

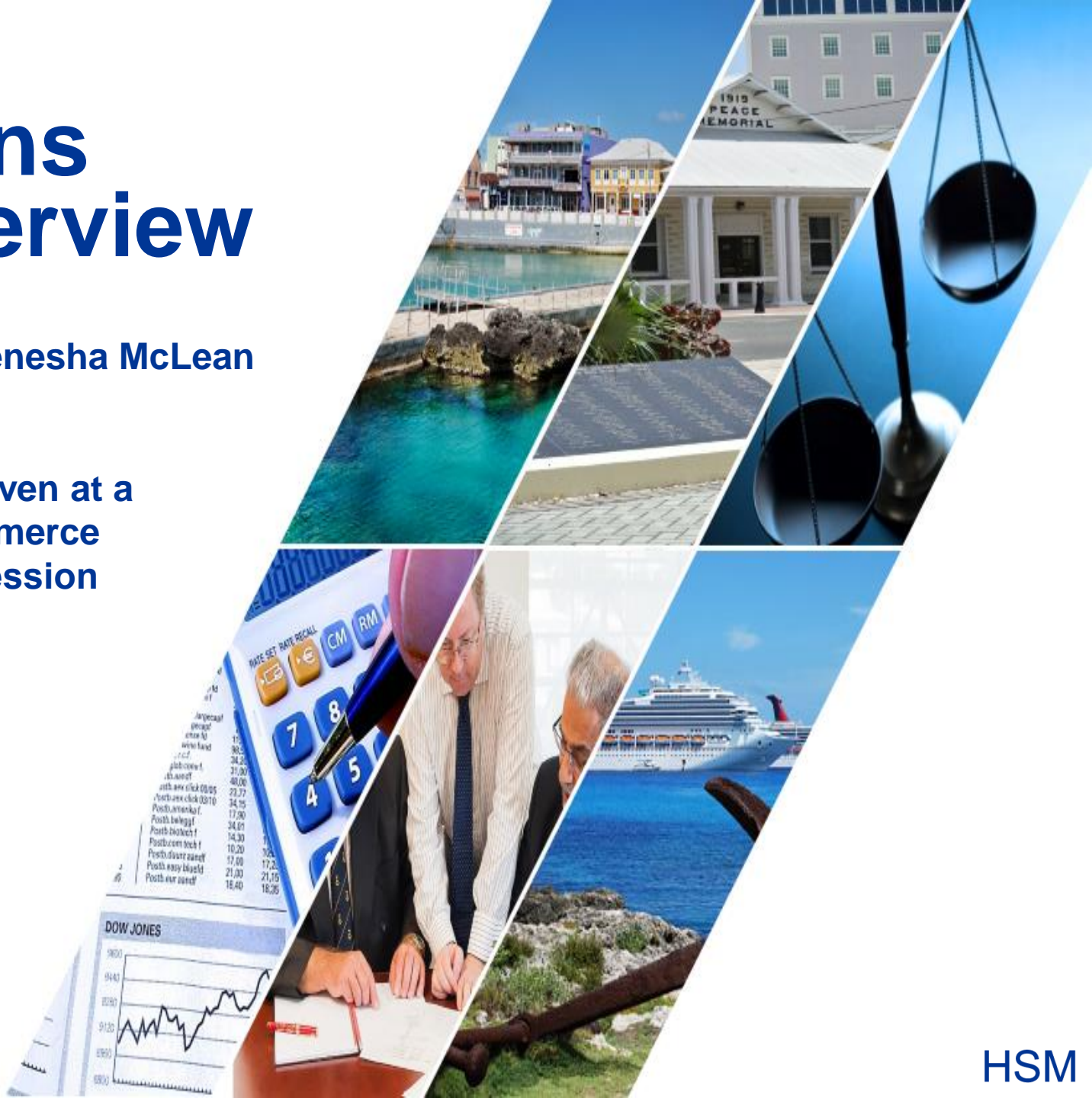
Pensions Bill Overview

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A Presentation given at a
Chamber of Commerce
“Be Informed” Session



Years of Service
Chamber of Commerce
Cayman Islands ★ 1965-2015





Government's Stated Objectives

- To align the National Pensions Law with the re-organisation of the Labour and Pensions Services
- To increase requirements for pension plans to educate and inform members
- To enhance compliance with the National Pensions Law
- To increase the age at which pensions can be accessed
- To alter the eligibility criteria in order to create pension equity and consistency for all pensionable employees



Definitional Changes – “Employee”

The definition of an “Employee” has been amended. It still refers to the Labour Law definition of Employee but it excludes persons who are consistently employed for less than 15 hours per week

The Labour Law definition of an “Employee” will now include charities and churches but will exclude children, temporary staff, volunteers etc.

