

# NATIONAL PENSIONS REGULATORY AUTHORITY



NPRA/GD/RGEX/01/17

## GUIDELINES FOR THE REGISTRATION OF EXPATRIATE (FOREIGN) WORKERS

### TABLE OF CONTENTS

1. INTRODUCTION
2. DEFINITIONS
3. EQUAL TREATMENT
4. EXEMPTION IN SOME CASES
5. REGISTRATION REQUIREMENTS
6. ENTRY AGE AND OTHER REQUIREMENTS
7. AGE EXEMPTION
8. CONTRIBUTIONS
9. OFFENCES AND OTHER PROVISIONS
10. BENEFITS
11. SELF – EMPLOYED EXPATRIATES
12. EXEMPTION FROM TAXES
13. REVIEW AND ENQUIRIES

## 1. INTRODUCTION

- 1.1. IN exercise of the powers conferred on the Authority under Section 208 of the National Pensions Act, 2008 (Act 766) as amended by Act 883 and Regulations made under the Act, these Guidelines are issued this day of \_\_\_\_\_, 2017.
- 1.2. The purpose of these Guidelines is for the registration of qualified Expatriate Workers under the National Pensions Act, 2008 (Act 766) as amended by Act 883 in situations where Ghana does not have a Reciprocal Agreement with a country of citizenship of the Expatriate Worker in the field of social security pursuant to the provisions of the National Pensions Act, 2008 (Act 766) as amended by Act 883 hereinafter referred to as the Act and Regulations made pursuant to the Act.
- 1.3. These guidelines may be cited as the Expatriate Registration Guidelines and are applicable for the registration of different categories of foreign citizens working in Ghana under appropriate legislations.
- 1.4. These Guidelines are subject to change by the Authority. Reference should be made to the Act and to Regulations made under the Act when and where necessary.

## 2. DEFINITIONS

- 2.1. For the purpose of these Guidelines and unless otherwise explained by other relevant statutes, words used will have the same meaning within appropriate contexts to similar words and phrases used in the Act. No interpretation of a word or phrase shall be made to be inconsistent with the meaning of such or similar words or phrases in the Act.
- 2.2. The following words and phrases shall have the meaning stated herein:
  - “Act” means the National Pensions Act, 2008 (Act 766); as amended by Act 883 of 2017
  - “Authority” means the National Pensions Regulatory Authority established under Section 5 of Act 766;
  - “Benefits” means any pension or benefit in cash, including any supplements or increases applicable under the Act;
  - “Contribution” means mandatory contributions as provided under sections 63 and 96 including Section 109 (2) of Act 766;
  - “Employee” **or worker** means a person who is employed by an **establishment** as well as any person who is deemed equivalent to an employed person by applicable legislation and particularly **as defined in** Section 211 of Act 766;
  - “Employer” means the owner of an establishment or enterprise or the person who, or the Board which, has the ultimate control over the affairs of the establishment or enterprise and where such affairs are entrusted to a manager, managing director or managing agent, such manager or agent;

“Enterprise” means an industry, project, undertaking, or business or any part of that industry, undertaking, project or business;

“Expatriate Worker” means a qualified non-Ghanaian citizen duly employed by an enterprise *or establishments* in Ghana;

“Exemption” means persons or conditions not to be covered under the provisions of these Guidelines;

“First Tier scheme” means the mandatory Basic National Social Security scheme;

“Foreign Worker” means an Expatriate Worker;

“Laws” means the National Pensions Act 2008 (Act 766) as amended by Act 883, the Labour Act, and any other relevant legislation applicable to foreign employers and workers for the time in force;

“Occupational Pension Scheme” means a Pension Scheme offered through an individual’s employment to private or public sector workers. Benefits are generally paid as lump sum, but could also be paid as an annuity or a combination of lump sum and annuity.

