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CI National Pensions Board

Cayman Islands National Pensions Board

Annual Report

July 1, 2006 - June 30, 2007

March 2008



National Pensions Board
ANNUAL REPORT
JULY 1, 2006 – JUNE 30, 2007

BACKGROUND

The National Pensions Board (Board) is established under Section 78 of the National Pensions Law (2000 Revision). The Board is to consist of a Chair, a Deputy Chair and between 5 and 9 additional members. The appointment of Board Members is to be gazetted and its duties, responsibilities and powers are laid out in the National Pensions Law, Section 80 and its Regulations. The Superintendent of Pensions is the Chief Administrative Officer of the Board.

The duties and responsibilities of the Board and the Superintendent include:

- Administering the Law and regulations;
- Promoting the establishment, extension and improvement of pension plans throughout the Islands;
- Advising the Minister in respect of business of the Board; and
- Making recommendations to the Minister in respect of pension plans.

COMPOSITION

The Board was appointed in October 2006, for various terms as set out below to ensure continuity; the composition was as follows:

1. Chair	Mr. Carlyle McLaughlin Jr.	(1 Year)
2. Deputy Chair	Mr. Bryan Bothwell	(3 Years)
3. Member	Mr. William Adam	(2 Years)
4. Member	Mr. Vaughan Carter	(2 Years)
5. Member	Mr. Ronnie Dunn	(2 Years)
6. Member	Mrs. Rhonda Kelly	(3 Years)
7. Member	Mr. Ian Pairaudeau	(3 Years)
8. Member	Ms. Sharon Roulstone	(1 Year)
9. Member	Mr. Cyril Theriault	(3 Years)

The Deputy Superintendent of Pensions serves as Secretary to the Board and the recording secretary of the Board is a staff member of the National Pensions Office.

BOARD MEETINGS

The Board meeting schedule began in December '06, following its appointment in October. The Board held Regular Board meetings and Special Board meetings to deal exclusively with the review of the National Pensions Law. The Board made a concerted effort to progress the law review towards a conclusion in the next Financial Year.

The schedule of meetings was as follows:

Regular Board Meetings	Special Board Meetings
December 12, 2006	January 10, 2007
February 28, 2007	February 20, 2007
May 16, 2007	March 21, 2007
	April 17, 2007
	May 30, 2007

ADMINISTER THE LAW AND REGULATIONS

REGISTRATIONS

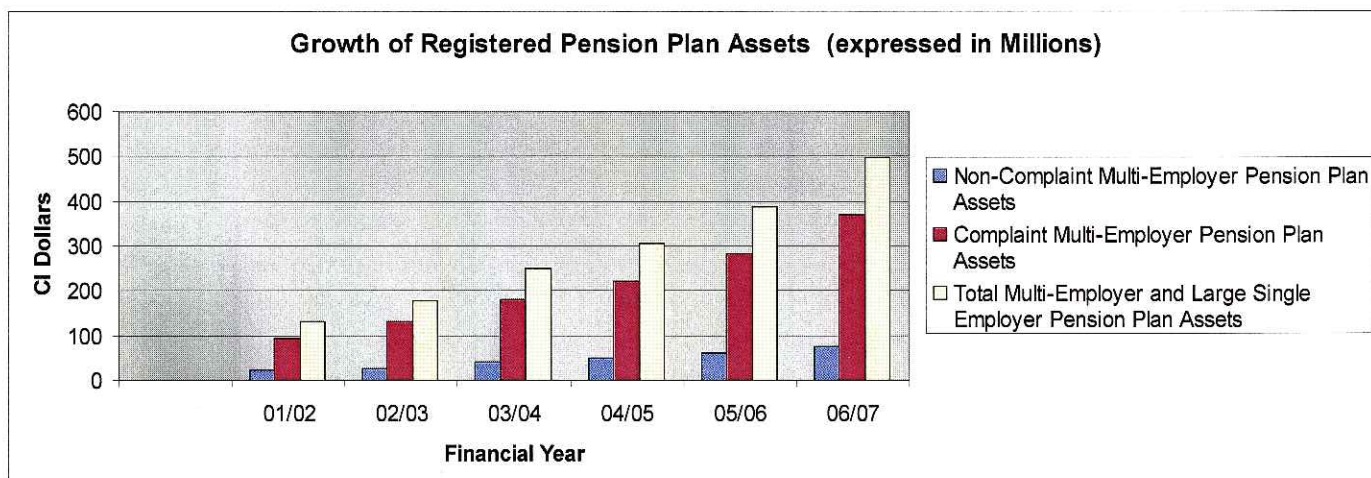
During the period covered by this report, the National Pensions Office completed its annual renewal of registrations. In 2006/07, the Office received 107 Renewals/New Applications for pension plans, over 30,000 pension accounts had been established, which held almost \$500,000,000 in invested assets. Actual renewal of registrations were down from the previous year (197), as a result of one of the multi-employer pension plans intending to amalgamate a number of individual pension plans for smaller employers into one, central plan. When this activity was delayed the provider then submitted the individual plan renewals late, and these submissions will be counted in the following fiscal year. Currently, the registration and annual renewal process is managed manually, however changes to the Pennat computer system were made during the year which will permit automatic tracking of renewals in the 07/08 fiscal year, which will improve the office's efficiency as well as allow the production of better and more meaningful statistical reports.

