A. Introduction

1. The reform of the Pensions System is aimed at ensuring that proper arrangements are made by and for Jamaicans during their working lives, so as to enable them to receive an adequate pension at retirement. It has been designed to improve the current system without defaulting on existing rights, to encourage the extension of adequate pension facilities to self-employed persons, as well as to introduce arrangements to facilitate the provision of pensions by children for their aged parents.

2. The need for a comprehensive reform of the pensions system in Jamaica has emerged because of the deficiencies of the current arrangement. Presently, there are approximately 1,500 registered pension schemes, which are either self-administered or managed/invested by Pension Fund Administrators. However, no legislation exists to effectively provide for their regulation. The minimal provisions in the Income Tax Act are primarily concerned with the tax exempt status of pension schemes, and impose few requirements on the operations of the schemes.

3. Proposals for the reform of the pensions system have been forthcoming from the early 1970s, however, these recommendations were not, or only partially implemented. In response to serious concerns raised about the situation, in 1994 the Ministry of Finance and Planning established a Pensions Reform Committee (PRC). The PRC was constituted with representation from a broad cross-section of persons involved in and concerned with pensions operations and administration in Jamaica. The recommendations of the PRC formed the broad basis and outline of the reforms proposed in the Green Paper entitled, "Reform of the Pensions System in Jamaica". This Paper was tabled in Parliament on January 12, 1999, and was subsequently circulated to the public.

4. Since its circulation to the public, the Green Paper on Pensions Reform has stimulated much discussion. The Ministry of Finance and Planning has received numerous written comments from individuals/companies, and the Honourable Donald Buchanan, then Minister of State in the Ministry of Finance and Planning, and his technical team have attended several seminars to discuss the proposals outlined in the Paper. Both the written and oral comments have been diverse, and numerous suggestions for improving the proposals in the Green Paper have been received and analyzed.

5. While the basic principles used to guide the proposed reforms have not been altered, a number of major proposals were modified to reflect the recommendations of the public. A revised outline of the proposals, highlighting these modifications, were submitted to Cabinet by the Honourable Minister of Finance and Planning in June 2000. After consideration, Cabinet gave approval for using the enhanced proposals as the basis on which the National Pensions Act would be developed, and instructed that a White Paper be issued to the public outlining the modified
proposals.

B. The Modified Proposals

6. The two basic principles used to guide the proposed reforms have not been altered. The National Insurance Scheme (NIS) is to be enhanced so as to provide basic pension benefits to a wide cross-section of Jamaicans and their dependents; and effectively regulated Occupational Pension Schemes and Approved Retirement Schemes will be encouraged as favourable means through which private and public sector workers and their employers can save so as to supplement the basic NIS benefits.

7. Thus, the key features of the Reform of the Pension System still remain:

i. The enhancement of the basic Social Security System (NIS). This will involve developing improved funding arrangements and more efficient administrative procedures so as to facilitate the provision of more meaningful basic benefits on a national scale, with timely delivery of benefits to eligible contributors and their beneficiaries; and

ii. The regulation of Occupational Pension Schemes and Approved Retirement Schemes. This will be done so as to ensure that all pension and superannuation schemes established in Jamaica will operate within an effective legal framework. The reform will involve both the regulation of pension and superannuation schemes and the establishment of funded schemes for Public Servants.

8. The major proposals which were modified to reflect the recommendations of the public are:

i. Vesting/Portability of Pension Rights;
ii. Employee-Nominated Trustees;
iii. Pensions Arrangements for Disabled Children by their Parents; and

i. Vesting/Portability of Pension Rights

9. The Green Paper suggested that provisions be enacted to ensure that pension rights are automatically vested on termination of employment after the completion of a minimum five years membership in a Pension/Superannuation Fund. It was proposed that on termination of service on completion of more than five years membership, the members' pension rights must be preserved in the plan, or be transferred to another occupational plan or Approved Retirement Scheme he/she is joining, in accordance with the person's wishes. After the date of enactment of the legislation a vested member, as defined in the proposed legislation, will not be able to get a cash refund of his contributions made since the enactment of the legislation.
10. The vesting of pension rights is central to the reform of the pension system in Jamaica, as it is necessary to ensure that persons make adequate preparations for their retirement. Currently, persons on changing jobs tend to opt for refunds of their own contributions, rather than opt for their accrued pensions to start at retirement age. These refunds are usually used for consumption purposes during the employees' working lifetime, leaving many people when retired without sufficient resources to sustain them through to the end of their lives.

