

## MALDIVES PENSION ACT

Law No.: 8/2009

- Introduction and title 1
- a) This Act provides for the establishment and operation of a retirement Pension Scheme from the proceeds of the investment from specified contribution made by both employer and employee; and other pension schemes funded from the government budget, in order to provide pension to employees.
  - b) This Act shall be cited as the “Maldives Pension Act”.

### Maldives Pension Administration Office

- Pension Office 2.
- A separate office to be known as the “Maldives Pension Administration Office” shall be established upon commencement of this Act. This Pension Office shall be an independent legal entity with perpetual succession and with a separate seal, possessing power to sue and be sued in its own name and having the right to acquire, hold and dispose of moveable and immovable assets in accordance with the law and to make undertakings in its own capacity.

- Main functions of the Pension Office 3.
- The main functions of the Pension Office are:
- a) Administering the Pension Schemes established under this Act.
  - b) Providing the Maldives Retirement Pension.
  - c) Formulating regulations, standards and guidelines to operate the schemes established under this Act.
  - d) Paying Maldives Old-Age Basic Pensions established under this

Act.

- e) Conducting public awareness programmes on the pension schemes established under this Act.
- f) Taking measures considered necessary by the Pension Office in order to discharge its functions under this Act.

Information to  
be provided by  
the Pension  
Office

- 4. a) The Pension Office shall provide the following information to the Securities Market Regulator.

1. Annual statements of assets and liabilities, income and expenditure including statements of the value and proportion of the pension assets invested in particular classes of assets, their corresponding gross and net investment performance, and all related fees, which shall be audited by an independent accounting firm acceptable to the Auditor General. Such fees include asset management fees, and fees for services and for financial transactions. The Securities Market Regulator may request additional information about such statements from the Pension Office or its auditor or other providers of professional services.

2. Once in every three (3) months, statements with details of the sale and acquisition of pension assets which shall include: the name of the asset, the date of the transaction, price at which the transaction was undertaken, and corresponding investment performance.

- b) In addition to the information stipulated in subsection (a) of this section, where any modification is made to the “Statement of Investment Principles” after any meeting of the Board of the Pension Office, such modification shall be provided to the

Securities Market Regulator.

- c) In addition to the information stipulated in subsections (a) and (b) of this section, where any other information is required by the Securities Market Regulator, such information, and the format in which such information is to be provided may be determined by the Securities Market Regulator. The Securities Market Regulator, where required, may appoint independent auditors or other providers of professional services to conduct surveys, actuarial evaluations, or examine the accounts, books, documents and other records of the Pension Office.
- d) The Pension Office shall make public the information stipulated in subsection (a) (1) of this section. The Pension Office shall arrange for publication of this information.

Pension  
Supervision  
Department

5. The Securities Market Regulator shall establish a Pension Supervision Department in order to implement the following:

- a) Supervise the investment of pension assets and their investment performance;
- b) Formulate procedures for preparation and publication of reports in relation to the Maldives Pension Retirement Scheme;
- c) Monitor appointment of members to the Board of the Pension Office and reports they are required to prepare under this Act; and
- d) Take actions necessary for the enforcement of this Act.

General Powers  
of the Board of  
the Pension

6. The Board of the Pension Office shall have all powers necessary to implement its functions under this Act and regulations formulated under this Act. Such powers shall include, but are not

Office

limited to the following:

- a) Tendering to select External Asset Managers, Custodians, Open-ended Vehicle, who shall be fiduciaries as per section 13 of this Act;
- b) To contract with Asset Managers, Custodians, Open-ended Vehicle, Accountants, Auditors, and other service providers, and administer such contracts;
- c) Demanding and receiving information from Asset Managers, Custodians, Open-ended Vehicle and other service providers with respect to all transactions related to the Scheme;
- d) Charging a reasonable fee from participants of the scheme, on the advice of the Regulative Authority, in order to recover the cost of administering the Retirement Pension Scheme;
- e) Purchase, sale and lease of moveable and immovable assets required for the operation of the Pension Office;
- f) Employ and dismiss personnel required for the operation of the Pension Office including the appointment of a Chief Executive Officer;
- g) Preparing the budget of the Pension Office;
- h) Enter into contracts and agreements with government institutions in order to administer programs such as social protection program. Determine the procedure for the operation of programs conducted under such agreements; and
- i) Conduct board meetings of the Pension Office, and formulate regulations for the operation of the Pension Office. Administer the Pension Office in accordance with this Act and regulations

hereto.

Financial  
administration  
of the Pension  
Office and its  
Budget

7. a) The Pension Office shall be administered by charging a reasonable fee from participants of the Retirement Pension Scheme as stipulated in subsection 6(d) of this Act, and from payments made to the annual budget of the Pension Office from the government budget to administer the Old Age Basic Pension Scheme and matters related to pension. A subsidy may be provided from the government budget in order to cover operational expenses of the Maldives Retirement Pension Scheme as stipulated in subsection 6(d) of this Act until pension assets increase such that the cost could be recovered fully from the participants of the scheme.

b) Approval of the Ministry of Finance and Treasury shall be obtained, for the money provided to the budget of the Pension Office from the government budget pursuant to this Act.

c) The Pension Office shall at all times maintain its operational budget separate from Pension Assets.