The effect of excluding these persons is that they will no longer be required to pay pensions



Definitional Changes – Age of Pension Entitlement

- New definition: “**Normal age of pension entitlement**” means 65 years of age
- Increases the normal age of pension entitlement from 60 to 65 years
- Increases the age for Early Retirement



Definitional Changes – Pensionable Earnings

- Increases “**year’s maximum pensionable earnings**” from \$60,000 to \$87,000
- This is the amount on which Employees and Employers are required to pay pension contributions
- Only persons earning more than \$60,000 will be affected



Employer Obligation – Pensions Plans

**Defined benefit
pensions plan**

**Defined
contribution
pensions plan**



Failure to provide a Pensions Plan

1st Offence:

\$20,000 or
2yrs.
Imprisonment
or both

2nd Offence:

\$50,000 or
3yrs.
Imprisonment
or both

3rd Offence or subsequent offence:

\$100,000 or 5yrs.
Imprisonment or
both

- *On Summary Conviction*



Books and Records Obligation

- An Employer shall keep proper payroll accounts, books and records for all sums paid to a pension plan
- Must give a true and fair view of the state of affairs of the Employer's pensionS plan transactions
- Must be kept for a minimum period of 7 years



Type of Records

- Name of Employee
- Employment date & duration
- Note full-time or part-time
- Rate of pay & salary arrangements
- Gross & net pay
- Bonuses
- Resignations & terminations
- Name of pension plan
- All deductions from earnings for pension contributions
- All contributions made on behalf of Employees
- Evidence of pension plan payments
- Contribution period & dates of payment
- Any pension plan interest payments



Contributions Obligations

Contributions must be stated clearly

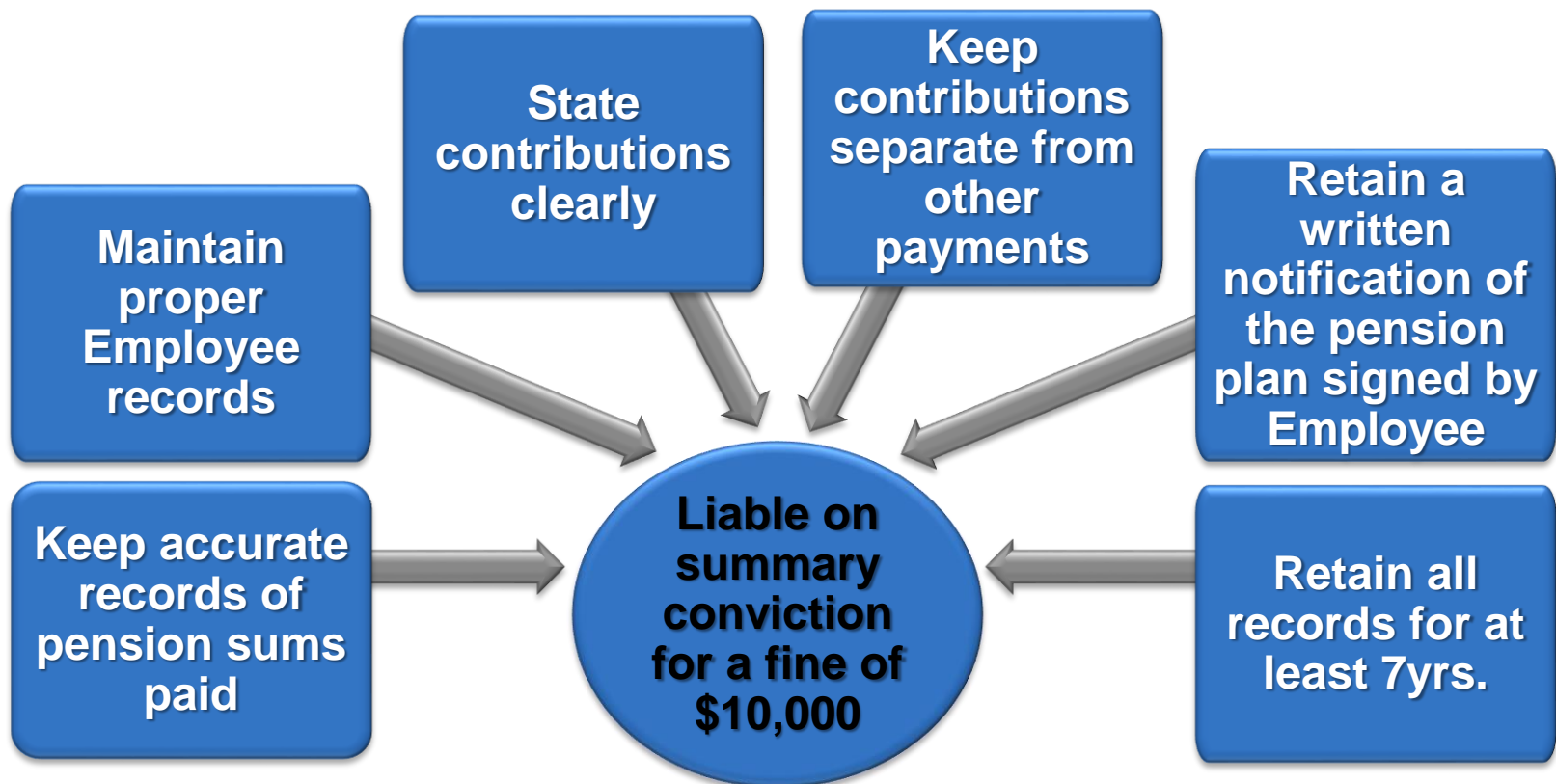
Must not be comingled with other payments that Employers are required to pay (e.g. health insurance)

