

# **Statement to the Legislative Assembly**

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**By the Honourable Tara Rivers, JP**

**Minister of Education, Employment and Gender Affairs**

**Update on the Department of Labour and Pensions**

**4 June 2014**



MINISTRY OF  
EDUCATION, EMPLOYMENT  
& GENDER AFFAIRS  
CAYMAN ISLANDS GOVERNMENT

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I would like to update this honourable House on the developments within a very important area of my Ministry - labour and pensions enforcement and regulation - which is the remit of the Department of Labour and Pensions (“DLP”). The Department of Labour and Pensions has provided all of the statistical and other information I am about to discuss.

For the nine month period June 1 2013 to 31 March 2014, the Labour Unit of the Department of Labour and Pensions received 715 complaints cases, of which 518 have been resolved and closed. 35 cases were referred to the Labour Tribunal. As at May 2014, 91 Inspections (On-site and Off-site/Information Audits) were conducted. Of these, 56 involved general workplace and compliance Inspections, and 35 Occupational Health & Safety (OS&H) Inspections were completed, as well as a number of gratuities audits. Top findings in the workplace audits were: Overtime pay was not in compliance with the Labour Law, there were insufficient Employment Contracts, there is a lack of awareness of gratuities protocols and distribution regulations, and there were inconsistencies in Pensions contributions. Top findings in OS&H inspections include the lack of awareness of the safety requirements of the Labour Law and the Construction Safety Regulations, as well as general lack of appreciation for the importance of PPE (personal protective equipment), particularly for the construction industry and related professions. In September 2013, a new Inspections Unit was formed at the DLP and that Unit is making a positive contribution as it becomes adequately staffed, and is more proactive with a robust and detailed-oriented approach to Inspections in both the Labour and Pensions sectors.

During the period July 2013 to April 2014 the Pensions Unit (National Pensions Office) of the Department of Labour and Pensions received 259 new employee complaints, and a total of 674 cases were resolved, including a significant amount on long-overdue Backlog cases. From July 2013 to April 2014, a total of 2,670 pension Investigation Activities were conducted by the NPO, including backlog files/cases investigation and resolution (where possible) or closing some where necessary, as well as ongoing and new complaints, the processing and resolution of delinquencies/arrears, follow-up investigations and meetings, entering into Payment Plans, Database maintenance and updating, compliance checks, and other special projects.

These Investigation Activities were directly responsible for approximately 500 new or backlog pensions complaints being resolved during the year. 5 new cases for prosecution were filed by the Office of the Director of Public Prosecutions on behalf of the Superintendent of Pensions. There are currently 15 ongoing cases in court, and during the fiscal year 2 cases were resolved with approximately CI\$150,000.00 being paid into the pensions funds of the employees of those two defendant employers. During the year, 83 Pension Plan Delinquency Reports have been processed, with several hundred demand letters dispatched to employers who are in arrears in their pensions contributions for more than 45 days. The National Pensions Board continues to perform valuable voluntary service, and advises the Government on important technical matters. During the 2014/15 fiscal year the Government intends to bring forward new Pension Investment Regulations to replace the 1998 Regulations which have not changed since the Pensions Law

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was first enacted. There will be a period of public consultation which will precede any finalization and presenting of the Regulations in the LA for adoption.

To assist in public awareness, the Department initiated a live Radio Show styled “Workplace Excellence Clinic” which is held once per month on Radio Cayman, and has completed 20 hours in live discussion on Labour & Pensions matters during the 2013/14 financial year. Additionally, 13 courses and public awareness workshops were also held during the year: 3 on pensions, held at UCCI, at the DCI Small Business Forum, and at various business entities by Pension Officers; 3 on the Fundamentals of the Labour Law; 2 on Employment Contracts, and 5 on Occupational Safety & Health.

The Labour Tribunals Secretariat continues to coordinate the work of the Labour Tribunals and the Labour Appeals Tribunal. With the commitment of new members of the Tribunals, and the cooperation of complainants and respondents, the Department is seeking to reduce the number of cases going to Tribunals. However when this is unavoidable, the Department works closely with the volunteer tribunal members with an aim to provide quality and timely rulings and equitable resolutions to disputes of rights under the Labour Law.

The Department of Labour and Pensions continues to position itself as a critical friend of business, while staunchly advocating for the rights of the employee. The Department is currently conducting an internal review to better align its capabilities and competencies to focus on achieving the strategic goals of the Government in relation to compliance with the Labour Law and National Pensions Law, particularly with a view to fostering a culture of compliance, workplace excellence, and dignity for retired pension contributors.

The Department of Labour and Pensions is currently engaged in and will continue ongoing projects in the 2014/15 fiscal year that include:

- an intensification of training and awareness, particularly in the important area of occupational safety and health, especially as the construction sector begins to emerge from the building doldrums;
- the new Inspections Unit is embarking on an active schedule of offsite and onsite workplace Inspections;
- a new “client pre-screening and resolution” system is being rolled-out at the DLP’s Reception to help improve efficiency, and to better recognize and respond to time-sensitive matters; and
- the new Labour Tribunals are endeavoring to meet more often and deliver their decisions on a more timely basis.

The challenging legacy issues affecting the National Pensions Office are being systematically tackled, with various special projects ongoing simultaneously, along with the daily workload.

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Key amongst this is the supervision and regulation of Pension Administrators and Trustees, including a new governance compliance review of all registered Pension Plans. The National Pensions Office has invested considerable time in the past year to improve the level of communication, protocols, and due diligence with the Pension Administrators, while at the same time improving the working relationships with the administrators and other stakeholders. Since the passage of the National Pensions legislation in 1998, approximately 50,000 employees have been enrolled in pensions plans in the Islands, and assets under management by the 15 registered pension plans is now approaching US\$1 Billion.

In the 2014/2015 financial year, the Labour Law, the National Pensions Law, and the Pensions Investment Regulations will all be reviewed and amended, to ensure that they are strengthened and clarified. In fact, drafting of these amendments are already well on the way with the Legislative Drafting department.

Through improved investigative and complaints resolution techniques, including communication, conciliation, training, and awareness, the DLP is seeing an increased rate of resolution of complaints/cases, without the need for referral to the Labour Tribunals. The Department is seeking, through public education on “best practices”, to see an overall decline in Complaints over time. However, simultaneously the Department is establishing systems, protocols, and relationships with the Office of the Director of Public Prosecutions and the Solicitor General’s Office in order to exercise the Tribunals or prosecution options as and when necessary.

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