Board of the  
Pension Office

8. a) The Pension Office shall be administered by a Board comprising of the following eight (8) members.

1 Chairman of the Board;

2 A senior employee of the Securities Market Regulator;

3 A senior Civil Servant of the Ministry of Finance and Treasury;

4 A senior Civil Servant from the ministry responsible for social security; and

5 Four(4) members from the private sector not employed by the

State or Government.

- b) The representative of the Securities Market Regulator on the Board shall be a non-voting member.
  
- c) The President shall appoint the members of the Board of the Pension Office. The initial Board, shall be appointed within three (3) months of commencement of this Act. The Chairman of the Board of Pension Office and four (4) members appointed from the private sector shall be appointed from a list of candidates identified by a Selection Committee formed jointly by the Civil Service Commission, Ministry of Finance and Treasury, and the ministry responsible for social security. The Selection Committee shall propose no less than (three) 3 candidates for the vacant posts stipulated in subsections 8 (a) (1) and (5). All administrative arrangements regarding the appointment of members selected by the Selection Committee for the posts shall be carried out by the Pension Office. Prior to submission of the candidates to the President for the appointment of Board of the Pension Office, the names of candidates selected by government offices and the Selection Committee shall be submitted to the Securities Market Regulator to verify if they fulfil the requirements of a member. No candidate selected by the Selection Committee shall be a family member (spouse, parent, child, or sibling) of any member of the Selection Committee or a member of the Board of the Pension Office, or a person holding a ministerial post or higher rank.
  
- d) The Members of the Board of the Pension Office must not be convicted of criminal breach of trust, defamed, and capable to execute the functions of the post, and must have technical expertise of pension or financial matters or investment. In addition, they must meet the following qualifications:

- 1 The Chairperson of the Pension Office and the four (4) members appointed from private sector must have an educational level of First Degree in the area of Business or Economics or Law and have experience in matters concerning finance or pension or investment;
- 2 Must not have been declared bankrupt, or been convicted of theft, fraud, larceny, criminal breach of trust or corruption; and
- 3 Must not be an official or an employee of the Asset Manager or Custodian of the Pension Office. And must not be a beneficial owner of five percent or more of an equity interest in such Asset Manager or Custodian, as stipulated in the Maldives Financial Securities Act.

e) The benefits provided to the members of the Board of Pension Office shall be nearly equivalent to the benefits provided to such other financial institutions or members of Board of Pension Funds or experts advising such boards.

f) Upon appointment and throughout their tenure, members appointed to the Board must submit annually, a confidential statement of income and asset of the member, to the Securities Market Regulator. The format and content of this confidential statement shall be determined by the Securities Market Regulator. This information shall not be made public.

Meetings of the Board of the Pension Office

g) Upon commencement of this Act, meetings of the Board of the Pension Office shall be held once in every three months. However, meetings may be held less frequently upon this Act coming into force in its entirety. Nevertheless, atleast two meetings shall be held annually. Meetings of the Board of the Pension Office shall be presided by the Chairman of the Board. In the event the Chairman fails to attend, the meeting shall be

presided by a member selected among the members attending that meeting. The member appointed as such shall not be the representative of the Securities Market Regulator.

Quorum h) The attendance of (four) 4 members eligible to vote, shall be the quorum of the Board of the Pension Office. The majority of a meeting is required in order to decide a matter by the Board. In the event of an equality of votes, the Chairman may exercise a casting vote.

Investment Committee 9. a) There shall be an Investment Committee comprising of three (3) members of the Board of the Pension Office. The Committee shall consist of two (2) members who are not employees of the Government, and the member from the Ministry of Finance and Treasury. The members of this Committee, who are not employees of the Government, shall be appointed by the Board of the Pension Office. If and when required, the two (2) members may be replaced.

b) The Statement of Investment Principles based on the policies on the investment of Pension Assets shall be formulated by the Investment Committee.

c) The policies in the Statement of Investment Principles determined by the Investment Committee shall be executed upon endorsement of the Board of the Pension Office. The Board of the Pension Office within a specified period of time shall review and revise the Statement of Investment Principles on a regularly basis.

d) Local and foreign expertise maybe sought in order to formulate policies on investment as stipulated in this Act.

Term of office 10. a) The tenure of the members of the Board of the Pension Office

and removal of members of the Board of the Pension Office

shall be three (3) years from the date of appointment. Upon commencement of this Act, the tenure of two (2) members from initial four (4) members of the Board appointed pursuant to subsection 8 (a) 5 of this Act, shall be two (2) years from the date of appointment.

