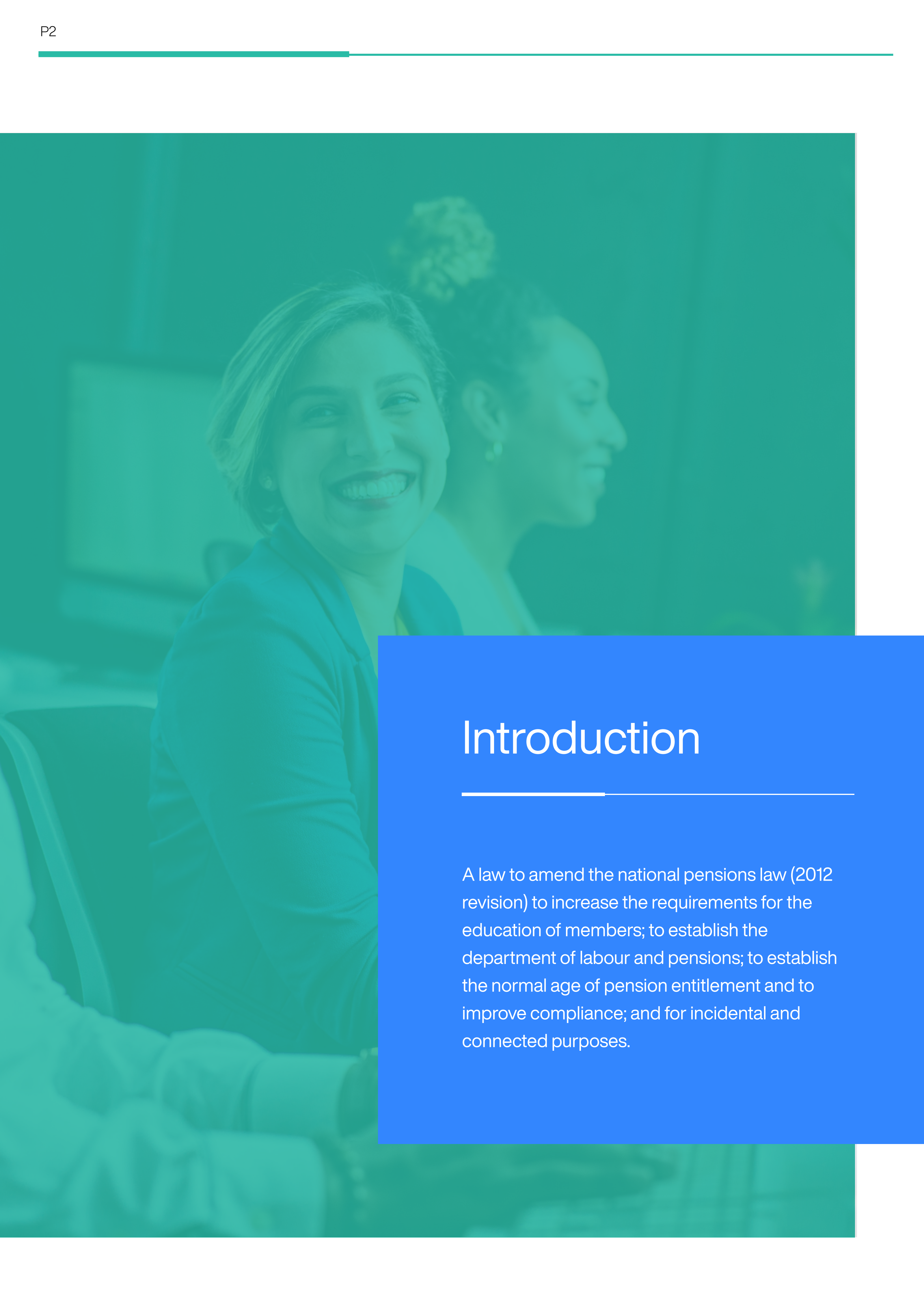
Department of
Labour and Pensions
Cayman Islands Government

F A Q

National Pensions (Amendment) Law 2016

UPDATED DEC 2022

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Introduction

A law to amend the national pensions law (2012 revision) to increase the requirements for the education of members; to establish the department of labour and pensions; to establish the normal age of pension entitlement and to improve compliance; and for incidental and connected purposes.

