



Navigating your way Offshore

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CAYMAN ISLANDS ATTORNEYS - AT - LAW

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.....Client Update....

NATIONAL PENSIONS (AMENDMENT) LAW 2010 -PENSION HOLIDAY

The National Pensions (Amendment) Law 2010 is in force from 26 April 2010.

If both the employer and the employee agree then they can apply, by signed written application to the pension plan administrator, to be approved to suspend both the employer's and employee's payments into the employee's pension fund i.e. a Pension Holiday.

The period of the Pension Holiday is 1 year for Caymanians and 2 years for non-Caymanians.

Approval for the Pension Holiday will not be given unless the payments to the pension plan are up to date or an acceptable arrangement for paying any arrears of payments has been made.

The administrator must notify the employer and employee of approval, or denial of approval, of the Pension Holiday within 7 days of receipt and, if approved, issue a certificate of approval. At that time the employer and employee may cease to make the pension payments and the Pension Holiday starts.

There is an appeal process to the Superintendent of Pensions in regard to denial of approval.

The administrator may revoke the certificate of approval of the Pension Holiday if any arrangement for payment of arrears of pension payments is not fulfilled.

It is an offence, carrying a maximum fine of CI\$10,000, to fail to make pension contributions without the necessary Pension Holiday approval or to deduct sums from salary for pension payments and then not make those payments.

FAQ's

Can either the employer or the employee force a Pension Holiday?

No it is voluntary; both the employer and employee must agree in writing to a Pension Holiday and that agreement must be approved by the pension administrator before a Pension Holiday can start.

Does the Pension Holiday have to apply to all employees?

No; If the employer will agree a Pension Holiday it is then up to each individual employee to decide if they want to also agree. Some employees of an employer may decide to take a Pension Holiday whilst other employees of the same employer do not.

What if the employer will not agree the Pension Holiday?

If the employer will not agree to an employee having a Pension Holiday then the employee will not get a Pension Holiday, even if the employer agreed to a different employee having a Pension Holiday.

How does a Pension Holiday effect employee pay?

The employee will be paid by the employer the amount the employer would usually deduct from the employee to make pension payments on the employee's behalf. The employee will not receive from the employer the amount the employer usually pays as pension payment. E.g. if the employee usually has deducted by the employer an amount of 5% of salary and the employer usually pays an amount equal to 5% of salary as pension payments then the employee will only receive the 5% of salary that is usually deducted by the employer.

Does the Pension Holiday apply to all pensions?

Yes it applies to all pensions provided under the National Pension Law (2000 Revision)

If an employee starts/changes job what happens?

If the employer and employee agree there should be a Pension Holiday then the employee will have to enter into a signed written agreement for a Pension Holiday with the new employer who will have to have that employee added to the pension plan and apply for approval for a Pension Holiday for that employee.

If an employee leaves a job what happens?

The employer will notify the pension administrator that the employee who has left is no longer a member of the pension plan and that will automatically end the Pension Holiday approval for that employee in regard to the old employer.

Can the employer and employee cancel the Pension Holiday before it ends?

No: the signed written agreement between the employer and employee will state that no pension payments will be made for the period of the Pension Holiday

What does the Pension Holiday agreement and the approval application have to say?

The employer's pension plan administrator should have standard templates for the signed written agreement needed for the employer and employee to complete as well as a standard application form for approval.

What else do I need to apply for Pension Holiday approval?

You will need proof of the nationality of the employee.

Is there a fee to apply for Pension Holiday approval?

There should not be a fee to apply. Whether the pension administrator is allowed to charge for the change to the pension plan made by the Pension Holiday will depend on the charging terms of the original pension plan contract.

What happens when the Pension Holiday ends?

The obligation to make pension payments in accordance with the employee's contract of employment and the National Pensions Law (2000 Revision) is re-instated.

For further specific questions or more detail on the operation of the Pension Holiday please feel free to contact **Laura Hatfield** of Solomon Harris lhatfield@solomonharris.com; Tel: 345 949 0488.