- b) The members of the Board of the Pension Office shall be removed by the President. Accordingly, a member may be removed from office in the event the member is unable to perform his duties or lacks a qualification of office as prescribed by this Act or is being convicted of a criminal offence or breaches a fiduciary duty or is unable to perform the duties of office for two (2) or more months due to physical or mental incapacitation or fails to attend three (3) or more meetings of the Board of the Pension Office without a reasonable cause
- c) A member of the Board of the Pension Office shall not provide service in any professional capacity for an Asset Manager or a Custodian of the Pension Office for a period of 12 (twelve) months, commencing on the date of termination of membership. Breach of this section is an offence.
- d) A member of the Board of the Pension Office shall not in any capacity, accept any gift or loan or reward from any Asset Manager or Custodian of the Pension Office or anyone associated with them or from any service provider of the Pension Office. This includes the families (spouse, parents, siblings and children) of the members of the Board of the Pension Office.
- e) The Maldives Securities Market Regulator shall inform the President the competency of the members of the Board of the Pension Office to perform their obligations, the quality of the performance of their responsibilities and when they lack a qualification of office as prescribed by this Act.

## OLD-AGE BASIC PENSION

- Establishment of Old-Age Basic Pension
11. a) The Pension Office shall grant Old-Age Pension to everyone who reaches the pension age as stipulated by this Act and regulations formulated hereunder.
- The Old-Age Basic Pension shall be revised in accordance with the Retirement Pension or the Government Employees' Pension or any other pension granted as per this Act or any other act.
- b) Where the amount received as pension under this Act or any other pension is less than twice the amount of Basic Pension, 50% (fifty percent) of that pension shall be deducted from the Basic Pension and such person shall receive the balance as Basic Pension.
- c) Where the amount received as pension under this Act or any other pension is more than twice the amount of Basic Pension, that person shall not receive Basic Pension.
- d) Persons who are under the full time care of the State or incarcerated upon conviction shall not have the right of Basic Pension.
- e) The age to receive Basic Pension shall be 65 years. Everyone who attains 65 years of age shall be eligible for pension on the first day of the month such a person attains 65 years of age.
- Budget for Old-Age Basic Pension
- f) The Pension Office in consultation with the ministry responsible for social security shall prepare a budget in order to provide Basic Pension, and shall submit it to the Ministry of Finance and Treasury to be incorporated in the Annual Government Budget. This budget shall include the costs for the provision of Basic Pension and the administrative expenses to operate this scheme. The above mentioned shall be expended from the income of the

Government.

- g) The disbursement of Old-Age Basic Pension shall be Mrf. 2000.00 (Maldivian Rufiyaa Two Thousand Only) per person each month initially. This amount shall be reviewed at least on an annual basis, by the ministry responsible for social security taking into account the changes to the cost of living. . In consideration of an increase of the total cost of living by more than five percent (5%), the Basic Pension amount shall be adjusted. This adjustment shall be applicable to both new applicants and existing recipients of the Old-Age Basic Pension.
- h) The Pension Office shall have the discretion to amend the Basic Pension in order to accommodate any changes to a pension stipulated in this Act or any other pension.
- i) The Board of the Pension Office within three (3) months upon appointment shall formulate procedures required for obtaining pension by persons who are eligible for Basic Pension. The Board of the Pension Office within six (6) months upon appointment shall identify the recipients of Basic Pension and shall complete the arrangements for the disbursement of the pension.
- j) By virtue of this Act coming into force, the Basic Pension shall be provided on the date upon which this Act comes into force or on the date upon which a person attains the age of pension after the enactment of this Act, whichever comes later.

### **Maldives Retirement Pension Scheme**

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| Establishment<br>of Retirement<br>Pension Scheme | 12 | a) A retirement pension scheme known as “Retirement Pension Scheme of the Maldives” which is to be administered from the profits of the investment from specified contributions made by employers and employees shall be established pursuant to this Act. |
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- b) It is obligatory upon the employer to engage persons among the employees who has not attained the age of pension, in the Retirement Pension Scheme of the Maldives, in order to provide them with pension pursuant to this Act. It is also obligatory upon the employee to participate in this scheme. The employment contract shall provide for deduction of pension contribution by the employee.
- c) Breach of subsection (b) shall constitute an offence.
- d) A retirement savings account shall be opened in the name of each participant of the pension scheme. All contributions made by members or on behalf of members to the Pension Scheme shall be deposited to the retirement savings account. All profit and loss arising out of the investment shall be allotted to the accounts of the members proportionately. Operational costs of the scheme in proportion to may be deducted from the accounts Upon deduction of the operational costs, the remainder of the account shall constitute legal property of the member.
- e) The Government, within a maximum of twelve (12) months of coming into force of this Act, shall complete arrangements in relation to the enrolment of employees employed by the State to the Retirement Pension Scheme of the Maldives.
- f) The Pension Office, atleast with within twelve (12) months of coming into force of this Act, shall determine a time frame for the enrolment of employees except State employees to the Retirement Pension Scheme of the Maldives. Also, the enrolment of employees except State employees to the Retirement Pension Scheme of the Maldives shall be concluded within a maximum of two (2) years upon coming into force of this Act.