11. Mandatory vesting also seeks to ensure that persons receive the benefit of both their contributions and their employer's contributions in the form of a pension, even in situations when they change or terminate employment before attaining pensionable age. In most schemes, the refund of members' contributions is a lesser value than the accrued pension.

12. However, the cessation of the right to a refund of the members' own contributions after the vesting period has been very controversial. The varying responses included:

- retention of the vesting provision but shortening the vesting period, for example from 5 years to 2 years membership;

- keep the system as currently applies for most schemes where the terminating member may still choose to take the refund of his own compulsory and voluntary contributions;

- allowing refunds for voluntary contributions only (as opposed to compulsory and voluntary members' contributions).

- linking the mandatory vesting period to a specified attained age, for example attained age 40 and minimum 5 years membership; and

- relaxing the constraints to allow the refunds in cases where termination is due to redundancy and the employee has not found a job within a specified time.

13. The Pensions Reform Committee, the actuaries and officials at the Ministry of Finance have agreed that the mandatory vesting of pension rights should be supported as a necessary policy decision. However, the concerns of segments of the public have been accommodated with regards to the voluntary contributions made by the members. The repayment of the members’ voluntary contributions along with the interest/appreciation will be allowed on termination of employment in circumstances wherein they are not entitled to a pension.

14. It was also recommended that the proposed legislation will only apply to those contributions made after the enactment of the law. It is agreed, as stated in the Green Paper, that the mandatory vesting period begins to accrue from the Effective Date of the proposed legislation. Hence, after the Effective Date of the law, persons who had accumulated contributions in Pension Funds prior to
the Effective Date will continue to have the right to a refund of those contributions, with interest, on future termination.

ii. Employee-Nominated Trustees

15. The suggestion from the unions that provisions must be made for the appointment of employee-nominated Trustees was endorsed. The legislation will stipulate that the minimum employee representation among the Trustees of any Pension/Superannuation Fund should be as below:

- less than 5 Trustees at least 1 should be nominated by the employees;
- between 5 to 14 Trustees at least 2 should be employee-nominated; and
- between 10 to 15 Trustees at least 3 should be nominated by the employees.

The quorum should include at least one employee-nominated Trustee.

iii. Pensions Arrangements for Disabled Children by their Parents

16. It was suggested that provisions be developed to facilitate the creation of a pension plan by parents for their disabled children. This proposal will be given further consideration by the Ministry of Finance for subsequent referral to Cabinet.

iv. The Pensions Commission

17. A number of institutions also opposed the idea of creating separate regulators to supervise pension funds. It was suggested that one of the existing regulators should be charged with this responsibility. Numerous advantages to this arrangement were cited, for example, cost reductions and potential synergies.

18. This conforms to recent initiatives by the Government to create the Financial Services Commission (FSC) that will be the single non-bank financial institution regulatory and supervisory agency responsible for securities, insurance, and pension supervision. The proposed Office of the Superintendent of Pensions will therefore form part of the FSC.

C. Future Steps in the Reform of the Pensions System in Jamaica

19. Despite acceptance of the above changes the goals of reforming the pensions system can still be achieved through the three basic features of the reform process:

- enhancing the basic social security system (NIS);
creating funded schemes for public employees; and

regulating pension and superannuation schemes.

20. The enhancement of the NIS and the creation of funded schemes for public employees will require amendments to existing legislation. The Ministry of Labour, Social Security and Sports shall be encouraged to propose the necessary amendments to the National Insurance Act, and further work will be done by the Ministry of Finance and Planning to propose amendments to the existing Pensions Acts covering public officers - nurses and civil servants, parochial officers, teachers, soldiers, police, special constables, legislators and widows/widowers.

21. While further discussions are to be held with the relevant Ministries/Departments dealing with the possible amendments mentioned in paragraph 20, the process leading to the effective regulation of pension and superannuation schemes can be started through the enactment of comprehensive pensions legislation (the National Pensions Act).

D. The Proposed National Pensions Act

22. This Act will seek to protect the rights of the members and the retirees without inhibiting the possible array of schemes. The new legislation is to be enacted to provide for the proper regulation of all Pension/Superannuation Schemes and Approved Retirement Schemes, the Trustees, the Administrators and Investment Managers.

23. The result of the original recommendations on the reform of the pensions system, the enhanced proposals in the Green Paper and the suggestions of the public, form the basis of the proposed National Pensions Act. The legislation to be enacted will be sufficiently comprehensive so as to protect the members' interests, without stifling initiative.