The NPL has been enacted for nine (9) years. The Board continues to be concerned that there are still non-compliant and thus partly unregulated pension providers, who have been allowed to operate, accepting pension monies and that the National Pensions Office (NPO) is still unable to determine if all such funds are being managed within the safeguards established by the Law.

As reported last year, two of the multi-employer plans were threatened to have their registrations revoked should they not prepare amendments to their plans and reports to meet the requirements of the Law. While some progress towards gaining their compliance has been made, the advice sought by the Office and the Board, from the Legal Department, has not been provided, to ensure that the plans are fully compliant.

Throughout the year the Office reported on the compliance and registration status of plans, particularly the multi-employer plans, and this reporting is expected to improve with Pennat's full implementation.

The following chart illustrates the growth in pension plan assets over the last 6 years.



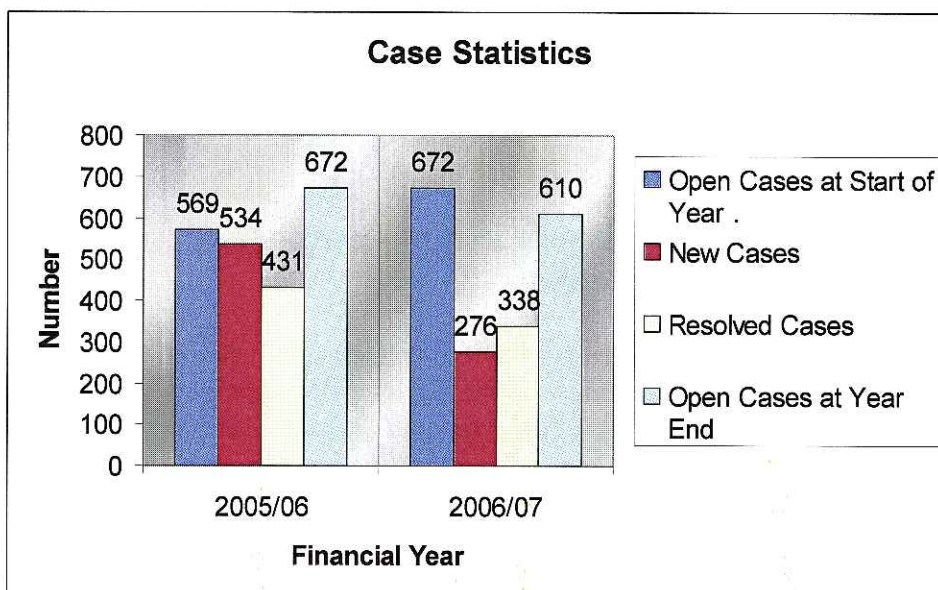
ENFORCEMENT

Some nine years after enactment of the Law, there can no longer be any reasonable excuse for allowing employers to ignore it. At the beginning of the year there were 672 open cases for follow-up investigation. An open case is defined as an employer that is reported as delinquent in making contributions or one that the office has received a complaint about in an area other than contributions. During the year 338 cases were resolved and 276 new cases were identified. The Board continues to be concerned about the timeliness of enforcement or other resolution of these cases and the apparent high number of new cases identified each year. After the end of the fiscal year, through to the time of this Report, the NPO has confirmed that, with the help of the Ministry, it has been compiling new operating procedures aimed at more timely resolution of complaints, including by prosecution, and the Board is anxious to see these finalized and implemented.

We urge the NPO (and the Legal Department – see below) to expedite implementation of these procedures, as improvement is essential to correct the continuing violation of the National Pensions Law. The Board continues to be extremely disappointed at the progress of prosecutions and have repeatedly informed the Ministry of the long delays by the Legal Department, as reported by the NPO, in both response and action times on requested legal advice.

During the 06/07 Financial Year only three companies and their management were charged with violations under the National Pensions Law, totalling 23 separate charges. In two of these cases charges were stayed, pending payment of the full amount of arrears in one case and in the other case pending return to the Island by the company management. In the third case, guilty pleas were entered and fines levied.

The statistics concerning open, new and resolved cases are illustrated graphically on the following page. This data is not available in a format which will permit reporting on years prior to the 05/06 fiscal year however, this data will continue to be reported on in the following financial years.