- Fiduciary duty of the administration of the Scheme
13. a) Any person having the responsibilities stated below, legal entities, participants of the scheme shall be fiduciaries to the beneficiaries of the scheme.
- 1 A person having discretion in the administration of the scheme or management and forecast of pension assets;
  - 2 A person advising the Board on investment or having such responsibility to advise, although does not exercise it.
- b) Every fiduciary shall perform duties in a manner similar to a person with reasonable skill and ability in relation to financial matters. In the event where such competency, skill and ability is lacking, professional assistance from experts shall be sought.
- c) Any proposal by Government or any other party, pertaining to investment of pension assets, shall be made in writing. Such proposal shall be made public.
- Contributions to the Scheme
14. a) Each person who is considered a participant of the Retirement Pension Scheme of the Maldives, shall pay a minimum of 7% of the employee's pensionable wage, and the employer shall also pay a minimum of 7% of the pensionable wage to the scheme. Such contributions to the scheme shall be made by employees aged 16 to 65. No contributions shall be made for employees who are more than 65 years of age. The Pension Office shall determine the procedures for payment of contributions to the scheme, and formulate regulations thereof, within six (6) months of the appointment of Board of the Pension Office. Such regulations shall prescribe the minimum and maximum amount that can be contributed to the scheme.
- b) Reports on the contributions made on behalf of each employee and the employer shall be submitted to the Pension Office on a

regular basis, in accordance with the regulations formulated by the Pension Office. Within six (6) months of appointment of the Board of the Pension Office, the Pension Office shall formulate a regulation pertaining to the preparation of the report.

- c) The details in relation to the contributions by self-employed participants of the scheme shall be stipulated in the regulations stated in subsection (a) and (b) of this section. Such participants shall contribute an aggregate of 14% allotted by the employee and the employer to the pension scheme. . The Pension Office shall formulate regulations on determining the pensionable wage in relation to the amount which is to be contributed by the participants.
- d) The Government as per agreement with the Pension Office shall have the discretion to subsidise the contribution of the self-employed persons and fishermen to the scheme, in accordance with regulations of the Pension Office.
- e) This Act does not bar an employer paying a minimum of 14% to the scheme based on pensionable wage of the employee without obtaining contribution from the employee, as stipulated in subsection (a) of this section.
- f) The Pension Office shall annually provide every participant a statement of account pertaining to the Retirement Savings Account on a regular basis. The statement shall include: particulars of the participant, contributions made to the account of the participant, details of the depositor, investment performance of the accumulated funds, and details of benefits dispersed under the scheme to participant.

Deductions for 15  
the scheme

When paying the wages of the employee, the employer shall:

- 1 Deducting due contribution to the scheme from the wages of the

employee.

- 2 Remit to a designated account specified by the Pension Office, the total amount of money an employee and an employer has to contribute to the scheme pursuant to section 14 of this Act, within seven (7) working days commencing upon the date employee is paid wages.

Investment of  
Contributions of  
the Scheme

- 16 a) Pension Assets shall only be invested in a manner to maximise profits for the participants and beneficiaries of the scheme in accordance with this Act. Accordingly in order to invest, the following shall be taken into account:

- 1 security of Assets;
- 2 diversity of investment;
- 3 investing in assets which yields maximum profit, taking into account security of assets; and
- 4 Maintenance of adequate liquidity.

- b) The Pension Investment Committee, selected from amongst members of the Board of the Pension Office, shall formulate basic investment guidelines in compliance with regulations of the Securities Market Regulator, and with independent professional advice. The statement of basic investment guidelines shall constitute the following:

- 1 The manner in which requirements of this Act shall be fulfilled;
- 2 Instruments in which the Pension Assets may be invested;

- 3 The performance benchmarks to be achieved from the investment of pension asset set by the Board of the Pension Office;
  - 4 The major risks and risk management strategies of investment of pension assets;
  - 5 The parties responsible for determining method of investment and yielding profits;
  - 6 Procedures in relation to investment ; and
  - 7 The method of reviewing the guidelines of investment.
- c) The Investment Committee with the approval of the Board of the Pension Office shall review the guidelines of investment on a regular basis.
- d) In Maldives, pension assets shall be invested in the following classes of assets:
- 1 Bank accounts and monetary funds such as bank deposits, held in banks licensed by the Maldives Monetary Authority, which are not under enforcement action and are not subject to suspension of license;
  - 2 Securities issued by a relevant body of the Government of Maldives and to the extent guaranteed by such a body;
  - 3 Securities issued by business entities listed on a licensed stock exchange in the Maldives;
  - 4 Mutual and investment funds duly approved in the Maldives.
- e) Pension Assets outside Maldives shall be invested in the following classes of asset:

