

# NATIONAL PENSIONS REGULATORY AUTHORITY



NPRA/GD/PAY/01/13

## GUIDELINES FOR THE PAYMENT OF MONTHLY CONTRIBUTIONS TO REGISTERED PENSION SCHEMES

### 1. INTRODUCTION

These guidelines explain the provisions concerning the amount and nature of contributions, time limit allowed for paying contributions, penalty on late payment of contributions and the documentations required for the payment of contributions into registered schemes.

### 2. INTERPRETATIONS

In these Guidelines, unless the context otherwise specifies:

- 2.1. Authority means the National Pensions Regulatory Authority also known as the NPRA.
- 2.2. Contribution means the five 5% mandatory contribution out of the total contribution of 18.5% deducted from the basic salary of every worker in an establishment to the Second Tier mandatory occupational pension scheme.
- 2.3. Pension Fund Custodian means a bank, insurance company or financial institution approved by the NPRA to receive contributions on behalf of the Trustees as stipulated in Sections 156 and 157 of Act 766.
- 2.4. Late payment means payment of contributions made any time beyond the 14<sup>th</sup> day of the next month after the month on which the contributions became due and payable.
- 2.5. A term used in these Guidelines may have the same or similar meaning and application to the same words used in the Act.

### 3. RULES UNDER ACT 766

The Corporate Trustee shall ensure that the provisions of Act 766 regarding the payment of contribution are respected.

#### **4. CONTRIBUTIONS PAYABLE**

- 4.1. Every employer of an establishment to which the provisions of these Guidelines apply, shall in accordance with Sections 3 (3) and 96 of Act 766 deduct a sum equal to five per centum (5%) of the total eighteen and half per centum (18.5%), which makes up the employer and employee contribution, made on behalf of every worker in the establishment immediately at the end of the month.
- 4.2. An employer shall within fourteen (14) days from the end of each month transfer the five per centum (5%) contributions on behalf of each employee in its establishment to the second tier mandatory occupational scheme of which the employee is a member.
- 4.3. Where an employer deducts a contribution from the salary of a worker, the contribution shall be held by the employer in trust until remitted to the named Trustee of the Scheme, which the worker belongs.

#### **5. SIMPLIFIED PAYMENT PROCEDURES**

- 5.1. At the end of each month the employer shall:
  - 5.1.1. Prepare a Monthly Contribution Report for the month on which the payment falls due.
  - 5.1.2. Submit the Monthly Contributions Report with a Monthly Remittance Statement on or before the last working day of the month to the Scheme Trustee for computation and verification.
  - 5.1.3. Receive a Demand letter from the Trustee on the computed and certified amount due for payment.
  - 5.1.4. Obtain a Custodian Notification Form (CNF) from the Trustee.
  - 5.1.5. Clearly and accurately complete the CNF with the amount payable and provide any other information required on the CNF.
  - 5.1.6. Pay the Contribution due on or before the 14<sup>th</sup> day of the next month to the Scheme Custodian.
  - 5.1.7. All payments to the Scheme Custodian shall be accompanied with valid and accurate CNFs issued particularly for such payments only.
  - 5.1.8. Obtain an official receipt for the payment from the Scheme Custodian.
  - 5.1.9. The Scheme Custodian is to forward a duplicate of the receipt to the Scheme Trustees and retain a copy for inspection by NPRA officials.
  - 5.1.10. The Scheme Custodian is to prepare monthly Reports to the Scheme Trustee on payment of contributions.
  - 5.1.11. On the commencement date of these Guidelines, employers shall cease the payment of the 5% mandatory contribution to the Social Security and National Insurance Trust (SSNIT).

