

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8474. Amendment and Termination of Plan.

(a) The Commonwealth has the right to amend the plan at any time and from time to time, in whole or in part, including the right to make retroactive amendments referred to in 26 U.S.C. 401(b). Any amendments to the plan shall be accompanied by (i) a detailed cost analysis of the financial impact of the amendments on the plan, (ii) a description of the scope of the benefits to be provided and changes made, (iii) an identification and lawful commitment of funds necessary to fund any amendment that requires funding, and (iv) a legal opinion from the Attorney General that any such amendments do not disqualify the plan from its qualified status under the Internal Revenue Code, as adopted in the Commonwealth, and federal law.

(b) The Administrator may not modify or amend the plan retroactively in such a manner as to reduce the benefits of any member accrued to date under the plan by reason of contributions made before the modification or amendment, except to the extent that the reduction is permitted by the Internal Revenue Code, as adopted and applied in the Commonwealth.

(c) The Commonwealth may, in its discretion, terminate the plan in whole or part at any time without liability for the termination. If the plan is terminated, all investments remain in force until all individual accounts have been completely distributed under the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

(d) Any contribution made by an employer to the plan because of a mistake of fact must be returned to the employer by the administrator within one year after the contribution or discovery, whichever is later.

(e) The provisions of this defined contribution plan are not intended to, and do not, create an “employee retirement system of the Commonwealth” as that term is used in Article III, Section 20 of the Commonwealth Constitution. The defined benefit plan offered by the Northern Mariana Islands Retirement Fund is the employee retirement system to which that constitutional provision applies. It is intended that the legislature may exercise its authority to amend the provisions of this defined contribution plan without subjecting the plan or its amendments to Article III, Section 20 of the Commonwealth Constitution.

Source: PL 15-13, § 3 (8474).