- 1 Bank accounts and monetary funds such as bank deposits, held in banks which are licensed by a bank regulatory authority of a country where such investments are made, and which are not under any enforcement action and are not subject to suspension of license.
  - 2 Securities issued by a relevant body of a country where such investments are made and to the extent guaranteed by that body.
  - 3 Securities issued by the central government or local government of a country where such investments are made, and to the extent guaranteed by the respective government.
  - 4 Securities registered with the securities market regulator of a country which has been listed on the stock exchange and subject to the supervision of a relevant securities market regulator.
  - 5 Open-Ended Vehicles approved by the government of such country.
- f) Pension Assets shall not be invested in any of the following classes of asset:
- 1 Securities which are not listed or traded publicly;
  - 2 Assets which are not capable of alienation from other assets by law;
  - 3 Certain types of derivative instruments determined by the Securities Market Regulator;
  - 4 Real estate and other assets not listed on a regulated market and for which valuation is uncertain;

- 5 Other types of assets determined by the Securities Market Regulator.
- g) The Securities Market Regulator shall monitor whether pension assets are invested in accordance with this Act and the Statement of Investment Principles. It shall also, identify countries where the financial market is adequately developed for the investment of pension assets.
- h) The Board of the Pension Office shall determine amounts for specific and diverse investment and shall specify them in relevant regulation.
- i) 1 Make adjustments to the investment of pension assets taking into account changes in: financial market prices, foreign currency exchange rates, economic relations and organizational arrangements between entities in which pension assets are invested, and circumstances arising beyond control of the Asset Manager, in accordance with the Statement of Investment Principles determined under this Act and without contravening any other section of this Act.
- 2 Make adjustments to the investment of the pension assets as per the policies of this Act within six (6) months from the date on which the policies of the statement of investment principles were breached or on the date when valuation of assets indicated that there had been such a breach of the policies of the statement of investment principles, whichever comes later.

Insurance

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Funds of pension scheme and its investment shall be insured in order to prevent the loss of funds of the pension scheme to participants in the event where a party who has invested in the pension asset declares bankrupt or any other circumstances which

lead to the loss of funds of the pension scheme.

- Asset Managers 18 a) Asset Managers operating in the Maldives shall be legal entities issued with a license for asset management by the Securities Market Regulator. Asset Managers shall fulfil the following conditions:
- 1 have not been subject to any enforcement action, or its license has not been suspended temporarily;
  - 2 have no relationship with the Custodian or any member of the Board of the Pension Office; and
  - 3 does not lend or borrow money from the Custodian or associated party.
- b) Assets managers shall be selected through a competitive bidding process. The conditions and procedure for conducting the bidding process and pre-qualification requirements for Asset Managers shall be approved by the Board of the Pension Office.
- c) Asset Managers shall manage the pension assets in accordance with the Asset Management Agreement between the Asset Manager and the Pension Office.
- d) The Asset Management Agreement shall provide that asset management shall only be managed through the appointed Custodian. The Board of the Pension Office shall also determine other requirements for the Asset Management Agreement.
- e) The pension assets managed in accordance with this Act shall not be property of the Asset Manager. Such assets shall not be subject to any enforcement action or bankruptcy proceedings initiated against the Asset Manager.

- f) The Board of the Pension Office may determine Open-ended Vehicles to be most appropriate for investment of some or all Pension Assets. In such a case, the Board may select one or more Open-ended Vehicles through competitive bidding and sign the standard agreement. The Board of the Pension Office shall approve terms, conditions, procedure and requirements for pre-qualification in accordance with this Act.
- g) Open-ended Vehicles used for the investment of pension assets shall have a licence issued by the Securities Market Regulator. Where it is a foreign party, it shall have a licence issued by the central bank or financial market regulator of such country.
- h) The requirements stipulated under section 19 of this Act are not applicable to Pension Assets placed in an Open-ended Vehicle.
- i) The Securities Market Regulator shall monitor whether investment of Pension Assets stipulated under this Act are managed by the Asset Managers in accordance with law.

- Custodian
- 19. a) The Pension Office must appoint one Custodian in order to manage the Pension Asset invested by Asset Managers, and must enter into an agreement with the Custodian providing duties and responsibilities.
  - b) The Custodian shall be appointed through competitive bidding. The Board of the Pension Office shall determine and approve terms, conditions, and procedure of bidding and requisites of the Custodian for pre-qualification under this Act.
  - c) A Custodian may manage the assets of more than one party. However, assets, operations, and records of Pension Office must be kept strictly separate from the assets of other parties and that of

the Custodian.

- d) A legal entity duly registered in the Maldives, may become a Custodian upon fulfilling the following conditions.
  - 1. Having approval of the Securities Market Regulator for such an undertaking and is not under an enforcement action and licence not being withheld;
  - 2. Is not Asset Manager of the Pension Office and is not a party related and associated with the Asset Manager or any member of the Board of the Pension Office;
  - 3. A party that does not lend or borrow money from Asset Manager or a party related and associated with the same.
- e) Where a Custodian is foreign party, such a party shall be, licensed by banking and financial services and/or securities market regulatory authority of such country and the party is not under any enforcement action and not subject to suspension of license and fulfilling other conditions determined by the Securities Market Regulator
- f) The functions of a Custodian shall include the following:
  - 1. Receive and retain paper securities that constitute Pension Assets.
  - 2. Maintain records of paperless securities that constitute Pension Assets.
  - 3. Receive and retain documents on transfer and issuance of monetary funds that constitute Pension Assets.
  - 4. Make entries in correspondent accounts in the registry of Pension

Assets assigned to Custodian.