24. The following areas are vital to the effective regulation of pension and superannuation schemes:

a. Licensing and Registration Requirements

- All approved pension funds established in Jamaica must be registered with the FSC.
- All managers/administrators of Pension funds must be licensed.
- All trustees of Pension Funds must be registered by the FSC.
- Licenses/Registration can be canceled/revoked for cause/refused.

(i) Licensing of Institutional Investors
25. All institutional investors of pension funds must be licensed by the FSC, in accordance with the following criteria:

- the applicant's adherence to standards of sound business and financial practices in its operations;

- the ability of the applicant to meet the legislated fit and proper requirements with respect to key personnel.

- the strength and quality of the applicant's management;

- the adequacy of the applicant's capital.

(ii) 'Fit and Proper Persons' Requirements to be applied in the licensing of Trustees, Managers and Institutional Investors

26. In processing applications for licenses, the FSC will evaluate the Trustees, Managers, and prescribed key employees of the Institutional Investors, based on, *inter alia*, the 'Fit and Proper Persons' requirements outlined below:

- the person shall not have been convicted of an offence involving dishonesty, whether in Jamaica or elsewhere;

- the person is not an undischarged bankrupt;

- the person's employment record and business conduct and dealings do not give the FSC reasonable cause to believe that the person carried out any act involving dishonesty or impropriety;

- the person, in the opinion of the FSC, is of sound probity, is able to exercise competence, diligence and sound judgement in fulfilling his responsibilities in relation to the pension fund, and whose relationship with the fund will not threaten the interests of the members; and for the purpose of this paragraph the Commission shall have regard to any evidence that he has:

  - engaged in any business practices appearing to the Commission to be deceitful or oppressive or otherwise improper, and which reflect discredit to his method of conducting business;

  - contravened any provision of any enactment designed for the protection of the public against financial loss due to dishonesty, incompetence or
malpractice by persons concerned in the provision of financial services, or in the management of companies or due to bankruptcy.

- the person is not of unsound mind.

(iii) **Registration of Pension Funds**

27. The Trustees of a pension fund will have to apply to the FSC for registration of that fund. In processing the application, the FSC will evaluate the fund based on the criteria outlined in part (iv) below.

28. If ALL the requirements are met, and both the Trustees and Managers of the fund have been appropriately licensed, the Pension Fund will be registered to legally operate in Jamaica. Application for tax exemption must be preceded by registration.

(iv) **Conditions for Registration of Pension Schemes**

29. The FSC shall not register a pension scheme unless the scheme satisfies all the conditions set out below:

(a) The pension scheme shall be established in Jamaica in connection with some trade or undertaking carried on solely or partly in Jamaica.

(b) The pension fund is bona fide established under irrevocable trust.

(c) - The principal purpose of the scheme must be the provision of a pension (or an annuity) on retirement at a specified age or ages or upon earlier retirement as provided for in special circumstances.

- The specified normal retirement age shall not be less than age 60 years, with provisions for earlier/later retirement in special circumstances. Early retirement should be allowed no earlier than 10 years before the normal retirement age except on ill-health grounds.

- The maximum rate of pension accrual is 2% of final pay per year of service.

- The maximum pension must not exceed the limits Statutorily prescribed from time to time. It has been recommended that the maximum annual pension must not exceed the limit on retirement of 75% of salary (as defined in the Income Tax Act) at retirement after a minimum 37 1/2 years of service with the employer/employers, or proportionately less for shorter service.
- Pension increases may be granted above this level after the date of retirement, but not exceeding annual changes in the CPI.

- Lump-sum benefits may be provided on death, but must not exceed the higher of 2 years' salary and the member's contributions accumulated with interest.

- Lump-sum benefits on termination of employment:
  - vested member - member's voluntary contributions accumulated with interest, subject to a penal rate of tax on the interest.
  - non-vested member - refund of the member's voluntary and compulsory contributions accumulated with interest.

- Lump-sums at retirement in commutation of up to 1/4 of the pension should be allowed. The maximum lump-sum should not exceed 12.5 x (1/4 of the pension). Small pensions may be commuted in full. (It is suggested that $300 per month be used initially as the designated figure for small pensions.)

- Reckonable years of service with a previous employer, or other added years, in respect of transfer values brought in, must be allowed.

- Enhancements for disability/ill-health retirement should be allowed.

(d) The sponsoring employer must be an ordinary annual contributor to the pension scheme.