Why has the National Pensions Law (2012 Revision) been amended?

The National Pensions Law (“NPL”), which governs private sector pensions, was initially implemented in 1998. In recent years, specifically, 2010 and 2011, there have been amendments to the NPL focused on specific areas. The most recent amendments that have been made to the NPL are the first substantive revisions to this Law, since its introduction over 15 years ago.

The revisions align the National Pensions Law with the re-organisation of Labour and Pensions Services in the Cayman Islands, by including in legislation the establishment of the Department of Labour and Pensions (“DLP”). Furthermore, the inclusion of other essential changes will facilitate improved compliance and better information resources to the benefit of both employees and employers.

What are the major changes to the National Pensions Law?

The major changes that impact most of the population are:

- Removing the notion of a “normal retirement age” by introducing the term “normal age of pension entitlement” and increasing the age from 60 to 65 years old as the time at which persons become entitled to access their pension. This recognises the longevity of people in today’s society and, in many instances, their willingness and ability to work longer to contribute to their own independence.
- Increasing the “year’s maximum pensionable earnings” from CI\$60,000 to CI\$87,000. This is the amount on which employees and employers are required by law to pay pension contributions and represents the inflation-adjusted amount recommended in the 2007 Mercer Report.
- Changing the requirements for pension plan members transferring their pension benefits overseas. The new Law mandates that the member’s employment must be terminated, there must be no contributions to his/her pension account for two years and the member must be absent from the Cayman Islands for two years before he/she can transfer their pension benefit overseas. This change becomes effective on December 31, 2017.
- Changing the requirements for refunds. The new Law allows that as of December 31, 2019 pension plan members will no longer be allowed to obtain a refund. Following that date, refunds will only be available under two circumstances: 1) at the administrator’s discretion for commuted values less than CI\$5,000 and 2) where a member reaches age 65 and wants to but is unable to transfer their pension benefit to an approved pension plan, retirement savings account or similar arrangement, or a life annuity. To obtain a refund prior to December 31, 2019, three criteria must be met: employment is terminated 2) no contributions to pension account for 2 years (contributions must be made by December 30, 2017) and 3) cease to be resident in the Cayman Islands for 6 months.

What should all employees know about the National Pensions (Amendment) Law, 2016?

- All employees between 18 and 65 years of age must contribute to a pension plan; with the exception of Caymanians under the age of 23 years old who are pursuing full time education and non-Caymanian and non-Permanent Resident “household domestics” (e.g. maid or gardener).
- All self-employed persons must contribute to a pension plan.
- Unless the employer agrees to contribute more than the employer’s minimum requirement of 5 per cent, all employees must contribute a minimum of 5 per cent of their earnings up to the year’s maximum pensionable earnings of CI\$87,000.
- As of March 31, 2017 employees can more easily access their Additional Voluntary Contributions (AVC) if they are needed prior to reaching the normal age of pension entitlement. Members are permitted, within defined criteria, to access their AVCs in the following four categories: housing, medical, temporary unemployment and educational needs. AVC is an extra contribution of funds to a pension plan that is above the minimum amount that either an employer or employee is required to pay.
- Employees will no longer be able to obtain pension refunds after December 30, 2019. Refunds will be permitted only under two circumstances: at the administrator’s discretion for commuted values of less than CI\$5,000 and where a member reaches age 65 and wants to but is unable to transfer their pension benefit to

an approved pension plan, retirement savings account or similar arrangement, or a life annuity. This policy shift was deemed necessary in order to minimise the possibility of persons accessing and depleting their pension benefits prior to retirement, and then subsequently becoming wards of the country later in life.