Retain a written notification of the pension plan that has been acknowledged by the Employee in writing

Must be kept for a minimum period of 7 years



Books, Records & Contributions





Disclosure of Information

On application for membership to a pension plan an **Administrator** shall provide:

An explanation of the pension plan provisions

Right and obligations under the pension plan

Details of the pension plan's returns and expense ratios

Any other prescribed information

Employer must provide the Administrator with the necessary information to enable the Administrator's compliance



Disclosure of Information

- Increases the frequency of member statements from annually to quarterly
- Allows statements to be issued electronically with the consent of members
- Increases the access to the Administrator's pension plan records from once a year to every six months

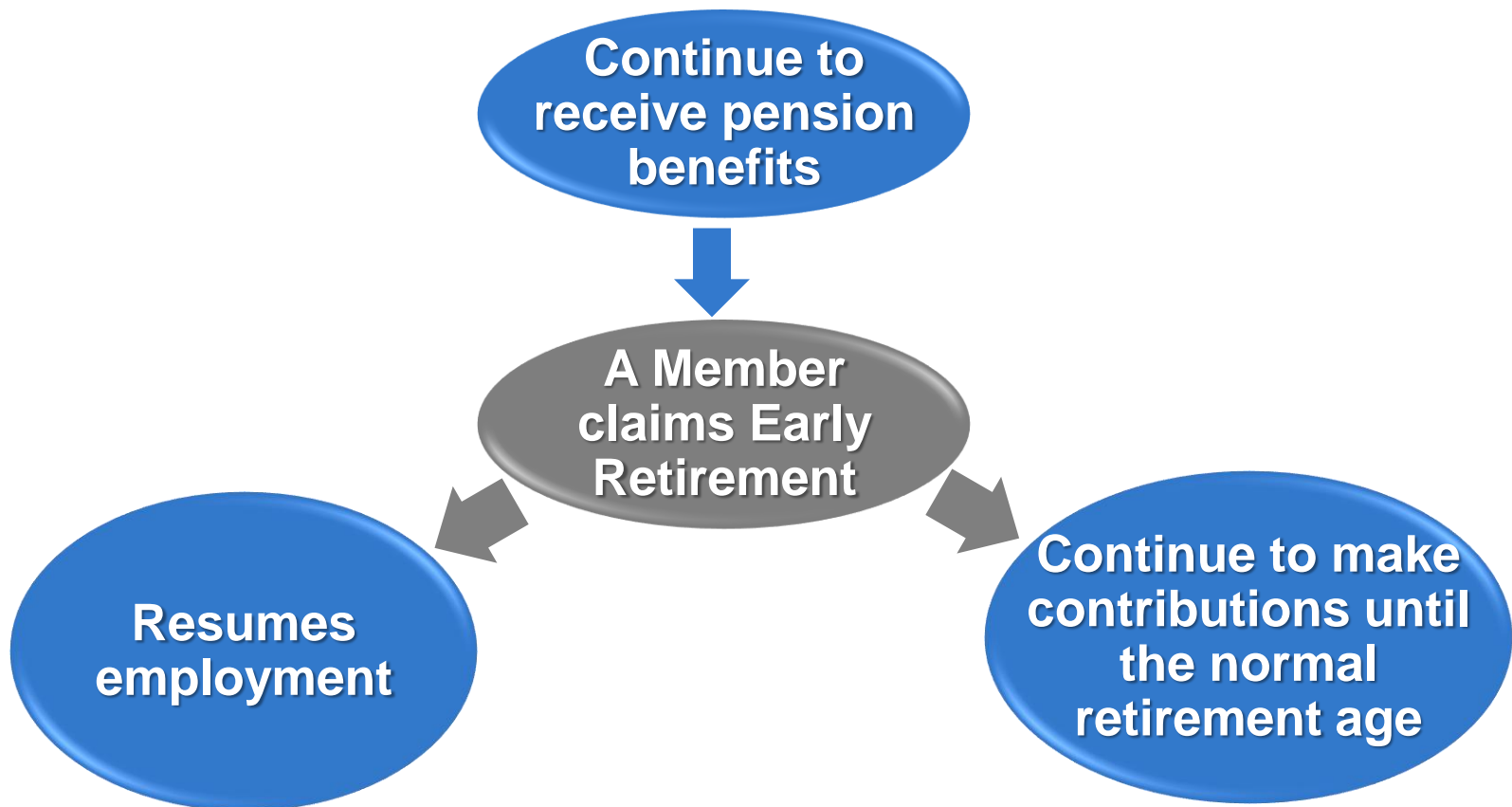


Employer – Break from Pension Payment

Not required to provide pension plans or to contribute to pension plans for Employees who have worked within the islands for a continuous period of **less than 6 months**