(e) In no circumstance, may a cash amount representing the employer's contribution, be paid to the employee. The benefits of the employer's contribution must be in pension form.

(f) In any circumstance, an employee who has more than 5 years' membership in a scheme, may ONLY be repaid his voluntary contributions, subject to a penal rate of tax. If an employee has more than 5 years' membership in the scheme then the accrued benefit entitlement (less the voluntary contributions - if encashed) must be preserved in the scheme and paid as a benefit on retirement or, alternatively, the value of the preserved benefits can be transferred to another registered scheme the employee is joining, or a registered Approved Retirement Scheme. This preservation requirement will only apply to years of membership, and contributions, after the effective date of the legislation. Refunds of employees' contributions may therefore be made regardless of years of service, in respect of service and
contributions up to the effective date of the legislation.

(g) The contributions made by an employee in a scheme year must not exceed 10% of the employee's remuneration in that year. For the self-employed, the contributions must not exceed 20% of earnings in the year.

(h) Where members' contributions are required these must be deducted from earnings and be paid over to the Trustees/Administrator within one week of the deduction date.

(i) The ordinary annual contributions made by the employer to the scheme must not exceed 10% of remuneration. Deficiency payments are allowable but these must be to defray identifiable deficiencies certified by an actuary.

(j) The contributions to the fund by the employer and the employee shall be mutually recognized by both parties as a condition of employment. That is, membership in the scheme must be compulsory for the employee.

(k) Pensions cannot be paid to employees who retire on a voluntary basis earlier than 10 years prior to the specified normal retirement age of the scheme, but no earlier than age 50.

(l) Suitable winding-up provisions must be outlined in the Trust Deed.

(m) Minimum solvency requirements must be met.

(n) Pension rights cannot be assigned.

(o) A member may allocate a portion of his/her pension in favour of a spouse or dependent.

b. Information Requirements

30. So as to ensure full disclosure and accountability, provisions will be made for the submission to the regulatory authority and to the respective members of the schemes, of the following reports by each Pension Fund:

Information to the FSC

- Annual audited accounts and reports on the membership within nine (9) months after the end of the financial year. These should include full details of the assets.
- Actuarial valuations and Reports on solvency at least once in each three year period, within one-year after the due date.

- Custody of the assets should be satisfactory.
- Any other information as may be reasonably required from time to time by the regulatory authority.

Information to Members of Pension Schemes

A. When an employee retires he will rely on his pension scheme to provide financial support for the rest of his life. In view of the importance of pension benefits, it is essential that members of pension schemes are kept informed of the benefit entitlement on a regular basis. The appreciation for, and knowledge of, the promised level of benefits would be increased with more disclosure. Trustees of pension schemes should ensure that each active member receive as a minimum, within 9 months of the end of the scheme year, the following information:

(i) Information to be provided to a member of a Defined Benefit scheme:

   a. Name

   b. Date joined scheme

   c. Date pensionable service commenced

   d. Normal retirement date

   e. Pensionable earnings for scheme year

   f. Member's basic contributions for scheme year

   g. Member's additional voluntary contributions for scheme year

   h. Member's total basic contributions accumulated with interest to the end of the scheme year

   i. Member's total voluntary contributions accumulated with interest to the end of the scheme year

   j. Transfer values brought into the scheme and accretions thereto

   k. Accrued pension (based on pensionable salary and service as defined
in the scheme rules) at the end of the scheme year.

(ii) Information to be provided to a member of a defined contribution scheme:

a. Name
b. Date joined scheme
c. Normal retirement date
d. Basic contributions paid by member during scheme year
e. Member's additional voluntary contributions for scheme year
f. Member's total basic contributions accumulated with interest to the end of the scheme year
g. Member's total voluntary contributions accumulated with interest to the end of the scheme year
h. Transfer values brought into the scheme and accretions thereto
i. Employer's total contribution made on member's behalf accumulated with interest
j. Total bonus (if any) credited to member accumulated with interest to end of scheme year

B. The following information should also be made available for inspection on request:

a. A copy of the annual audited accounts of the scheme;
b. A schedule of the investments of the scheme giving a breakdown by market value into broad categories such as ordinary shares, property and fixed interest investments;
c. A copy of the latest triennial actuarial valuation report of the scheme;
d. A copy of the Trust Deed and plan rules; and
e. Any changes to the Trust Deed and Plan Rules must be communicated to the members.
C. **Recourse to the FSC:**

Members of a pension plan shall have recourse to the FSC in the event that they consider that their best interests are not being served or are being jeopardized in any way. Details of this right shall be included in the legislation.

c. **Investment Criteria**

31. The investment of funds by the managers/institutional investors, shall be subject to limits according to the generic type of the instrument, limits per issuer, and limits per category and risk level.