- 5 Provide necessary information to the Pension Office in order to perform obligations under this Act.
  - 6 Monitor whether the agreements for acquisition and disposal of Pension Assets are in accordance with this Act and, regulations formulated under this Act, and the basic investment principles determined by the Pension Office.
  - 7 Follow instructions of the Pension Office, except where such instructions contravene this Act or any other Act or applicable regulation or investment principles.
  - 8 Ensure that Pension Assets are invested in accordance with this Act, other asset investment regulations without contravening investment principles thereto, and in the event of any breach, notify the Pension Office in accordance with the procedure for notification specified in the agreement with the Custodian.
  - 9 Ensure that Assets Managers fulfill their legal obligations in relation to investment of Pension Assets.
  - 10 Fulfill obligations specified in the Custody Agreement and regulations applicable to the Custodian.
- g) The Custody Agreement signed between the Pension Office and the Custodian shall state the following.
- 1 The responsibilities of the Custodian.
  - 2 The manner in which the responsibilities of the Custodian should be performed.

- 3 The manner in which remuneration of the Custodian and other costs and charges payable to the Custodian determined based on the assets assigned to the Custodian.
  - 4 Other requirements necessary to be fulfilled in accordance with the regulation of the Securities Market Regulator.
  - h) Pension Assets assigned to the Custodian under this section are not property of Custodian. Such assets shall not be subject to any enforcement action or bankruptcy proceedings initiated against the Custodian.
  - i) The requirements of this Section are not applicable to assets invested through an Open-ended vehicle.
- Retirement benefit 20
- a) The Pension Age under this Act shall be 65 years.
  - b) The Pension Office, within twelve (12) months from the date of appointment of the Board of the Pension Office, shall publish regulations regarding payment of benefits to participants of the Retirement Pension Scheme, upon their attainment of Pension Age, based on the balance of Retirement Savings Account established under the Scheme, to participants of the Scheme and their heirs.
  - c) Accordingly, the following benefits shall be provided.
    - 1 Life time Annuity provided to the participants of this Scheme until death.
    - 2 Joint Annuity to a participant of this Scheme or designated heir for life.
    - 3 Guaranteed Annuity to a participant, guaranteed for a predetermined minimum number of years.

- 4 Other annuities approved by the insurance regulator in the Maldives.
  - 5 A long term payment as annuity approximately for life shall be provided to a participant of this Scheme, where an annuity provided is not sufficient in relation to the expenses.
- d) The Pension Office may provide an annuity to the participants of the scheme as insurer. This shall be subject to the programme and calculations in relation to annuity and its approval by Maldives Monetary Authority or insurance regulator in the Maldives. If payments for Annuity are to be made through insurance companies appointed through contract, then the Maldives Monetary Authority or the insurance regulator in the Maldives shall be informed of the same. The Maldives Monetary Authority or the insurance regulator in the Maldives shall formulate regulations concerning; licensing of service providers, their operation, procedures for transferring money in Retirement Savings Account to service providers, the types of services they can provide, and other relevant regulations.
  - e) The Pension Office shall notify participant in writing of impending Pension Age, at least six (6) months prior to attainment of Pension Age, and shall ensure that standard forms are available in order to apply for benefits under the scheme.
  - f) The Board of the Pension Office shall determine a minimum amount for annuity or a minimum amount as balance of the pension account whereby it is insufficient to cover long term expenditure. The Board of the Pension Office shall also determine the procedure for the disbursement of funds from the account to the participants of the Pension Scheme. The Board of the Pension Office shall have the discretion to revise required minimum balance of the account stipulated in this section.

- g) Upon demise of a participant of the Retirement Pension Scheme prior to attainment of Pension Age or receipt of benefit under this Act, the money in the Retirement Savings Account of such participant shall be distributed amongst heir or heirs of such participant, in accordance with laws of inheritance. The money may be released in a full payment. Where the heir or heirs are employed, the money may be deposited to their Retirement Savings Account upon request.
- h) The heirs may, in accordance with the inheritance regulations of the relevant court, file a claim within the limitation period in order to seek money from the Retirement Savings Account.
- i) Any dispute arising in relation to money entitled to heirs shall be submitted to the relevant court. The Pension Office shall act in accordance with decisions of the Court.
- j) The Pension Office shall facilitate the administrator appointed by the court on behalf of a participant of the Scheme or an heir who is incapable of managing own finances.
- k) The Pension Office has the right to reclaim any amount erroneously disbursed to participants of the Scheme or their heirs.
- l) Where funds accumulated in the Retirement Savings Account of a participant of the Scheme who attains 55 years, is divided in accordance with pension payment regulation determined by the Pension Office and the monthly pension amount is equivalent to twice the amount disbursed as Basic Retirement Pension given to a participant of the Scheme, the participant may apply to seek benefit under the Scheme. In such an event, contributions from the Employee and Employer shall be stopped. The Pension Office shall formulate a regulation providing procedure for circumstances

where participants receiving benefit under this section becomes eligible for receiving Old Age Basic Pension due to a change in the Old Age Basic Pension amount.

