

**TITLE 1: GOVERNMENT**  
**DIVISION 8: PUBLIC EMPLOYMENT**

**§ 8451. Definitions.**

As used in this Chapter:

(a) “Administrator” means the Administrator of the Northern Mariana Islands Retirement Fund;

(b) “Alternate payee” means the person for whom an amount has been separated into an account under a qualified domestic relations order;

(c) “Annuitant” means a member, beneficiary, or alternate payee who is receiving a benefit under this plan;

(d) “Beneficiary” means the person or persons entitled under the provisions of this plan to receive benefits after the death of a member or alternate payee;

(e) “Board” means the Northern Mariana Islands Retirement Fund Board;

(f) “Calendar year” means the period beginning on January 1 and ending on December 31;

(g) “Compensation”

(1) Means (A) the total remuneration earned by an included employee for individual services rendered, including cost-of-living differentials, as reported on the included employee’s Income Tax Withholding Statement (Form W-2) from the employer for the calendar year; and (B) the member contribution to the plan under § 8459, as those statutes may be amended from time to time;

(2) Does not include retirement benefits, severance pay or other separation bonuses, welfare benefits, per diem, expense allowances, workers’ compensation payments, payments for leave not used whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins, any remuneration contributed by the employer for or on account of the included employee under this plan or under any other qualified or non-qualified employee benefit plan, any remuneration not specifically included above which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue Code) if the employer had remained in the Federal Social Security Plan, or any remuneration paid by the employer in excess of the Social Security Taxable Wage Base for the calendar year;

(3) Notwithstanding (2) of this paragraph, includes any amount that is contributed by the employer under a salary reduction agreement and that is not includable in the gross income of the included employee under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h)(1)(B) or 403(b) (Internal Revenue Code); the annual compensation limitation for the member, which is so taken into account for those purposes, may not exceed \$200,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the limitation for a fiscal year being the limitation in effect for the calendar year within which the fiscal year begins;

(h) “Defined benefit plan” means the plan providing to employees’ Class I and Class II membership in the Northern Mariana Islands Retirement Fund established under 1 CMC Division 8, Part 3;

(i) “Dependent child” means an unmarried child of an included employee, including one adopted, who is dependent upon the included employee for support and who is either (1) under 19 years old or (2) under 23 years old and registered at and attending on a full-time basis an accredited educational or technical

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institution recognized by the administrator; age restrictions set out in this paragraph do not apply to a child who is totally and permanently disabled;

(j) "Distribution commencement date" has the meaning given in § 8469(a);

(k) "Employee" means an employee of an employer, as defined in paragraph

(l). An "included employee" is an employee who is a member of the plan;

(l) "Employer" means the Commonwealth Government including every department or agency of the Executive Branch, every autonomous and semi-autonomous agency or instrumentality, public corporations, every educational institution whether secondary or post secondary, the Judicial Branch, the Legislative Branch, the Public School System, and every public entity hereafter to be created by law, within the Commonwealth which has employed or employs a member of the plan;

(m) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, as adopted and applied in the Commonwealth;

(n) "Limitation year" means the year for which contributions are made to a member's individual account as reported to the Internal Revenue Service and as meets the limits described in 26 U.S.C. 415(c);

(o) "Member" means an employee of an employer or former employee of an employer who retains a right to benefits under the plan. A member may also be referred to as an included employee;

(p) "Membership service" means full-time or part-time employment with an employer in the plan;

(q) "Normal retirement age" means the age of 62 or such other age, if any, that the administrator, following consultation with the actuary and legal counsel, determines is required under applicable law to maintain the qualification of the plan;

(r) "Participant" means the person who has a vested right to an individual account, such as a member, an alternate payee if the account is subject to a qualified domestic relations order, the member's beneficiary if the member is deceased, or an alternate payee's beneficiary if the alternate payee is deceased;

(s) "Peace officer" or "fire fighter" means an included employee occupying a position as a peace officer, chief of police, correctional officer, chief of corrections, fire fighter, fire chief, or probation officer;

(t) "Plan" or "defined contribution plan" means the Northern Mariana Islands Public Employees' Defined Contribution Retirement Plan as established under this chapter;

(u) "Prudent investment standard" means the degree of care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(v) "Qualified domestic relations order" means a divorce or dissolution judgment under Commonwealth law, including an order approving a property settlement, that

(1) Creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of an individual account or the benefits payable with respect to a member;

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(2) Sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(3) Sets out the amount or percentage of the member's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(4) Sets out the number of payments or period to which the order applies;

(5) Sets out the retirement plan to which the order applies;

(6) Does not require any type or form of benefit or any option not otherwise provided by this chapter;

(7) Does not require an increase of benefits in excess of the amount provided by this chapter; and

(8) Does not require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(w) "Retiree" means a member who has withdrawn from the active employment of a participating employer and has completed all conditions precedent to retirement;

(x) "Surviving spouse" means the spouse of an included employee who has been married to the included employee for at least one year at the time of the included employee's death;

(y) "Year of service" means the equivalent of 52 weeks of permanent full-time employment, which may consist of a combination of permanent full-time or permanent part-time membership service; for these purposes, "permanent full-time" means an included employee who is occupying a permanent position that regularly requires working 30 or more hours a week and "permanent part-time" means an included employee who is occupying a permanent position that regularly requires working at least 15 hours but less than 30 hours a week.

**Source:** PL 15-13, § 3 (8451), modified.

**Commission Comment:** The Commission changed the numbering and lettering scheme designated in the original text of PL 15-13 to conform to the scheme used in the Commonwealth Code pursuant to the authority granted by 1 CMC § 3806. PL 15-13 was enacted on June 16, 2006, and contained the following short title and purpose provisions in addition to a severability clause and an amendment to 4 CMC § 1701:

Section 1. Short Title. This Act may be cited as the "Defined Contribution Plan Act of 2006."

Section 2. Purposes. The purposes of this Act are:

(a) To create portable individual retirement accounts for all new public employees who are hired on or after the effective date determined under § 8454;

(b) To provide the conditions under which certain Class I members of the Retirement Fund may transfer from the existing defined benefit plan to the new defined contribution plan;

(c) To establish a Northern Mariana Islands Public Employees' Defined Contribution Retirement Plan;

(d) To encourage qualified personnel to enter and remain in service with the Commonwealth Government by establishing a defined

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contribution plan for the payment of retirement benefits to or on behalf of the members;

(e) To amend the Northern Marianas Retirement Fund Act to improve the defined benefit plan's fiscal solvency and reduce its significant unfunded actuarial accrued liability; and

(f) To vest the administration of the Plan with the Administrator of the Northern Marianas Retirement Fund.