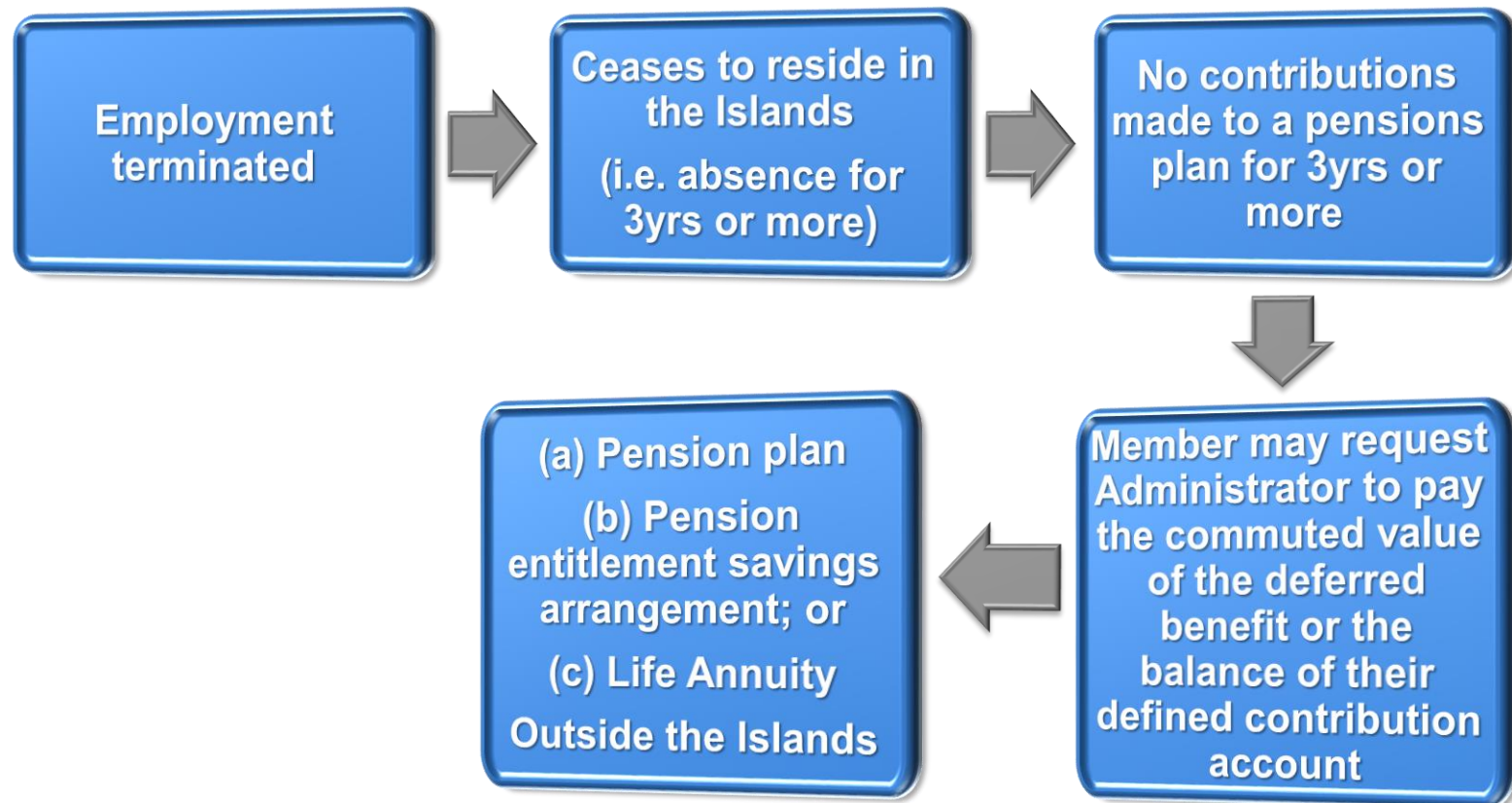


Early Retirement Benefits





Transfer of Pension Benefits





Additional Voluntary Contributions

A Member may access
their additional
voluntary contributions
prior to the normal age
of pension entitlement
(Subject to the pension
plan)

