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THE PORT WORKERS (SUPERANNUATION FUND) ACT

**THE PORT WORKERS (SUPERANNUATION SCHEME) (AMENDMENT)
REGULATIONS, 2020**

In the exercise of the power conferred upon the Minister by section 6 of the Port Workers (Superannuation Fund) Act, and of every other power hereunto enabling, the following Regulations are hereby made:—

Short title
and
construction.

1. These Regulations may be cited as the Port Workers (Superannuation Scheme) (Amendment) Regulations, 2020, and shall be read and construed as one with the Port Workers (Superannuation Scheme) Regulations, 1968 (hereinafter referred to the “principal Regulations”) and all other amendments thereto.

Amendment
of regulation
11 of
principal
Regulations.

2. Regulation 11 of the principal Regulations is amended—

- (a) in paragraph 4(a)(iii) by inserting immediately before the word “if” the words “subject to paragraph (4A)”;

(b) by inserting next after paragraph (4) as amended the following—

“ (4A) The trustees may, from time to time, after receiving actuarial advice with respect to the Fund, declare an amount as the minimum pension payable to a subscriber referred to in paragraph (4)(a)(iii) who has not received a lump sum from the Fund in connection with a pension.

(4B) Where the trustees declare the minimum pension payable in accordance with paragraph (4A) and, the subscriber is entitled to a pension equal to either—

- (a) the amount determined in accordance with paragraph (4)(a)(iii); or
- (b) the amount declared as the minimum pension, whichever is higher.”.

Amendment
of regulation
14 of
principal
Regulations.

3. Regulation 14 of the principal Regulations is amended by deleting paragraph (3) and substituting therefor the following—

“ (3) If a person who is entitled to a benefit under paragraph (1) was a subscriber for a period of not less than five years immediately before the termination of his participation in this scheme, the person may elect to receive from the Fund, in lieu of that benefit and any interest added to it in accordance with paragraph (2)—

- (a) a deferred pension which shall be payable from the date on which he attains the age of 65 years and for the rest of his life; or
- (b) the benefit payable under paragraph (1) and the interest added to the benefit as provided in paragraph (2) as well as a reduced deferred pension, as determined by the trustees, on actuarial advice, payable from the date on which the person attains the age of 65 years and for the rest of his life.”.

Amendment
of regulation
15A of
principal
Regulation.

4. Regulation 15A of the principal Regulations is amended by inserting next after paragraph (2B), the following—

“ (2C) Where a subscriber who is retired under regulation 9 dies on or after the effective date, and at the time of his death left a person who was his spouse or was, in accordance with paragraph (4), treated as his spouse, that person shall be entitled to receive from the Fund a surviving spouse's pension equal to 37½ % of the pension which would have been payable to the subscriber at the time of his death.

(2D) In this regulation “the effective date” means the date on which the Port Workers (Superannuation Scheme) (Amendment) Regulations, 2020, comes into operation.”.

Repeal and replacement of regulation 15B.

5. Regulation 15B of the principal Regulations is repealed and the following substituted therefor—

“Allocation of reserve funds.

15B. Where the trustees, after taking into account the actuarial liabilities of the Fund, are satisfied that the reserves of the Fund are sufficient for the purpose of supporting the benefits payable under these Regulations, the trustees may, taking into account actuarial advice, apply any part of the reserves not required for such purpose, to increase the benefits under these Regulations or to reduce the contribution payable by an employer to a subscriber or both.”.

Insertion of new Part VIIA in principal Regulations.

6. The principal Regulations are amended by inserting next after regulation 31 the following—

“

PART VIIA.—*Discontinuance and Winding up of the Scheme*

Interpretation of Part VIIA

31A. In this Part—

“beneficiary” means—

- (a) a person who is not a subscriber or retired subscriber and is in receipt of or entitled to a benefit under these Regulations;
- (b) a surviving spouse;
- (c) a person entitled to a beneficiary pension under regulation 12;
- (d) a nominee; or
- (e) a personal representative;

“discontinuance date” means the date on which the superannuation scheme is discontinued in accordance with section 31B;

“functions” includes duties and powers; “normal retirement age” means 65 years of age.

Discontinuance of the superannuation scheme.

31B.—(1) The scheme shall be discontinued if—

- (a) the Act is repealed;

- (b) the Minister accepts the written recommendation of the trustees that the scheme should be discontinued; or
- (c) the Minister is satisfied, on the basis of a written submission from the Authority (supported by documentary evidence) that, on account of a change in the circumstances of employers or the the business environment in which they operate, the contributions required to be paid by them under section 4 of the Act will cease, from the date specified in the submission.

(2) For the purposes of paragraph (1), the discontinuance date shall be—

- (a) the date on which the repeal of the Act takes effect;
- (b) the date on which the Minister notifies the trustees in writing that their recommendation has been accepted; or
- (c) the date on which the Minister notifies the Authority, in writing, that he is satisfied that the scheme should be discontinued.

Contributions and entitlements on discontinuance.

31C. A subscriber to the scheme who is still employed at the discontinuance date, shall be deemed to be entitled to his accrued pension, commencing at the normal retirement age, regardless of the period of time for which he was a subscriber.

Winding-up of the scheme.

31D.—(1) The trustees shall take steps to wind-up the scheme, within fifteen days of the discontinuance date, by applying the assets in the Fund in accordance with regulation 31F.

(2) The trustees shall, within the time-frame specified in paragraph (1) —

- (a) inform all subscribers, by notice in writing, of the discontinuance and the proposed winding-up of the scheme;
- (b) provide such information to the subscribers as the trustees consider appropriate; and

- (c) give directions to an actuary for the preparation of an actuarial valuation of the Fund.