- m) The Pension Office may facilitate for the provision of Disability Insurance to employees, in accordance with the approval of the Maldives Monetary Authority or Insurance Regulator. The money required for financing shall be provided by the employer. The Pension Office may, within 02 (two) years of this Act coming into force, with advice of the ministry responsible for social security, formulate specific regulations for the participation of self-employed persons and fishermen in the Disability Insurance Scheme. The Pension Office may provide rights entitled under the Scheme through contracts entered into between private parties providing insurance.

Contribution to 21  
the Scheme to  
be exempt from  
taxation

The amount contributed to the Scheme shall be exempt from income tax levied on an employee or employer under any Act.

Job transfer 22

The Pension Office shall without altering maintain the Retirement Savings Account of an employee despite job transfer or place of work.

Failure to remit 23 a)  
contribution

Where an employer fails to remit contribution to the Scheme within time limit prescribed in this Act, the employer shall, be liable to pay the dues together with a fine determined by the Pension Office. The amount fined shall be deposited to Retirement Savings Account of the employee. The amount fined shall be determined taking into account the arrears and the delay.

- b) The employer shall be responsible for the submission of reports on contribution payable under this Scheme within specified time

under this Act. Upon failure to act accordingly, the employer will be fined as determined by the Pension Office, and such fine shall be deposited to the account of the Pension Office.

- c) The Pension Office shall maintain individual book keeping of contributions made and due from employers and employees.
- d) The Pension Office has the right to scrutinise records and documentation on employees, required to be maintained by employers. The Pension Office shall formulate regulation for maintaining such records.
- e) The Pension Office shall determine the time period to lodge a claim in court for seeking default payment, the amount of default payment, maximum delay for default payment and limit of such payment, from the employers. In the event such case is lodged in court on behalf of the Pension Office, the employer shall be liable for arrears, fine under this Act and legal costs.
- f) In the event the employer becomes bankrupt, money due to the Pension Office under this Act, shall be paid by the employer similar to the procedure laid in the Employment Act to pay wages to the employees by the employer.

Breach of 24  
regulation by  
Fiduciaries

- a) Fiduciaries shall be responsible for breach of regulations. Where the fiduciary and person committing the act is a legal entity, the civil liability for breach shall be joint and several. The relevant court may determine whether the act committed in breach of regulation constitutes a civil or criminal offence under this Act.
- b) Where a Fiduciary knew or ought to have known of a breach of fiduciary duty by another Fiduciary, they shall be jointly liable for the breach. A fiduciary that is a legal entity shall be absolutely liable for actions of its employees.

- c) It shall be a breach of fiduciary duty for any Fiduciary to deal with Pension Assets for his own use or benefit, or for the benefit of a person associated with the Fiduciary. It shall also be a breach of fiduciary duty to enter into any transaction with a person associated with a Fiduciary in relation to Pension Assets.
- d) A breach of fiduciary duty shall include the following.
  - 1. Making any pension related investment or expenditure in violation of this Act, or authorizing such investment or expenditure.
  - 2. Entering into an agreement for procurement of materials or services in violation of this Act.
  - 3. Failure to discharge responsibilities under a contract made in connection with the Scheme.
- e) The court shall order a Fiduciary to pay damages caused by breach of fiduciary duty, in the following manner.
  - 1. To pay an amount not more than thrice the amount of damages caused by the breach.
  - 2. The legal fees and other costs incurred to recover damages.
- f) A natural person or legal entity found guilty of a breach of fiduciary duty shall be barred from providing any services to the Scheme for a minimum of 10 (ten) years.
- g) The Board of the Pension Office shall determine a procedure for settlement of complaints submitted by participants of the pension scheme, employers and other stakeholders in the pension scheme. This procedure shall be stated in the regulations formulated by the

Board of the Pension Office.

- Transitional Provisions for Public Employees' Pension Programme
- 25
- a) All accrued pension rights of public employees shall be protected. This Act shall protect the accrued pension rights of persons who have attained the age of 63 years at the commencement of this Act and laws and regulations in effect prior to this Act.
  - b) Public Employees who have not attained the age of 65 at the commencement of this Act shall have their Accrued Pension Rights deposited in their Retirement Savings Account as Recognition Bonds of the Government. Such Recognition Bonds shall be the equivalent to capital as the Accrued Pension Rights of the Employee prior to the commencement of this Act. The capital shall carry interest at a rate determined under applicable regulations of the Ministry of Finance and Treasury.
  - c) Within six (6) months of the appointment of the Board of the Pension Office, the Board of the Pension Office shall propose to the Ministry of Finance and Treasury, arrangements for the recognition and receipt of accrued pension rights by public employees who have not attained the age of 63 at the commencement of this Act. The following shall be taken into account in determining such arrangements.
    1. Pensions received based on the length of service as Public Employees, prior to attaining Pension Age, shall continue to be paid up to Pension Age.
    2. On attaining Pension Age under this Act, Public Employees shall receive the Old-Age Basic Pension and/or the Maldives Retirement Pension in accordance with this Act.
    3. The Maldives Retirement Pension to be given under this Act shall

be based on the total balance of the Retirement Savings Account. This includes recognition bonds deposited to the account in recognition of accrued pension rights.