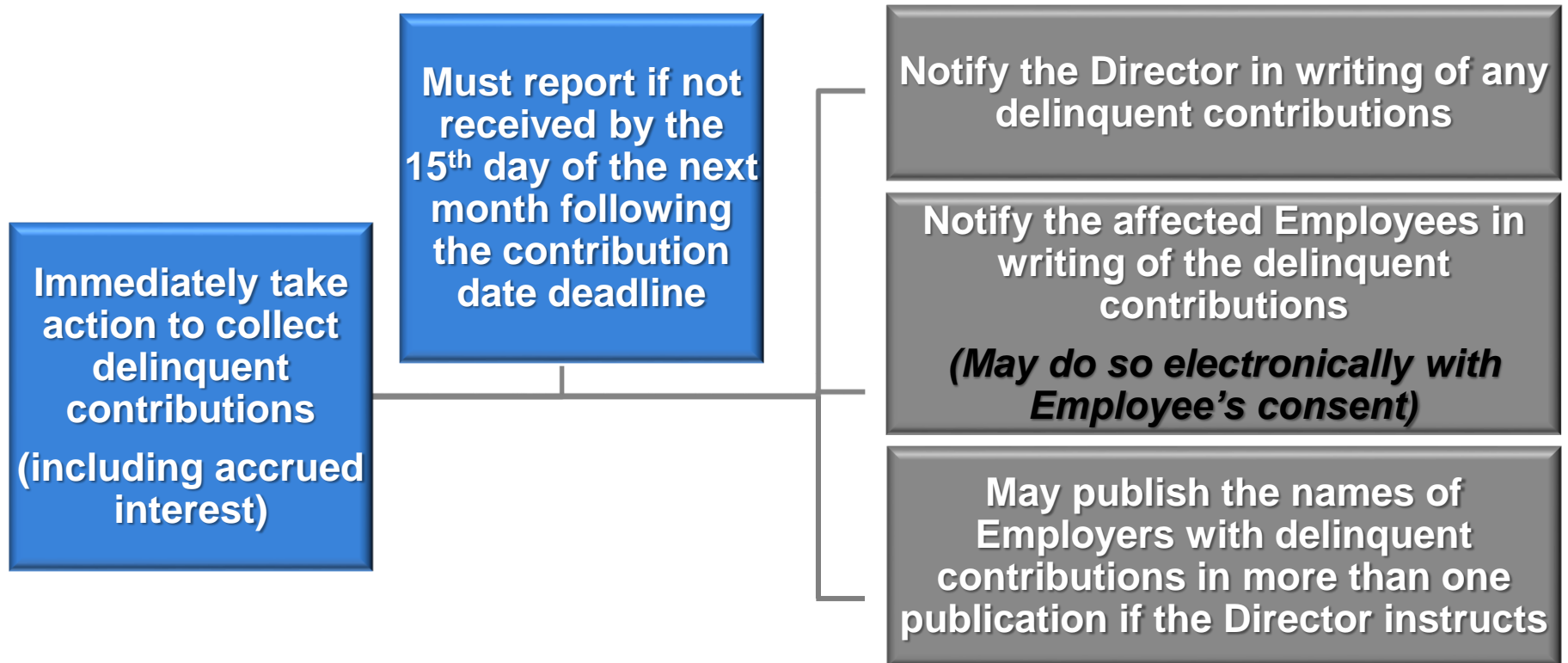


Contributions

- Employers & Employees must contribute to the pension fund of a pension plan from the relevant date specified in the Pensions Law
- Must be remitted on or before the 15th day of the next month following the Employee's receipt of remuneration or expectation of remuneration (to be known as the **"Contribution Date Deadline"**)
