

**GUIDELINES FOR THE ADMINISTRATION OF
GRATUITY BENEFITS**

DRAFT

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1.0 BACKGROUND

- 1.1 Retirement benefits are any entitlements/rights/privileges that accrue to a worker/employee upon leaving the services of an employer for reason of having worked or provided service to the employer. Such benefits could be paid in either lump-sum, periodically or a combination of both. Further still, such arrangements could include multiple benefits and severance arrangements.
- 1.2 For many organizations, gratuity is agreed upon through collective bargaining between the workers and employers, to be paid in accordance with the terms and conditions agreed.
- 1.3 The promulgation of the PRA did not stop the payment of gratuity, or any form of severance benefits that existed prior to June 2004. In fact, the PRA recognizes the need for employers to honor their agreement with employees and also gives place for collective bargaining for enhanced retirement entitlements.
- 1.4 Following from 1.3 above, and from the objective of the pension reform that every worker gets paid as and when due, it is the Commission's responsibility to ensure that such agreement between employers and their employees are adhered to and in such circumstance ensure that funds are set aside by employers and secured by PFAs/PFCs, for the benefit of the employees.

1.5 In view of the foregoing and the fact that the PRA 2004 recognizes and respects collective bargaining, there is therefore the need to provide guidelines that would clearly explain the treatment of gratuity.

1.2 Objectives of the Guidelines

1.2.1 The Guidelines seek to establish the place of gratuity in the Contributory Pension Scheme.

1.2.2 It shall set out the modalities for funding Gratuity Schemes.

1.2.3 The Guidelines shall set the platform for administration of Gratuity Funds by licensed operators.

1.2.4 It shall also set out the reporting requirements for all operators involved in the management/custody of Gratuity Funds.

2.0 THE GUIDELINES

2.1 Establishing the Gratuity Fund

2.1.1 Consistent with existing agreements between workers/labour and employers, the payment of gratuity shall continue under the current pension regime.

2.1.2 Any employer that had a gratuity scheme prior to the commencement of the PRA 2004 or that desires to adopt a gratuity

scheme shall establish a Gratuity Fund towards meeting its employee current and future gratuity obligations.

- 2.1.3 In pursuance of 2.1.2 above, the employer shall carry out an actuarial valuation to determine its cumulative gratuity liability to its employees and the corresponding funding requirement.
- 2.1.4 The cumulative gratuity liability shall include the amount earned by all employees, irrespective of whether such employees have qualified for the payment of gratuity in accordance with the terms and conditions of the employment, or not.
- 2.1.5 The employer shall appoint a PFA, in line with the Guidelines for Appointment of Pension Fund Administrators and Custodians for Existing Schemes, to manage the Gratuity Fund.
- 2.1.6 The employer shall, in writing, notify the Commission of its appointment of a PFA and shall seek the Commission's approval for same.
- 2.1.7 Upon obtaining approval for its appointment of a PFA, the employer shall agree with the PFA, the terms and conditions under which the Gratuity Fund shall be administered.
- 2.1.8 Following 2.1.7 above, the employer shall provide the PFA with the following:
- i) Policy document relating to the staff gratuity scheme.
 - ii) Detailed staff listing as at the date of the establishment of the Gratuity Fund.
 - iii) Date of employment of each of employee.

iv) Relevant emoluments of each employee.

2.1.9 The employer shall, thereafter, inform the PFA of all new employments and enhancement in relevant emoluments, not later than 30 days after such occurrence.

2.2 Funding

2.2.1 The employer shall transfer an amount equivalent to the liabilities established by the actuarial valuation as in 2.1.3 above, to the PFC advised by its appointed PFA.

2.2.2 The employer shall not have any direct dealing with the PFC except through the PFA.

2.2.3 Where an employer is unable to fully fund the established cumulative gratuity liability as established in 2.1.3 above, the employer shall, in writing, propose to the Commission, a suitable and agreeable arrangement for making good the short fall.

2.2.4 Pursuant to 2.2.3 above, the employer shall submit a letter of undertaking to the Commission, pledging to comply with the terms and conditions approved by the Commission with regards to making good the Gratuity Fund deficit.

2.2.5 Further to the initial actuarial valuation, the employer shall undertake actuarial valuations of the Gratuity Fund every twelve (12) months to determine the adequacy or otherwise of the Fund.

2.2.6 With respect to any deficits determined from the actuarial valuations specified in 2.2.5 above, the employer shall give the

Commission in writing a proposal on how it intends to fund the deficit.

- 2.2.7 Such proposal in 2.2.6 above should be adequate to provide sufficient liquidity to cover the gratuity of all employees that may fall due.

2.3 Administering the Gratuity Fund

- 2.3.1 The Gratuity Fund shall be managed by the PFA, as a distinct fund, in line with the terms and conditions agreed upon with the employer.

- 2.3.2 Where the PFA, appointed to administer the Gratuity Fund of a particular organization also administers the RSAs of employees of that same organization, the PFA shall segregate such funds from that of the RSA Fund.

- 2.3.3 The PFA shall not refund any amount accumulated on behalf of any employee that exits from an organization before qualifying for the payment of gratuity, to that employer.

- 2.3.4 Such funds as described in 2.3.3 above shall remain in the Gratuity Fund and be applied towards reducing future deficits as may be determined by actuarial valuations.

- 2.3.5 An employee shall be entitled to access the Gratuity Fund upon satisfying the conditions contractually agreed upon with his/her employer.

- 2.3.6 Following from 2.3.5 above, an employee who changes employments, severally, can be entitled to benefit from gratuity

schemes more than once, provided such employee qualifies under each of the respective schemes.

2.3.7 Upon the resignation or retirement of an employee, the employer shall notify the PFA of such exit from the organization. The employer shall disclose the following information in the notification:

- i) The name of the exiting employee
- ii) Effective date of resignation/retirement

2.3.8 The PFA shall determine the gratuity of the exiting individual and advise the PFC to process payment of the gratuity, in line with 2.3.9 and 2.3.10 below.

2.3.9 The PFC, upon receipt of the instruction as in 2.3.8 above from the PFA, shall issue a cheque for the full amount of gratuity advised by the PFA, in favour of the beneficiary.

2.3.10 The PFC shall obtain an acknowledgement of the payment from the recipient and shall advise the PFA, not later than 48 hours of such settlement.

2.3.11 Upon receipt of the advice from the PFC, the PFA shall in turn advise the employer of the payment, not later than seven (7) days after effecting the payment.

2.4 Accessing the Gratuity Fund

2.4.1 Gratuity funds shall be accessed based on the terms agreed between the employee and the employer.

2.5 Minimum Records and Reporting Requirements

- 2.5.1 The PFA shall maintain detailed records in respect of all Gratuity Funds administered by it.
- 2.5.2 It shall, on a monthly basis, compute the gratuity benefits of each employee and maintain individual employee memorandum records in respect of such benefits.
- 2.5.3 The PFA shall also maintain records that show all earnings, receipts, payments and charges made to each Gratuity Fund and render regular reports to the employer with regards to the appreciation or otherwise of the Gratuity Fund.
- 2.4.4 The PFA shall render returns to the Commission, as may be specified from time to time.

3.0 Review and Enquiries

- 3.1 These Guidelines shall be reviewed from time to time as the need arises.
- 3.2 All enquiries regarding the content of these Guidelines should be forwarded to the Director General, National Pension Commission.