

## **Discussion Paper for ASFPNG – Trustee Discretion for release of benefits on compassionate grounds.**

Under the current PNG Superannuation Regulations, there is no provision for Trustees to release funds to current members in circumstances of severe personal events that require a level of financial assistance. It is fair to say that superannuation comprises the bulk of ordinary workers savings in PNG and as such is usually the first port of call when a member faces personal situations that require financial assistance.

Baring in mind the commitment of the current regulation to preserve superannuation savings for retirement, Trustee's are often faced with requests from members for financial assistance in extreme situations.

In particular, medical emergencies where life of a member, or members' child is threatened, along with requests for burial expenses are the most difficult emergency requests for Trustee's and Administrators to manage. These are requests charged with high emotion and often end in tragic circumstances with a pall hanging over the related institution due to its inability to assist.

Under Australian Legislation, Superannuation Trustees are allowed a discretionary amount in cases of "Release of Benefits on Compassionate Grounds". The current Australian conditions are as follows ( striking out foreclosure on principle place of residence conditions ):

A person may apply to the Regulator for a determination that an amount of the person's preserved benefits, or restricted non-preserved benefits, in a superannuation entity may be released on the ground that it is required:

- (a) to pay for medical treatment or medical transport for the person or a dependant; or
  - ~~(b) to enable the person to make a payment on a loan, to prevent:~~
    - ~~(i) foreclosure of a mortgage on the person's principal place of residence; or~~
    - ~~(ii) exercise by the mortgagee of an express, or statutory, power of sale over the person's principal place of residence; or~~
  - (c) to modify the person's principal place of residence, or vehicle, to accommodate the special needs of the person, or a dependant, arising from severe disability; or
  - (d) to pay for expenses associated with the person's palliative care, in the case of impending death; or
  - (e) to pay for expenses associated with a dependant's:
    - (i) palliative care, in the case of impending death; or
    - (ii) death; or
    - (iii) funeral; or
    - (iv) burial; or
  - (f) to meet expenses in other cases where the release is consistent with a ground mentioned in paragraphs (a) to (e), as the Regulator determines.
- (2) The Regulator must determine, in writing, that the person has satisfied, for the purposes of sub regulation 6.18 (1) or 6.19 (1), a condition of release on a compassionate ground if the Regulator is satisfied that:
- (a) the release is required on a ground mentioned in sub regulation (1); and
  - (b) the person does not have the financial capacity to meet an expense arising from that ground.
- (3) The Regulator cannot be satisfied that money is required for medical treatment unless 2 registered medical practitioners (at least one of whom must be a specialist) certify that:
- (a) the medical treatment is necessary to:
    - (i) treat a life threatening illness or injury; or

- (ii) alleviate acute, or chronic, pain; or
  - (iii) alleviate an acute, or chronic, mental disturbance; and
  - (b) the treatment is not readily available to the person, or the dependant, through the public health system.
- (4) The Regulator cannot be satisfied that money is required for medical transport unless the medical treatment for which the medical transport is required has been certified, under sub regulation (3), as necessary for a reason mentioned in paragraph (3) (a).
- (5) ~~The Regulator cannot be satisfied that money is required on the ground mentioned in paragraph (1) (b) unless the person gives to the Regulator a written statement from the mortgagee that:~~
- ~~———— (a) payment of an amount is overdue; and~~
  - ~~———— (b) if the person fails to pay the amount, the mortgagee will:~~
    - ~~———— (i) foreclose the mortgage on the person's principal place of residence; or~~
    - ~~———— (ii) exercise its express, or statutory, power of sale over the person's principal place of residence.~~
- ~~———— (6) A statement under sub regulation (5) must include the following information:~~
- ~~———— (a) the amount that is equal to 3 months' repayments under the mortgage; and~~
  - ~~———— (b) the amount that is 12 months' interest on the outstanding balance of the loan at the time the statement is made.~~
- (7) In this regulation:

*medical transport* means transport, for medical attention, by land, water or air.

With consideration to the conditions within the PNG public health system and the costs associated with seeking private or overseas medical attention, not allowing a member or a member's dependent access to superannuation savings under such circumstances appears over restrictive.

Consider this scenario,

A member of an ASF approaches the Trustee of the Fund to release K2,000 so his 8 year old son, who is POM suffering severe pneumonia, can receive proper medication which needs to be purchased. The member supplies a medical certificate with prescriptions and a statutory declaration. The Trustee, upon consideration of the situation, advises the member they cannot release funds. 5 days later the member's son dies. The member then approaches the Trustee for funds so that he may take his son from the morgue and avoid a mass grave. The member wishes his son to be buried back at their village with dignity. Again the Trustee is unable to assist. Even if the member was on unemployment benefits the Trustee cannot even advance monthly payments. It is an aberration that funds, which are for the benefit of the member and or in his or her death, their dependents, are not available in times of critical medical need.

I would like to propose the following discussion points:

- Should the Bank of Papua New Guinea allow Trustees of ASF's the ability to make discretionary payments in times of medical emergencies for a member or a member's dependent and or;
- Release is available for associated costs upon death of a member's dependent.
- What would the qualification criteria be?
- Should there be a limit on payments?
- Should the release be only limited to emergencies?

**Sponsor: Stephen Brown**