- If not received by the Administrator on close of business on the Contribution Date Deadline it will be regarded as a **"Delinquent Contribution"**

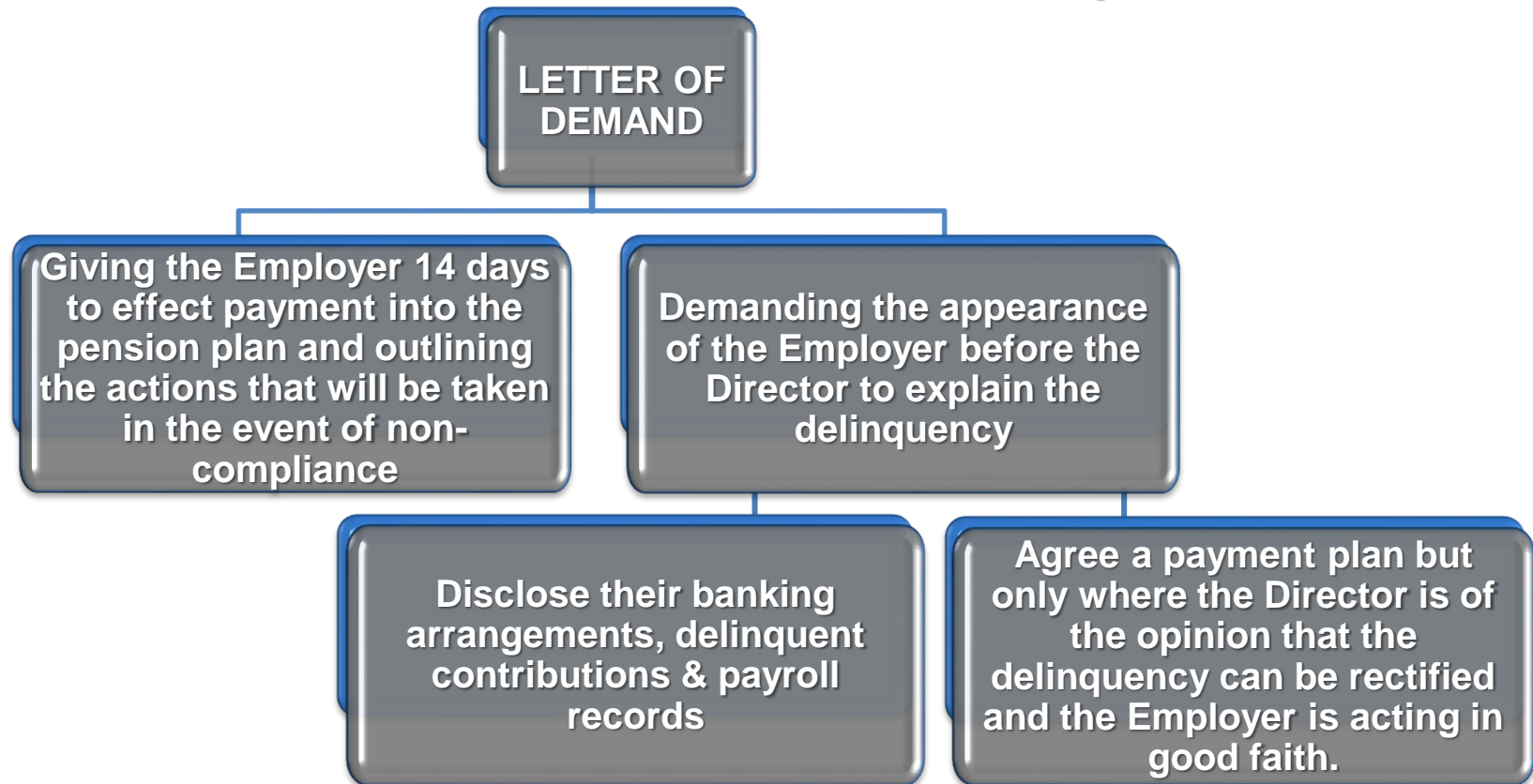


Contributions – Administrator's Obligations





Contributions – Director's Obligations





Contributions – Director's Obligations

Order the payment of a delinquency collection fee equal to the greater of 10% of the total delinquent amount or \$50 per day from the contribution date deadline until the total is paid