The following are some of the limitations to be enforced by the FSC:

(i) At least 80% of the market value of the assets of the fund must be invested in Jamaica.

(ii) A pension fund shall not own more than 30% of the voting shares for any corporation.

(iii) No more than 10% of the market value of the pension fund may be invested in a single investment, or directly in the company or in any of its affiliated entities/subsidiaries.

(iv) For transactions not carried out in stock exchanges, no more than 5% of the market value of the pension fund may be invested in the affairs of its institutional investor and its related entities, provided all such transactions are carried out at market rates and are declared to the FSC.

(v) Investment in real estate required for the occupancy or expansion of the business of the institutional investor is prohibited.

(vi) No more than 5% of the market value of a Pension Fund may be invested in the business of the sponsoring employer.

(vii) **Omnibus Clause**

d. **Ownership of Assets**

32. As an important safeguard, it will also be explicitly stated that the assets acquired for the pension fund must be registered, issued or transferred on behalf of the respective
pension fund. In addition, the trustees/the institutional investors must at all times be able to prove that they have the relevant securities and titles.

e. Trust Deed and Rules

Existing Plans

33. Any application for the registration of a Pension Fund already in existence, must be accompanied by a letter from the Income Tax Department approving the scheme, and a copy of the Trust Deed and Plan Rules, which must include, *inter alia*, satisfactory clauses providing for:

- The appointment and removal of Trustees, inclusive of member-nominated Trustees;
- The contributions required by employers and by employees;
- The method of determining the benefits payable to members or to their beneficiaries, in the named contingencies, e.g. retirement, death, termination, etc.;
- The eligible categories of beneficiaries under the scheme;
- The investment powers of the Trustees; and
- The winding-up of the plan.

New Plans

34. Any application for the registration of a new pension fund must be accompanied by a draft copy of the Trust Deed and Plan Rules, which must include satisfactory clauses providing for the above factors.

f. Retirement Age

(a) Normal Retirement Age

35. The law will require every registered plan to have a specified normal retirement age in the Trust Deed and Rules. The minimum normal retirement age
which would commonly be allowed is 60. However, individual pension plans may specify a different retirement age for the members as may be desirable in accordance with the nature of occupation involved.

(b) Early Retirement
36. Early retirement will be allowed no earlier than 10 years before the normal retirement age except on ill-health grounds.

(c) Late Retirement
37. Late retirement will also be allowed.

g. Beneficiary Designation
38. In the event of death before retirement on pension, the rights of contributors and beneficiaries will be protected so that they accrue to the fullest extent to dependents or the named beneficiaries.

h. Plan Winding-Up
39. In all cases of plan winding-up (whether voluntary or otherwise) the specific approval of the Regulatory Authority will be a condition precedent to the winding-up. The Trustees should submit winding-up proposals to the FSC for approval.

40. In some instances there may be residual surpluses after completing the process of winding-up of any fund/scheme, final distribution of the remaining surplus/residual assets will be allocated in the following order of priorities:

(i) Current pensioners and beneficiaries.

(ii) Active members, deferred pensioners, and their beneficiaries.

(iii) The sponsoring employer/employers.

i. Offences and Penalties
41. In order to discourage non-compliance and offences against the legislation, a schedule of penalties shall be included in the regulations. The FSC shall have the authority
to take, *inter alia*, the following actions in the event of non-compliance:

- cancel the registration of Trustees;

- require the sponsoring company to have new Trustees appointed, within the guidelines set by the Trust Deed;

- appoint a temporary manager to manage the fund's assets;

- fines to be applied to the Sponsoring Company and/or the Administrator and/or the Trustee(s) for breaches under the Act in their capacity, as deemed appropriate by Court Order; and

- imprisonment of the Director(s) of the Sponsoring Company and/or the Director(s) of the Administrator, and/or the Trustee(s) for breaches under the Act in their capacity, as deemed appropriate by Court Order.

42. Apart from the regulation of Pension and Superannuation schemes, there are also a number of other issues which will be addressed in the National Pensions Act. These are as follows:

a. **The Development of Provisions for Parental Pensions.**

43. There is currently an express need for creating a vehicle to facilitate the provision of pensions by persons for their parent(s) who has/have no or inadequate pension entitlement. It is therefore necessary to widen the pensions system to allow savings by adults towards parental pensions.