“Pension Scheme” means an employee benefit scheme which provides retirement benefits by the establishment of a trust fund or the purchase of insurance or annuity contracts or a combination of both and benefits may be paid either as an annuity or a lump sum;

“Provident Fund” means a fully funded, defined contribution scheme in which funds are managed privately and benefits paid as lump sum to the employee or his dependants in case of death. In some cases it is possible for the employee to draw income prior to retirement to meet specific needs;

“Registration” means the process of enrolment of a qualified Expatriate Worker to the membership of a scheme;

“Second Tier Scheme” means mandatory fully-funded and privately-managed Occupational pension scheme;

“Short contract” means a contract of employment not more than three (3) years in duration;

“SSNIT” means the Social Security and National Insurance Trust established under Section 32 of Act 766.

### **3. EQUAL TREATMENT**

3.1. Unless otherwise provided in the Act or these Guidelines, an Expatriate Worker who ordinarily resides in Ghana, shall receive equal treatment with Ghanaian workers in the application of the Act and any Regulations made thereunder.

3.2. Unless otherwise provided in these Guidelines, a person who works as an employee or a self-employed person in Ghana shall, with respect to that employment or self-employment, be subject to the Act and these Guidelines.

#### **4. EXEMPTION IN SOME CASES**

4.1. An Expatriate who resides and is employed in Ghana for a period not exceeding 36 months and has shown proof of membership of a scheme of another country shall be exempt from the application of the Act and these Guidelines *for that period*.

4.2. ***NPRA shall issue an exemption certificate for a 2<sup>nd</sup> tier Scheme to an Expatriate worker who has demonstrable evidence of belonging to a Pension Scheme in their home country and are on a short contract of employment in Ghana.***

4.3. ***SSNIT shall issue an exemption certificate to an Expatriate worker who is exempted from the Basic National Social Security Scheme as provided for under Regulation 53(6) of L.I. 1989.***

4.4. These Guidelines shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961 or the Vienna Convention on Consular Relations of April 24, 1963.

#### **5. REGISTRATION REQUIREMENTS**

5.1. Subject to Section 4 above and in accordance with Section 58 of the Act 766 as amended, the Three Tier Scheme shall apply to every qualified Expatriate employer and each Expatriate Worker employed by the establishment or in any enterprise where an employer – employee relationship exists.

5.2. An enterprise ***or establishment*** employing an Expatriate Worker in Ghana shall satisfy the following pre-conditions for the registration of that worker under a Scheme under the Act:

5.2.1. The Expatriate Worker shall not be prohibited under any scheme in his home country from joining the Three Tier Pension Scheme in Ghana.

#### **6. ENTRY AGE AND OTHER REQUIREMENTS**

6.1. The minimum age at which an Expatriate Worker may join or be registered under the Basic National Social Security Scheme managed by SSNIT is fifteen (15) years and a maximum age of forty-five (45) years.

6.2. A qualified expatriate worker who works in Ghana and is aged fifteen (15) years and not more than forty-five (45) years shall be registered under the Basic Social Security Scheme.

6.3 An Expatriate Worker who is at least fifteen (15) years and **more** than forty-five (45) years of age shall be registered under the Second Tier mandatory scheme and may also be registered under a voluntary fully-funded and privately-managed Provident Fund and Personal Pension schemes

6.5 An Expatriate Worker who is **above** forty-five (45) years and registered under a Second Tier scheme for that matter shall contribute a total of eighteen and half per centum (18.5%) of the worker's salary to the scheme; 13% from the Employer and 5.5% from the Employee.

## **7. AGE EXEMPTION**

7.1. An Expatriate Worker who is already employed in Ghana who is entitled to retirement benefits under a pension scheme in existence before the commencement of the Act, and is aged fifty (50) years or above is exempt from participating in the Basic National Social Security Scheme.

7.2. Despite the provisions of 7.1, an Expatriate Worker who is fifty (50) years and above and exempted from entry into the first tier scheme under the Act may opt to join it.

7.3. For a member exempted under 7.1, the employer and Expatriate Worker shall continue to contribute to the worker's retirement benefit at the same level of contribution before the commencement of the Act until the Expatriate Worker retires.

7.4 Despite the provisions of 7.1 an expatriate worker may join and contribute to the 2<sup>nd</sup> and 3<sup>rd</sup> tiers voluntarily.

