

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

CONTRIBUTORY PENSIONS TEMPORARY AMENDMENT ACT 2020

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WHEREAS it is expedient to make temporary modifications to the requirements of the Contributory Pensions Act 1970 to allow for the suspension of contributions liable to be paid by employees, employers, and self-employed persons in respect of the suspension period;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Contributory Pensions Temporary Amendment Act 2020.

Interpretation

2 (1) In this Act—

“Director” has the meaning given under section 1(1) of the principal Act;

“employed person” has the meaning given under section 1(1) of the principal Act;

“insured person” has the meaning given under section 1(1) of the principal Act;

“principal Act” means the Contributory Pensions Act 1970;

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“self-employed person” has the meaning given under section 1(1) of the principal Act;

“suspension period” means the period beginning on 1 July 2020 and ending on 30 June 2021.

(2) References to the suspension of contributions in respect of the suspension period means contributions which, but for this Act, would be required under the principal Act to be paid in respect of the whole of the suspension period.

Construction and application

3 This Act shall be construed as one with the Contributory Pensions Act 1970, and applies notwithstanding anything to the contrary in—

- (a) the principal Act, any other Act, or any subordinate legislation; or
- (b) any contract or agreement.

Suspension of contributions: employed persons

4 (1) An employed person who is liable to pay weekly contributions under section 4(1)(a) of the principal Act may suspend his contributions in respect of the suspension period.

(2) The employed person shall, on such form as the Director may prescribe, notify his employer that he has decided to suspend his contributions in respect of the suspension period.

Suspension of contributions: employers

5 (1) An employer who is liable to pay contributions under section 4(1)(b) of the principal Act may suspend his contributions as they relate to an employee in respect of the suspension period, with the agreement of the employee.

(2) In a case where an employer pays all or part of an employee's contributions, the employer may suspend those contributions in respect of the suspension period, with the agreement of the employee.

(3) An employer shall, on such form as the Director may prescribe, give notice to the Director where he has agreed with the employee to suspend contributions in respect of the suspension period.

(4) Where, under section 4(2) of this Act, an employed person has given notice to his employer that he has decided to suspend his contributions, then section 4(2) and (7) and section 30(2) of the principal Act do not apply in respect of the employer during the suspension period.

Suspension of contributions: self-employed persons

6 (1) A self-employed person who is liable to pay weekly contributions under section 4(1)(c) of the principal Act may suspend his contributions in respect of the suspension period.

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(2) The self-employed person shall, on such form as the Director may prescribe, notify the Director that he has decided to suspend his contributions in respect of the suspension period.

Employer in arrears

7 (1) Section 5 applies whether or not an employer has, before the suspension period commences, any outstanding employer contributions due and in arrears, or employee contributions deducted but not paid to the Department of Social Insurance.

(2) But where an employer—

- (a) suspends his contributions under section 5; and
- (b) has, before the suspension period commences, outstanding contributions due and in arrears, or employee contributions deducted but not paid to the Department of Social Insurance,

that employer remains liable to pay those outstanding contributions or employee contributions notwithstanding the suspension period.

Offence if employer deducts contributions where notice given

8 (1) This section applies where an employed person gives notice to his employer, in accordance with section 4(2), that he has decided to suspend his contributions during the suspension period.

(2) An employer who continues to deduct contributions from the employed person's salary, wages or other remuneration in respect of the suspension period commits an offence.

(3) Section 30(4) of the principal Act (offences) applies to an offence under this section.

Consequential and related amendments

9 (1) For the purposes of this Act, the Contributory Pensions (Voluntary Payments) Regulations 1968 shall be read as if—

- (a) regulation 2(1) applies to an insured person who, after the suspension period has ended, wishes to make up deficiencies in his record arising from him suspending his contributions under this Act; and
- (b) regulation 2(2) does not apply to an insured person referred to in paragraph (a) of this subsection.

(2) For the avoidance of doubt, in relation to the principal Act, this Act does not affect—

- (a) the meaning of “an employee” and “the non-employed spouse of an employee” as defined in section 19 of the Health Insurance Act 1970;
- (b) the meaning of “contribution week” as defined in regulation 1 of the Health Insurance (Cover) Regulations 1971;

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- (c) the meaning of “self-employed” as defined in regulation 1 of the Health Insurance (Inspection of Records) Regulations 1971;
- (d) the meaning of “non-employed spouse” as defined in section 2(1) of the Government Employees (Health Insurance) Act 1986;
- (e) the application of section 14 of the Government Employees (Health Insurance) Act 1986.

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EXPLANATORY MEMORANDUM

This Bill seeks to make temporary amendments to the requirements of the Contributory Pensions Act 1970 (“the principal Act”) to allow for employees, employers, and self-employed persons to suspend payment of their contributions for the whole of the suspension period.

Clause 1 (Citation) is self explanatory.

Clause 2 (Interpretation) provides definitions for certain expressions used in the Bill.

Clause 3 (Construction and application) provides that this Bill will be construed as one with the principal Act. Accordingly, definitions used in the principal Act (such as employed person, employer, and self-employed person) apply with respect to this Bill. It also provides that this Bill “trumps” anything to the contrary in the principal Act or any other legislation, and any contract or agreement.

Clause 4 (Suspension of contributions: employed persons) provides for an employee to suspend payment of his contributions, with the agreement of his employer, and for an employee who decides to do so to notify his employer in writing.

Clause 5 (Suspension of contributions: employer) provides that an employer may suspend payment of his contributions in respect of an employee, with the agreement of the employee. The employer who decides to do so must notify the Director of the Department of Social Insurance in writing. Clause 5 also provides that section 4(2) and (7) and section 30(2) of the principal Act does not apply to an employer where an employee has decided to suspend payment of his contributions.

Clause 6 (Suspension of contributions: self-employed persons) provides for a self-employed person to suspend payment of his contributions, and to notify the Director of the Department of Social Insurance in writing if he decides to do so.

Clause 7 (Employer in arrears) provides for an employer to suspend payment of contributions for the suspension period, whether or not he has outstanding contributions due and in arrears, or employee contributions deducted but not paid to the Department of Social Insurance. However, the employer remains liable during the suspension period for any outstanding contributions or unpaid employee contributions arising before the suspension period.

Clause 8 (Offence if employer deducts contributions were notice given) establishes an offence if an employer continues to deduct contributions from an employee’s wages, salary or other remuneration when the employee has given notice under section 4(2) that he has decided to suspend payment of his contributions.

Clause 9 (Consequential and related amendments) provides that an employee may make up deficiencies in his record, if he wishes to do so, after the suspension period has ended. Clause 9 clarifies that certain provisions, relating to the principal Act, are not affected by this Bill.