Commence legal proceedings to recover the delinquent contributions, fines and fees

Publish the Employer's breaches, including their name, offence and the applicable penalty



Director's Obligations – No Action Necessary

**The
delinquency
was reported
in error**

**The
delinquency
has been
corrected by
full payment**

**Action has
been taken in
resolution of
the
delinquency
consistent
with the law**

**Any
information
disclosed to
the Director
will be kept
confidential**



Contributions – Costs to Employer

- The expenses of the Administrator for additional reporting (which are approved in advance or authorised by this law) shall be borne by the Employer and not the pension plan or the Employees
- An Employer who fails to pay contributions into a pension plan within the time specified by the Director will be liable on summary conviction to a fine of **\$20,000** or **2** years imprisonment or both (***in addition to the delinquent contributions, fees and expenses***)



Contributions – Costs to Employer

- An Employer is liable to pay interest to the pension fund from the contribution date deadline up to the date of actual payment of contributions to the fund
- Interest is payable on all monies due in respect of the pension fund at the current prime rate plus 5% calculated on a daily basis (***in addition to any other fees, fines and penalties specified by the law or a court order***)



Contributions – Investigative Powers

The Director may investigate the relevant activities of Employers in respect of contributions to pension plans



The Director may share that information with other Government departments and agencies

Where an Employee reasonably believes that an Employer has failed to remit contributions to the Administrator by the reportable date;



The Employee may make a report to the Director in writing and the Director may investigate & take any action referred to on the preceding slides



Powers of Director, Deputy Director & Officers

When performing duties regarding the ***imposition of administrative penalties*** **Only** shall have the same powers, privileges & immunities as a Police Constable

Carry out any examination, test or inquiry necessary to confirm compliance with this law

Question (alone or in the presence of witnesses) any Employer or Employee on any matters concerning the application of this law

Require the production of any records or documents required to be maintained by this law & make copies

May enter any workplace without notice at any time during their working hours



Information Requests

- The Director or the Board may require an Employer, Administrator or any person to supply information within a time limit for the purposes of assessing compliance with this law and its regulations (**Old**)
- Failure to comply is an offence and liable on summary conviction to a fine of **\$10,000 or imprisonment for one year or both** (**New**)
- A person shall not knowingly or willfully provide false or misleading information in connection with any information they are required to provide under this law (**New**)
- It is an offence and liable on summary conviction to a fine of **\$10,000 or imprisonment for one year or both** (**New**)