4. The Accrued Pension Rights of Public Employees prior to the commencement of this Act shall be deposited in their Retirement Savings Account as Recognition Bonds of the Government upon commencement of this Act. When accrued pension rights are recognized in the form of recognition bonds and those bonds are allocated to Employees' accounts, the recognition bonds become the legal property of that member. The Government shall have no right to revoke such bonds.

Definitions 26

Unless expressly stated otherwise, the following words and phrases shall have the following meanings for the purposes of this Act.

“Retirement Savings Account” shall mean an account maintained separately, reflecting all contributions made to and on behalf of a participant of the Maldives Retirement Pension Scheme under this Act, return on investment, losses and permitted expenses.

“Pension Assets” shall mean, contributions collected under this Act, and the return on investment of such contributions, in order to provide the Maldives Retirement Pension.

“Scheme” shall mean the Maldives Retirement Pension Scheme established under this Act.

“Employee” shall have the same meaning as “Employee” stipulated in the Employment Act (excluding former employees) but including police and armed forces.

“Employer” shall have the same meaning stipulated in the Employment Act.

“Pensionable Wage” shall mean salaries and allowances determined as pensionable wage in accordance with the regulations formulated by the Board of the Pension Office.

“Custodian” shall mean a licensed party such as a bank, which manages and provides custodial and depository services to the Pension Office under an agreement. A Custodian is a fiduciary under this Act.

“Pension Office” shall mean, the Maldives Pension Administration Office established under this Act.

“Board” shall mean, the Board of the Pension Office.

“Associated Party” shall mean, persons and legal entities that are presumed to have power to make decisions on behalf of a person or legal entity, and parties with direct or indirect interest in the actions of a person or legal entity. And, has the same meaning given to this term in the Securities Act of Maldives.

“Annuity” shall mean an insurance policy purchased from an insurance company by a Participant of the Scheme, which provides a monthly coverage for a fixed amount, for life of the Participant or Beneficiaries.

“Asset Manager” shall mean a legal entity that invests and manages Pension Assets, or provides advice to the Pension Office on the investment of Pension Assets under an agreement. Asset Manager is a Fiduciary under this Act.

“Beneficiary” shall mean, a person who has the right to receive benefits from the Scheme by virtue of the right of a Participant of the Scheme under this Act, and heirs of the Participant under inheritance law.

“Fiduciary” shall mean, a person having the power or discretion to manage or deal with Pension and Pension Assets, by virtue of power or discretion under this Act, or exercising power or discretion.

“Open-Ended Vehicle” shall mean, companies operating as investment companies, and authorized to issue unlimited number of shares representing proportional equity ownership of a shareholder. This includes mutual funds, investment funds, unit trusts, insurance policies and other investment vehicles operated on a pooled basis.

“Participants of the Scheme” shall mean, persons on whose behalf the Employer and persons participating in the Scheme, who contribute

“Self-employed” shall mean, earning a living from selling goods, providing a service, or performing work, in a manner that does not constitute being an Employee in accordance with the Employment Act, and is not under control of an Employer or working under the supervision of an Employer.

“Fisherman” shall mean, persons who are not in the employment of any party and earn their living from fishing.

“Derivative Instrument” shall mean financial securities the price of which is based upon another security.

“Accrued pension right” shall mean right to a benefit under pension or retirement benefit arrangement existing prior to the commencement of this Act.

“Capital Market Development Authority” shall mean the institution

established by the Financial Securities Act of Maldives.

“Maldives Old-Age Basic Pension” shall mean, a lifetime pension payable to all citizens of the Maldives of pension age residing in the Maldives after commencement of this Act.

“Maldives Retirement Pension” shall mean a payment to Participants from the Retirement Savings Account in the form of an Annuity under this Act, or a life time pension to Participants through another form of payment mechanism under this Act.

“Pension Age” shall mean, 65 years.

“Public Employee” shall mean any employee who is paid a salary from the State budget.

“Recognition Bonds” shall mean, bonds issued by the Government recognizing the Accrued Pension Rights of Government Employees.

“Disability Insurance” shall mean, insurance taken to protect the rights of an Employee in the event of a disability.

“Maldives Retirement Pension” shall mean, pension payable under this Act from the Maldives Retirement Pension Scheme in the form of annuity or any other form.