## 6. MODE OF PAYMENT OF CONTRIBUTION

- 6.1. Contributions must be paid with banker's draft to the named Pension Fund Custodian of the Scheme with only approved NPRA Custodian Notification Form (CNF).
- 6.2. An Employer may be permitted to pay contributions by issuing personal or company Cheques. However, Personal or Company Cheque must be given value before being credited as payment of contributions with the face value of the cheque.
- 6.3. In order to receive credit for payment of contribution made with personal or Company cheque, an Employer must have paid the cheque to the Custodian ***at least three (3) clear working days before the 14<sup>th</sup> day of the ensuing month.***
- 6.4. An Employer whose personal or company Cheque issued for the payment of contribution is dishonored by the Scheme Custodian shall be liable to a penalty.
- 6.5. A Pension Fund Custodian **shall** no longer receive personal or company Cheques for the payment of contributions from an Employer who issued a prior dishonored Cheque for the payment of contributions.
- 6.6. If the Employer is paying contributions for and on behalf of its subsidiaries, the Employer shall submit separate Monthly Remittance Forms supported by separate Monthly Contribution Reports for the month of payment for each of those subsidiaries.
- 6.7. **For the avoidance of doubt, Employers should note:**
  - 6.7.1. that all payments shall be made directly to the Scheme account with the Pension Fund Custodian;
  - 6.7.2. that by the provisions of Section 3 Subsection 10, ***an Employer who fails to remit the 5% mandatory contribution to the Second Tier Occupational Pension Scheme by the 14<sup>th</sup> day of the ensuing month commits an offence and is liable on summary conviction to a fine of two thousand (2000) penalty units or to a term of imprisonment of two years or to both.***

## 7. SUBMISSION OF MONTHLY CONTRIBUTION REPORT AHEAD OF ACTUAL PAYMENT OF MONTHLY CONTRIBUTIONS

- 7.1. Payment of contribution shall be preceded by the submission of a Monthly Contribution Report covered by a Monthly Remittance Statement in a manner prescribed by the National Pensions Regulatory Authority including electronic means.
- 7.2. The Monthly Contribution Report together with the Monthly Remittance Statement shall be submitted to the Trustees of the Scheme on or before the last working day of the month on which the Contributions became due and payable.

- 7.3. The Contribution Report shall indicate the serial Number, Name of Contributor, Employee Enrollment Number, Staff Number (where applicable), Monthly Basic Salary and 5% deductions arranged horizontally and corresponding vertically with details of other contributors of the same employer.
- 7.4. The Trustee shall verify the actual contributions due and payable and issue a Demand Notice to the Employer for the payment of contributions.

## **8. STEPS TO BE TAKEN ON LATE PAYMENT**

- 8.1. Where a Trustee identifies a delay in the payment of contributions, it shall take diligent steps to retrieve the amount as quickly as possible. Trustees should do this by raising the matter with the Employer within three (3) working days after becoming aware of the late payment or failure to make payment. Below are the steps that should be followed:
  - 8.1.1. Notify the Employer that contributions to the pension fund are past due and that they must be paid with a penalty. If the Employer is a legal person, the notice must also be sent to the members of the board of directors.
  - 8.1.2. Trustees must report the late payment or failure to make payment to the NPRA and employees within four (4) working days of identifying the error.
- 8.2. Contributions that are unpaid within the stipulated time as provided for in Section 3 of the Act and persists to the last day of the month becomes unpaid contributions for which the Employer **shall** be levied with the appropriate penalty.
- 8.3. For an Employer Sponsored Scheme, the board of Trustees shall be held liable and the appropriate sanctions leveled against them for a failure to report a late payment or unpaid contributions by the sponsoring employer , unless they can show that they exercised reasonable care.
- 8.4. Circumstances which are likely to hold the Employer culpable and which the Trustees should report include:
  - 8.4.1. Where there is a late payment, or failure to make payment involving possible dishonesty or a misuse of assets or contributions. For example, Trustees may have concerns that the employer is using the contributions to alleviate cash flow difficulties.
  - 8.4.2. Where the failure to pay contributions which carries a criminal penalty. For example where the employer is knowingly concerned in the fraudulent evasion of obligation to pay employee contributions;
  - 8.4.3. Where the Trustees become aware that the employer does not have adequate procedures or systems in place to ensure the correct and the timely payment of contributions due and appears not to be taking adequate steps to remedy the situation;

8.4.4. The above list is illustrative only and is not exhaustive. There is no reason or expectation that Trustees should actively search for circumstances such as those noted above. However, if Trustees become aware of any such circumstance they should report to the NPRA and the contributors.

## **9. PENALTY ON UNPAID CONTRIBUTION**

9.1. Under these Guidelines:

- i. The party that fails to pay the required contributions into the pension fund must pay all applicable penalties as may be determined by the NPRA from time to time.
- ii. A person who contravenes a provision of the National Pensions Act, 2008 (Act 766) for which a penalty is not provided is liable on summary conviction to a fine of not more than one thousand penalty units or to a term of imprisonment of not less than one year or to both.

***ISSUED BY THE NATIONAL PENSIONS REGULATORY AUTHORITY, DATED 26<sup>TH</sup> JUNE, 2013.***