Realisation of assets of the Fund.

31E. The trustees shall ensure that the the Fund are realised in a manner that is reasonably practicable and allow for the orderly disposition of such assets, at the best obtainable price.

Payments to be made on discontinuance of the scheme.

31F.—(1) Following the receipt of an actuarial valuation of the Fund, the trustees shall pay—

- (a) all costs, charges and expenses incurred in giving effect to the discontinuance of the scheme;
- (b) any lump sum which, before the discontinuance date, becomes payable under these Regulations on termination of the participation of a subscriber in the scheme or on the death of the subscriber; and
- (c) all other costs, charges and expenses properly payable under these Regulations that were incurred before the discontinuance date.

(2) The trustees shall apply the balance of the Fund, after making the payments specified in paragraph (1), for the following purposes, in the order of priority below—

- (a) pension and other benefits for each retired subscriber or his beneficiary, if any, where, immediately before the discontinuance date, the subscriber was in receipt of payment or was entitled to receive a payment under the scheme;
- (b) pension and other benefits for each subscriber or his beneficiary, if any, where, at the discontinuance date, the subscriber—
 - (i) was in service to an employer;
 - (ii) was 55 years of age or older;and

- (iii) elected to be treated as having retired on the discontinuance date;
- (c) benefits payable to each subscriber or his beneficiary, if any, where the subscriber terminated service and is entitled, under these Regulations, to a deferred pension;
- (d) deferred pension and other benefits for each subscriber or for any beneficiary of a subscriber, being the greater of the benefit to be derived from—
 - (i) the aggregate of the contribution of the subscriber and the interest thereon; or
 - (ii) the accrued pension of the subscriber;
- (e) all other liabilities relating to the scheme.

Insufficient funds.

31G. If the amount in the Fund is not sufficient to provide full payment of the benefits under this Part on the discontinuance of the scheme, the trustees shall, taking into account actuarial advice, reduce proportionately to such extent as they think just and reasonable, the benefits payable, taking into account the order of priority specified in regulation 31F(2).

Surplus funds.

31H.—(1) Where there is a balance in the Fund after payments are made as required under regulation 31F, the trustees shall, if they think it is just to do so and having taken actuarial advice, apply the balance first, to provide additional benefits to subscribers and their beneficiaries as specified in regulation 31F(2)(a), (b), (c) and (d), and shall allocate any amount remaining thereafter in the following manner—

- (a) fifty percent to employers who contributed to the scheme and in respect of whom there were, on the discontinuance date, retired subscribers or a subscriber, to be shared

among the employers as determined, pursuant to paragraph (2); and

- (b) fifty percent to the person entitled to a benefit on discontinuance of the scheme, to be shared among them as determined, pursuant to paragraph (3).

(2) For the purpose of paragraph (1)(a), an employer's share of the fifty percent of the amount remaining, shall be the fraction of that amount, determined with reference to the proportion that the aggregate of the employer's contributions to the Fund bears to the total amount of contributions to the Fund by the employers.

(3) For the purpose of paragraph (1)(b), the person's share of the fifty percent of the amount remaining, shall be as the trustees determine, having regard to actuarial advice.

Securing the benefits.

31I. The trustees shall secure the benefits payable under these Regulations to subscribers and their beneficiaries, including the amounts payable under regulation 31G, in one or more of the following ways—

- (a) by the payment of cash lump sums which may include—
 - (i) payment of surplus;
 - (ii) refunds of contributions with credited interest; and
 - (iii) payment in commutation of or in lieu of annuity payments;
- (b) by the purchase of non-commutable and non-assignable immediate or deferred annuities, as the case may require, from a duly registered insurance company;
- (c) by the transfer to another pension plan, at the written request of a subscriber, which may legally accept such transfer of assets from the Fund, certified by an actuary to be the cash equivalent of the benefits to which

the subscriber is entitled under these Regulations; and

- (d) by such other lawful means as the trustees, in their discretion, think fit.

Death of individual before settlement.

31J. Where a person who is entitled to benefit under this Part dies before settlement by the trustees, the value of the person's entitlement shall be paid to his nominee or, if there is no nominee, his personal representative.

Release and discharge.

31K. On settlement of the benefits payable on the discontinuance of the scheme, the person entitled under these Regulations or a person lawfully authorised on his behalf, shall execute a Release and Discharge which shall have the effect of releasing the trustees, their agents and employees from all actions, claims, demands or proceedings arising directly or indirectly under the scheme.

Contributions and deductions under section 4 of the Act.

31L. On or after the discontinuance date, the and contributions and deductions prescribed for the purposes of section 4 of the Act shall be nil.

Report.

31M.—(1) The trustees shall submit to the Minister, within sixty days of the discontinuance and winding-up date, a written report with respect to the discontinuance and winding-up of the scheme and the performance of their functions under this Part.

(2) A report under sub-paragraph (1) shall—

- (a) contain details concerning the number of subscribers and beneficiaries affected by the discontinuance and winding-up of the scheme and the amounts paid to those subscribers and beneficiaries; and
- (b) be accompanied by an actuarial report relating to the discontinuance and winding-up of the scheme and such other documentation or information as the Minister may require.

Date on
which scheme
deemed to be
wound-up.

31N. For all purposes, the scheme shall be deemed to be wound-up on such date after the discontinuance date, as the Minister may, after consultation with the trustees, specify by notice published in the *Gazette*".

Dated this 1st day of September, 2020.

LESTER MICHAEL HENRY
Minister of Labour and Social Security.