## **8. CONTRIBUTIONS**

8.1. An employer who employs an Expatriate Worker shall remit thirteen and half per cent of the total contributions of eighteen and half per cent on behalf of the worker to the first tier mandatory Basic National Social Security scheme within fourteen days after the end of each month to SSNIT and to their duly nominated 2<sup>nd</sup> tier Scheme.

8.2. Where an employer deducts contributions from the salary of a worker, the contributions shall be held by the employer in trust until remitted to their 2 tier Scheme.

8.3. Payment of contributions by an employer of an Expatriate Worker to a 2<sup>nd</sup> tier Scheme shall be accompanied with a contribution report in a form that may be prescribed by the Service Providers including electronic means.

8.4. An Expatriate Worker who is more than forty-five (45) years of age shall be registered under the Second Tier mandatory scheme and may also be registered

under a voluntary fully funded and privately managed Provident Fund and Personal Pension schemes.

- 8.5. An employer of a qualified Expatriate Worker shall, remit a mandatory contribution of five per centum (5%) to an occupational pension scheme, to which that worker is a member, out of the total contribution of eighteen and half per centum (18.5%) made on behalf of the Expatriate Worker together with data on the contribution.
- 8.6. An employer and an Expatriate Worker who is fifty (50) years and above shall in accordance with sub-section 8 of Section 63 of Act 766 , remit the total contribution of eighteen and half per cent on behalf of the worker to the Second Tier mandatory Occupational Pension scheme within fourteen (14)days after the beginning of each month.
- 8.7. Where an Expatriate Worker is concurrently employed by more than one employer, each employer is responsible for only that employer's obligations under the Act.
- 8.8. An employer of an Expatriate Worker shall not by reason of a liability for a contribution to a scheme or any other charges under the Act or Regulations, reduce whether directly or indirectly, the salary or other emoluments of an Expatriate Worker.
- 8.9. The Expatriate Worker shall complete an enrolment form indicating the following:
  - 8.9.1. Anticipated date of exit from the scheme and emigration from Ghana permanently;
  - 8.9.2. Percentage distribution of entitlement to survivors when an Expatriate is deceased.
- 8.10. An Expatriate worker who earns salary in foreign currency shall make contributions to the Three Tier Schemes in Ghana Cedis at the prevailing Bank of Ghana exchange rate.

## **9. OFFENCES AND OTHER PROVISIONS;**

- 9.1 Offences under Sections 83, 84, 85, ***Civil Proceedings under section 86 and priority for payment of contributions and protection against attachment under sections 87 and 88*** of the Act shall be applicable to these Guidelines for the SSNIT Scheme.
- 9.2 Sections 105(1), (2) and (3) is applicable to 2<sup>nd</sup> tier contributions under these guidelines.

## **10. BENEFITS**

### **10.1. Survivor's Benefit**

Where an Expatriate member of the Basic National Social Security Scheme dies, a lump sum benefit is payable to the deceased's beneficiaries who:

- a. are dependants of the deceased Expatriate Worker; and

- b. have been validly nominated as dependants of the deceased Expatriate Worker.

## 10.2. Lump Sum Payment

- 10.2.1. Where an Expatriate member of the First Tier scheme has made less than fifteen (15) years of contribution to the Fund before the Expatriate Worker retires either compulsorily or voluntarily, the member shall be entitled to:
  - a. a lump sum of money equal to the member's contributions as benefit; and
  - b. a compound interest of seventy-five per centum (75%) of the prevailing government treasury bill rate on the lump sum.
- 10.2.2. A person who is not a citizen of Ghana who does not satisfy the qualifying conditions for a benefit of a scheme but desires to emigrate permanently from Ghana may be entitled to the entire accrued benefits in the scheme in the form of a lump sum.