Progress of pension matters in the courts has also been excruciatingly slow. Additionally, workers have not received any benefit of the successful prosecution of cases in the Courts, by way of pension monies being credited to their accounts. Funds being held for over a year from employers charged with offences under the NPL (and convicted of at least some) have not yet gone to the accounts of the workers. The judiciary has however, authorised payment from these funds to pay legal defence costs and other personal expenses of the defendants of approximately CI\$50,000.00 (over \$100,000 at time of submission of this annual report).

This has led to increased concerns as to how best to protect assets of those employers from whom arrears are being pursued from further depletion during the legal process, including while waiting on judgements and completion of the appeals process. The Board has addressed elements of the poor enforcement and recovery issue in their recommended revisions to the NPL but not all the risks in the process can be so remedied.

These recommended revisions to the NPL will not replace the enforcement support needed from the NPO, Legal Department and the Courts to protect workers' pension funds. Improved cooperation with other Government Departments and agencies would also improve compliance. In addition, the Board believes that as the number of employees covered by pensions, and the underlying assets continue to grow, the NPO will need to make fundamental improvements in its use of technology in order to automate reporting by administrators and improve its use of data, if its role is to be effective.

The large amount of arrears from employers that has been identified, if not recovered from employers, will almost undoubtedly negatively impact society in general (therefore primarily the Government) and not just the workers directly and unfairly exposed, as many of them will likely need to fall back on the safety nets that the Pensions Legislation was to have replaced. Although it is a figure that cannot be fixed precisely at any time (with existing procedures), the NPO reports at year-end, an estimate of the arrears in just the top priority cases to likely be in excess of \$2 million.

The Board, therefore, remains concerned that when the public's sense of moral outrage in respect of this inevitably surfaces, it will be directed at the Government, the Board, the NPO and the business community as a whole, resulting in a further loss of confidence in "good governance" in the Cayman Islands.

PROMOTE THE ESTABLISHMENT, EXTENSION AND IMPROVEMENT OF PENSION PLANS THROUGHOUT THE ISLANDS

Following the appointment of the Board, three plus months into the financial year, its major work during the fiscal year was in respect of its review of the National Pensions Law, as indicated by the number of special Board meetings held throughout the year. These changes are aimed at making overall improvements in pensions, pension administration and enforcement, as well the public's understanding and confidence in pension arrangements, and thus should also promote the establishment and extension of pension plans.

The public awareness activities in the year were limited to those reported on by the NPO. However, as noted in previous years, public education on the benefits of adequate pension provisions and the roles of employees in helping to protect their pension funds is key. This effort must therefore be stepped up considerably going forward.

ADVISE THE MINISTER IN RESPECT OF BUSINESS OF THE BOARD

The Minister is kept fully informed of the business of the Board in a number of ways, including the monthly reports and invoices of the NPO, the attendance at Board meetings of the Ministry's appointed representative and the provision of the minutes of Board meetings. In addition, the Board has had to seek the help of both the Minister and the Ministry on a number of issues that impede enforcement of the Law, as noted above, and of the need for improved inter-Governmental cooperation, for example with Immigration Department and in particular with the Trade and Business Licensing units and with the Legal Department. This need is particularly necessary to try to counter the flagrant disregard for the Law that continues to surface, albeit by a minority of employers.

MAKE RECOMMENDATIONS TO THE MINISTER IN RESPECT OF PENSION PLANS

The draft revisions to the Law proposed by the Board, along with its explanations and rationale for significant changes, will be submitted to the Ministry during the next reporting year, as soon as the compilation of the work has been completed, checked and approved for submission by the present Board.

The Board will then commence work on revising the Regulations to ensure that they will give effect to the proposed revisions of the Law. There are some elements of the present Regulations which the Board proposes to address, taking further input from stakeholders as deemed desirable.

In March, the Ministry received, from Mercer Human Resource Consulting, a report on the pension regime in the Cayman Islands which had been commissioned. By year end, the Ministry had not released the Mercer Report to the Board, although the drafts of the final report had been shared with the Board and considered during their review of the Law.

In its proposals for changes to the Law, the Board has also recommended a clearer distinction of the respective roles of the Superintendent (National Pensions Office) and the Board.

The Board appreciates the cooperation and support provided by the Ministry with increased resources during the fiscal year, liaison with the Legal Department since the end of the fiscal year and working with the NPO to improve operating procedures, all of which the Board hopes will shortly be evident in improving the effectiveness and efficiency of the pension regime in the Cayman Islands. In order that the Board is able to carry out its mandate and that the NPO is able to adequately support the Board, resources available will be reviewed in the coming financial year and the Ministry informed of the Board's findings.

The NPB will be pleased to assist the Ministry in gathering any further public input that they deem necessary with respect to the National Pensions Law.

