

*Government Notice No. 41 of 2023*

## **THE PRIVATE PENSION SCHEMES ACT**

### **FSC Rules made by the Financial Services Commission under section 93 of the Financial Services Act and section 17(1)(e) of the Private Pension Schemes Act**

1. These Rules may be cited as the Private Pension Schemes (Non-Citizens) Rules 2023.

2. In these Rules –

“accrued benefits” means all rights and benefits which a non-citizen from a private pension scheme is entitled to at the time he ceases to be in the employment of the sponsoring employer in Mauritius;

“administrator” has the same meaning as in the Private Pension Schemes (Administration) Rules 2014;

“cash equivalent transfer value” has the same meaning as in the Private Pension Schemes (Licensing and Authorisation) Rules 2012;

“non-citizen” means a person who –

(a) is not a citizen of Mauritius; and

(b) has been holding a work permit or an occupation permit in Mauritius;

“overseas pension scheme arrangement” means a pension scheme arrangement which is regulated or supervised in a foreign jurisdiction, with the primary objective of providing relevant pension benefit to its beneficiaries;

“relevant pension benefit” –

- (a) means a pension, compensation, gratuity or allowance payable to a beneficiary under an overseas pension scheme arrangement; and
  - (b) includes —
    - (i) a retirement benefit;
    - (ii) a death benefit;
    - (iii) a disability benefit; or
    - (iv) such other benefits as may be specified in the constitutive documents of the overseas pension scheme arrangement.
- 3.** Notwithstanding any provision in the constitutive documents of the private pension scheme, a transfer of total accrued benefits of a non-citizen from the scheme to an overseas pension scheme arrangement may be effected subject to the prior approval of the Commission.
- 4.** An application for approval to transfer the total accrued benefits of a non-citizen from a private pension scheme in Mauritius to an overseas pension scheme arrangement shall be made by the private pension scheme to the Commission and shall be accompanied by –
- (a) a written resolution signed by all members of the governing body approving the transfer of the total accrued benefits to the overseas pension scheme arrangement;
  - (b) a written confirmation that the administrator or the governing body of the private pension scheme holds due

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diligence documents on the overseas pension scheme arrangement including that –

- (i) the overseas pension scheme arrangement is regulated or supervised by a regulatory authority in another jurisdiction;
  - (ii) the relevant pension benefit of the overseas pension scheme arrangement shall be payable at retirement; and
  - (iii) the relevant pension benefit of the overseas pension scheme arrangement allows for a lump sum payment of not more than 40 per cent of the total accrued benefits.
- (c) a signed statement from the non-citizen requesting the administrator or governing body, as the case may be, to transfer his total accrued benefits;
- (d) documentary evidence that the non-citizen has been provided with the value of the total accrued benefits to be transferred to the overseas pension scheme arrangement; and
- (e) such other information or document as may be required by the Commission.
5. The administrator or the governing body of the private pension scheme may request any additional relevant information from the overseas pension scheme arrangement to which the total accrued benefits are being transferred.
6. Where a non-citizen member of a defined benefit scheme or the defined benefit section of a private pension scheme, transfers his total accrued benefits to an overseas pension scheme arrangement whereby a transfer value of the total accrued

benefits is being calculated, the value of the total accrued benefits to be transferred shall be the higher of –

- (a) the cash equivalent transfer value payable at the time of transfer as determined by the actuary of the private pension scheme; or
- (b) the accumulated value of the member's share of contributions, and any return on investment net of expenses or an interest rate determined by the governing body of the scheme acting on the advice of the actuary of the scheme as provided for in the constitutive documents of the scheme, from the date that the member joined the private pension scheme to the time of transfer.

7. For the purposes of the transfer referred to in Rule 3 –

- (a) any accrued benefits transferred from previous employment and any additional voluntary contributions paid into the private pension scheme, and any return on investment net of expenses, or an interest rate determined by the governing body of the scheme acting on the advice of the actuary of the scheme and in accordance with the constitutive documents of the scheme, shall be included in the cash equivalent transfer value and the accumulated value of the member's share of contributions as provided under Rule 6(b);
- (b) the total accrued benefits of a non-citizen member of a defined benefit scheme or the defined benefit section of a private pension scheme shall be based on pensionable remuneration and service, as defined in the constitutive documents of the scheme.

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8. Where the value of the total accrued benefits of a non-citizen is being transferred to an overseas pension scheme arrangement –
- (a) the administrator of the private pension scheme shall inform the non-citizen in writing of the value of the total accrued benefits to be transferred within one month of the transfer request date;
  - (b) the non-citizen shall respond to the administrator within one month of receiving the written statement in relation to sub-paragraph (a); and
  - (c) the administrator shall effect the relevant transfers within one month of receiving the Commission’s approval referred to in Rule 3.
9. These Rules shall come into operation on 10 April 2023.

Made by the Financial Services Commission on 31 March 2023.

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