- Employees, who are non-Caymanian or non-Permanent Residents, that are employed as a “household domestic” (e.g. maid or gardener) in a private residence are not required to contribute to a pension plan.
- Employees should ensure that their employer is complying with the National Pensions Law and providing a pension plan for them.
- Employees who believe that they have been subjected to or threatened to be victimised by their employer as a result of making a disclosure of information to the DLP can make a complaint to a Labour Tribunal.
- Employees should ensure that the money taken out of their earnings is put into a pension plan by comparing their payroll slips from their employer with their member statement received from their pension plan administrator.
- Employees must inform their pension plan administrators of any changes in their personal information such as address, phone numbers or beneficiaries.
- Employees should attend their pension plans’ annual general meetings and other information sessions offered by their pension plan administrators.

What should all employers know about the National Pensions (Amendment) Law, 2016?

- At the minimum, all employers must contribute 5% of their employees' earnings to a pension plan up to the year's maximum pensionable earnings of CI\$87,000.
- Self-employed persons must contribute a minimum of 10% of their year's maximum pensionable earnings to a pension plan.
- Employers are legally required to keep proper books and comprehensive records for a minimum of 5 years in relation to their pensionable employees and make those documents available for employees to obtain information.
- Employers can apply for and obtain verification of their compliance with the NPL.
- Fines for general offences have increased from CI\$5,000 to CI\$10,000 or to imprisonment for 1 year or both.
- The fine for failure to provide a pension plan or make contributions into a pension plan by the time given by the Director of Labour and Pensions has increased to CI\$20,000 or imprisonment for 2 years or both.
- Employers are responsible for deducting a maximum of 5% pension contributions from their employees and submitting a total of 10% pension contributions to the selected pension plan.

All self-employed persons must contribute to a pension plan. At the minimum, all employers must contribute 5 per cent of their employees' earnings



The year's maximum pensionable earnings increased from CI\$60,000 to CI\$87,000.

- Employers are not required to make pension contributions for Caymanians who are under the age of 23 and are pursuing full time education.
- Household Employers, who employ a non-Caymanian or non-Permanent Resident as a "household domestic" (e.g. maid or gardener), are not required to contribute to a pension plan.
- The Director of Labour & Pensions reserves the right to share information with Government Departments and Statutory Authorities on employers' compliance with the NPL but the NPL expressly prohibits the sharing of any personal information of any employee.
- Employers must advise the Pension Plan Administrators (PPAs) when a new person is hired and when an employee terminates.
- Employers must advise the PPAs of changes in business information such as address or phone numbers.
- Employers must provide any information requested by the DLP, and within the specified time period.

How does the National Pensions (Amendment) Law, 2016 affect Pension Plan Administrators (PPA)?

The DLP reserves the right to share information with Government Departments and Statutory Authorities on pension plans' compliance with the NPL but the NPL expressly prohibits the sharing of any personal information of any employee. Please note that the following changes below that are contained in the Amendment Law have been deferred due to the need for administrative considerations and the passage of regulations. These changes will go into effect at a later date to be determined by Cabinet.

- PPAs must provide a consistent standard and possess and demonstrate the necessary qualifications to administer a plan.
- PPAs must undergo yearly training to ensure the administration, custodianship and investment of a pension plan or fund are undertaken by persons qualified and experienced to be administrators, custodians, investment advisors and investment managers.
- PPAs are required to hold annual general meetings for members to ensure that all plan members have an opportunity to hear directly from their pension plan administrator and key service providers about the activities of their pension plan. Annual general meetings provide a clear and established forum for members to raise their questions and concerns with the administrator.
- PPAs must provide members with details on the investment returns and expense ratios of their pension fund.
- PPAs must notify employees of their employer's pension arrears, 60 days after the DLP is notified of the non-payment of pension contributions.
- PPAs will increase the issuance of member statements from annually to semi-annually and may issue statements electronically with a member's written consent.

For a copy of the National Pensions (Amendment) Law (2016) or a summary document containing all of the major amendments to the National Pensions Law, please visit www.dlp.gov.ky.

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Disclaimer: This document is being provided as a part of a public education campaign on changes made by the National Pensions (Amendment) Law, 2016 and is not meant to be a substitute for legal advice. If you have more in-depth legal questions concerning the Amendment Law, please speak with a qualified attorney



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