## 10.3. Pension Benefits

An Expatriate member of the first tier scheme ***who is permanently resident in Ghana and*** who:

- a. retires on attaining the compulsory retirement age of sixty (60) years; or
- b. retires voluntarily on attaining the age of fifty-five (55) years and has contributed to the First Tier scheme for a period not less than fifteen (15) years in the aggregate or one hundred and eighty (180) months in the aggregate is entitled to a superannuation pension.

## 10.4. Emigration Benefit

***An expatriate member of the first Tier (SSNIT) Scheme who satisfies the Trust that the member is emigrating or has emigrated permanently from Ghana shall be paid a lump sum benefit as follows:***

- a) where the member has contributed to the scheme for 15 years or 180 months or more the present value of the member's pension for the guaranteed period of 15 years shall be paid as lump sum benefit.***
- b) where the member has contributed less than 15 years or 180 months, the member shall be paid the total contribution made plus interest accrued at seventy five percent of the interest rate of Ninety One Day Government Treasury Bill as lump sum benefit.***

- c) ***Where the member has contributed to only 2<sup>nd</sup> and 3<sup>rd</sup> tier schemes, the member would be entitled to the entire benefits upon emigration.***

#### 10.5. **Invalidity Pension Benefits**

An Expatriate member of the First Tier scheme who becomes an invalid is entitled to invalidity pension if:

- a. the member has contributed to the Fund for not less than twelve (12) months within the last thirty-six (36) months before the occurrence of the invalidity; and
- b. a medical board ***in accordance with sections 71(1)(b) and section 101(4)(a and b) of the Act*** certifies that the Expatriate member is incapable of normal gainful employment because of the permanent physical or mental disability.

#### 10.6. **Hazardous Employment Benefit**

An Expatriate member of the Basic National Social Security scheme who has attained the age of fifty-five (55) years and has been a worker:

- a. at an underground mine;
- b. at a steel works; or
- c. in any other employment determined as hazardous employment by the Authority,

For an aggregate period of not less than one hundred and eighty (180) months is entitled on retirement to full retirement benefits.

#### 10.7. **Mode of Payments of Benefits to Expatriate Workers**

10.7.1. Expatriate Workers shall apply for benefit entitlements at least ***three*** months prior to exit from the scheme.

10.7.2. An application for benefit entitlements where an Expatriate Worker is permanently emigrating from Ghana shall be accompanied by a statutory declaration, a letter of request, a request by Trustee Company and a letter from the employer as confirmation of emigration ***or any other manner that may be*** prescribed by the Authority that the Expatriate Worker has emigrated, or will emigrate from Ghana permanently on a specified date.

10.7.3. All benefit entitlements shall be computed in Ghana Cedis ***and shall be paid into a designated Bank Account of the Expatriate in Ghana.***

10.7.4. Repatriation of entitlements by an Expatriate Worker ***may be made at the request of the expatriate and*** shall be made in ***the currency of the designated Bank Account*** at the prevailing Bank of Ghana exchange rate ***but the expatriate worker shall bear the transaction charges.***



10.7.5. The benefit entitlements of an Expatriate Worker ***who has emigrated permanently*** from Ghana shall be transferred to a foreign account provided by the ***Expatriate Worker*** less bank transaction charges.

## **11. SELF – EMPLOYED EXPATRIATE PERSON**

A self – employed Expatriate may join and pay contributions to a Personal Pension scheme in accordance with the provisions of Act 766 as amended.

## **12. EXEMPTION FROM TAXES**

Tax is not payable by an employer of an Expatriate Worker in respect of contributions towards retirement or pension benefits under the Act, Regulations made under the Act and these Guidelines.

## **13. REVIEW AND ENQUIRIES**

These Guidelines shall be subject to review by the Authority.

All Enquiries regarding these Guidelines shall be directed to the:

***Chief Executive Officer,  
National Pensions Regulatory Authority,  
P.O.BOX GP 22331 Accra-Central.***

***Website:*** [www.npra.gov.gh](http://www.npra.gov.gh) ***Email:*** [info@npra.gov.gh](mailto:info@npra.gov.gh) ***Telephone:*** 0302-968692 / 968693

***Location:*** Onwona House, Kanda Highway, opposite Accra High School.