



## **GUIDANCE NOTE**

### **ACCESS TO ADDITIONAL VOLUNTARY CONTRIBUTIONS**

The National Pensions (Amendment) Law, 2016 was published in the Gazette in June 2016 however these legislative changes to the National Pensions Law did not come into effect until the date listed in the Commencement Order. In accordance with the National Pensions (Amendment) Law, 2016 (Commencement) Order, 2016, section 47(10), which permits access to additional voluntary contributions ("AVC"), came into effect on the 31<sup>st</sup> March, 2017.

Section 47(10) allows pension plan members to access their AVC, prior to reaching the normal age of pension entitlement, under four categories: medical purposes, temporary unemployment, housing purposes and educational purposes. If the member has AVC that they have not accessed prior, the AVC can be paid as a lump sum when the member reaches the normal age of pension entitlement.

#### **MEDICAL PURPOSES**

Section 47(10)(a) permits a member to access their AVC for medical purposes where the member's health insurance does not cover the cost of the medical procedure and the procedure is not elective.

As a result, the member would be able to access their AVC to cover any medically required procedures that are not covered by their health insurance. For clarity: this section does not require that the procedure is life threatening or an emergency. This AVC access would include, for example, the cost for the member's co-payment.

As per the standard application, the following must be submitted with the completed application form in order for the member to access their AVC for this purpose:

- A letter from your health insurance provider stating the medical attention sought, the cost of that medical attention and the portion not covered by the member's insurance as well as confirmation that the procedure is not elective.

#### **TEMPORARY UNEMPLOYMENT**

Section 47(10)(b) allows a member to access their AVC for temporary unemployment where that unemployment is within the first six month period following the three month period after the date upon which the member was terminated.

For clarity, once a member has been unemployed for three months, the member can access their AVC for the next six months of unemployment.

As per the standard application, the following must be submitted with the completed application form in order for the member to access their AVC for this purpose:

- A dated termination letter from your most recent employer (dated within 9 months of the application)

### HOUSING PURPOSES

Section 47(10)(c) allows a member to access their AVC for housing purposes including the construction of the member's home, purchase of residential land for the member or for payment of the outstanding balance of the member's mortgage in full but excluding the payment of rent.

As a result, a member can utilize the AVC to pay off their mortgage in full however the funds are not accessible for partial payments or to pay down their mortgage or to cover a regular monthly mortgage payment. However if the mortgage is in arrears due to unemployment, or inconsistent (occasional part time) employment after being unemployed; arrangements should be made through the member to have the disbursement paid directly to the financial institution.

For avoidance of doubt: All applications must relate to properties within the Cayman Islands and the necessary supporting documentation will be required as part of the application process.

With respect to a member accessing their AVC under section 47 and mandatory contributions under Section 52, it is permissible for a member to access their AVC and then also apply to access their mandatory contributions under section 52. It is important to note that under section 47(10), members are not required to repay their AVC however pension assets withdrawn under section 52 must be repaid with an additional 1% contribution on a monthly basis.

With respect to renovations or repairs to property, this is only permissible if those -renovations or repairs are to the actual physical structure of the house or items that are permanently or semi-permanently affixed to the structure of the member's dwelling house such as windows, doors, flooring, cabinets and central air conditioning systems; however it wouldn't include chattels. For clarity, please note that access to AVC is not permitted for simple maintenance or the following reasons: purchase of appliances or furniture as well as construction of fencing or swimming pools. This is not intended to be an exhaustive list but is provided for indication purposes.

As per the standard application, the following must be submitted with the completed application form in order for the member to access their AVC for this purpose:

- A signed purchase agreement (for the purchase of a dwelling unit/house or land)
- If the request is for construction purposes, then the member must provide evidence of their legal title to the land by submitting a copy of the land register. In addition, a quote or invoice from the construction company is also required.
- In order to pay off a mortgage, then the member must provide evidence of their legal title to the land by submitting a copy of the land register. In addition, a letter from their financial institution stating the balance remaining must also be submitted.
- If the request is for renovations or repairs, the member must provide evidence of their legal title to the land by submitting a copy of the land register. This must be accompanied by a quote or invoice from the supplier or service provider engaged to complete the work.

### EDUCATIONAL PURPOSES

Section 47(10)(d) permits a member to access their AVC for the educational purposes of a member or the dependent child of the member, if the child is under the age of 23 and pursuing full time education.

As a result, the member would be able to access these sums for their own educational purposes, without any restrictions. If the member wishes to utilize the money for their child, that child must be under the age of 23 and must be enrolled in full time education, which would include locally approved pre-school, special needs education, primary, secondary or tertiary education.

As per the standard application, the following must be submitted with the completed application form in order for the member to access their AVC for this purpose:

- A letter of acceptance from the educational institution showing the cost of the education and person being enrolled.
- If for a dependent child of a member, proof of dependent child's age, and a letter from the educational institution that stipulates the program is full-time.

### HOW TO APPLY

The member should apply directly to their pension plan administrator and there is no need for the application to be submitted to the Department of Labour & Pensions unless the administrator needs to clarify if the request is permissible.

### REPAYMENT

There is no requirement for a pension plan member to repay the AVC that is withdrawn for any of the four categories.

### FREQUENCY OF ACCESS

A member is permitted access to their AVC up to 4x per calendar year, for the four categories permissible in the NPL.

### MONTHLY REPORTING BY ADMINISTRATORS

The pension plan administrator will be provided with a template in order to report to the Department of Labour & Pensions, as required under section 47(12) of the National Pensions (Amendment) Law 2016. The report is due to be filed with the Department by the 10<sup>th</sup> of each month.

NB: This guidance note is subject to review and revision as it becomes necessary.