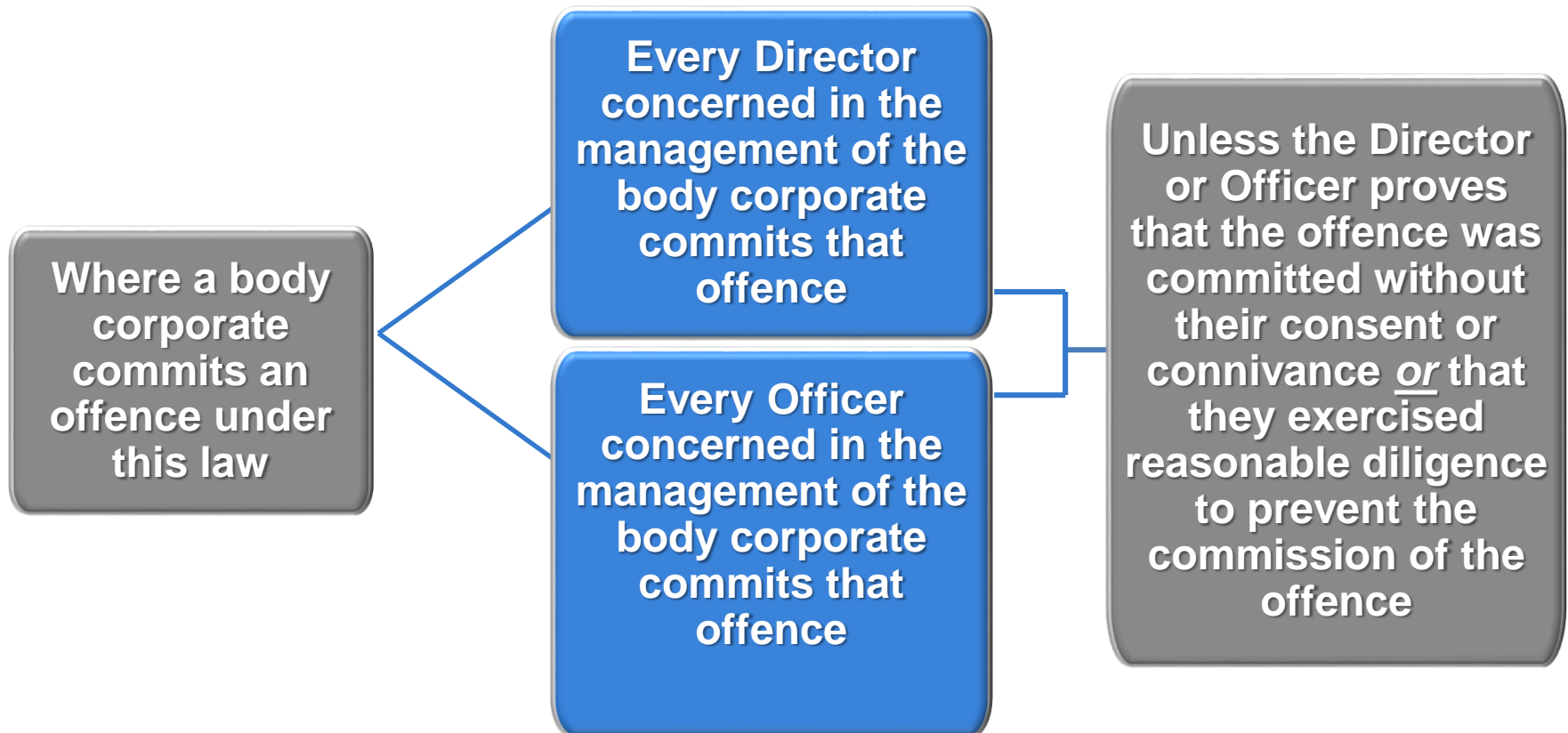


Contravention of the law

- A person who contravenes this law or any order made under this law commits an offence and is liable on summary conviction to ***a fine of \$10,000 or imprisonment for one year or both***
- Increase from a fine of \$5,000 and no imprisonment
- Summary proceedings may commence up to 7 years after the date that the matter was reported to the Director
- Increase from 5 years to commence proceedings
- The Director/Deputy Director may institute criminal proceedings for any offence under this law and may appear in court to conduct the prosecution of the offence



Corporate Body – Director Liability





Information Sharing

The Director may share information with Government Departments and Statutory authorities regarding an Employer's failure to provide pension benefits or make timely contributions in accordance with this law. Information shared will be limited to:

**The
particulars of
the Employer**

**The type of
contravention
under the law
committed by
the Employer**

**The resulting
effect of the
contravention
of the law**

**Will not
include any
personal
information of
any Employee**



Employee Victimisation Protection

Where an Employee reasonably believes that an Employer has failed to comply with this law

The Employee can make a written disclosure to the Director & shall not be victimised by the Employer as a result

If following the disclosure, the Employer takes any action that they are legally entitled to take under any law, that action will not be regarded as victimisation of the Employee

If the Employee reasonably believes that they have been victimised as a result of the disclosure, they may make a complaint to the Labour Tribunal in accordance with the Labour Law



What is Victimisation?

- Dismissal
- Suspension
- Denial of promotion
- Demotion
- Redundancy
- Intimidation
- Subjection to any discrimination by an Employer or an Employee
- Registrations & terminations
- Bonuses
- Threaten victimisation in respect of any of the above



Employer - Verification of Compliance

An Employer may (for any purpose) apply to the Director for verification that they are compliant with this law

Verification is evidence that the Employer is in compliance with this law *on the date that the verification is issued*

An Employer will be deemed to be compliant if all contributions, interest and fees under this law have been paid & the Director has no knowledge that the Employer has contravened any provision in the law

If the Director is satisfied that the Employer is in compliance with the law, he shall issue verification in a form that he considers appropriate. There will be a fee for this verification

A collage of images related to business and finance, including a calculator, a line graph, a cruise ship, a building, a scale of justice, and a body of water.

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