   In order to facilitate this, the following provisions will be made:

   - The maximum annual contribution to such a scheme by any individual would be 5% of his/her salary.

   - The Parental Pension Plan must be administered by any registered fiduciary institution acting as a trustee, operating under a master trust deed with many individual members.

   - The level of Parental Pensions must be such that when added to any other pension(s), the total is within the limit for self-employed persons.

b. **Preservation of Deferred Entitlement/Portability of Pension Rights**

44. Although most employees have been a part of a pension plan at one point or another, several of them upon retiring do not have sufficient resources to sustain them
through to the end of their lives. This is because persons on changing jobs tend to opt for contribution refunds, rather than deferred pensions. Therefore, funds which should be accumulating as saving for retirement, are frequently used for consumption purposes during the employee's working lifetime. This then forces persons to work longer than they would normally have to, or to depend on the state or their families for their livelihood.

45. Statutory provisions will therefore be enacted to ensure that pension rights are automatically transferred or preserved on changes of employment after the attainment of a stipulated minimum period of employment. More specifically, a number of options shall be made available to the contributor, as follows:

(i) Upon the termination of the service of an employee in circumstances in which he is not entitled to a pension and in which the period of service as a member of the fund is less than five (5) years, the contributions paid by the employee may be refunded to him together with any interest earned thereon, as recommended by the actuary;

(ii) On termination of service on completion of more than 5 years' membership, the member may only get a refund of his voluntary contributions, subject to a penal rate of tax. The remaining pension rights must be preserved in the plan, or be transferred to another occupational plan or approved retirement scheme he is joining, in accordance with his wishes; and

(iii) Notwithstanding (i) the employee may be offered the option to leave his contribution in the Fund and be eligible for a deferred pension.

Revaluation of Deferred Entitlement

46. If a deferred pension is to be given, the revaluation of deferred entitlement is essential. Revaluation is the process by which the deferred pension, defined at the time of withdrawal from service of the member, is adjusted during the period between withdrawal and eventual retirement, with the aim of preserving some of the real value of the pension to the member.

47. The deferred entitlement will be revalued by means of an offer of a fixed pension subject to "value for money" conditions. Herein, the fixed benefit payable at retirement will be subject to a minimum guarantee that it will not be less than the pension that could have been bought based on the actuarial transfer value of the deferred pension at the time of withdrawal, increased by interest as earned by the scheme until retirement. This would essentially ensure that the member's investment performs in line with the performance of the scheme.
Transitional Arrangements re: Preservation of Deferred Entitlement/Portability of Pension Rights

48. Existing schemes on the commencement date of the National Pensions Act will be grandfathered in the following respects:

(a) entitlement under the Income Tax (Termination of Employment) Order, 1971, will continue tax free; and
(b) accumulated employees' contributions for all service prior to the commencement date may be returned on death/termination, tax free.

49. Otherwise, the mandatory vesting provisions apply for these as for new schemes.

c. Indexation of Pensions

50. Under present legislation, a pensioner's annual pension at retirement and thereafter is limited to two-thirds (2/3rd) of the member's salary at retirement. This restricts the amount by which a person's pension can be increased after retirement, and in the long run results in erosion of the real value of the benefit received. In an inflationary environment, maintaining the purchasing power of the pensioner's benefit to some degree should be given due consideration. However, given the extra cost of providing a pension that is linked to inflation and the difficulties involved in finding suitable investments to cover the indexed liability, it is not felt to be appropriate to make indexation compulsory.

51. The indexation of pensions shall therefore be subject to affordability by the fund and/or the employer. When indexation is applied the following shall be applicable:

- after a minimum of 37 1/2 years employment with the plan sponsor, the total pension payable shall not exceed 75% of the member's highest salary earned by him during any twelve (12) consecutive months of membership of the plan. Post-retirement increases will be allowed even if this ceiling is breached, as long as such increases are granted to the incumbent pensioners in the plan as a class and any individual variations are based on a formula recommended by the actuary.

- the cost of increases shall be met out of the accrued surplus in the fund or out of special contributions by the employer, subject to approval by the Regulatory Authority and the Commissioner of Income Tax.

- the increased pension should not exceed the maximum pension mentioned above, increased by reference to the Consumer Price index (CPI) for the period between the date of retirement and the date of granting the increase.

- the increases should be recommended or have the written approval of an actuary.
The Development of Provisions which Enable Self-Employed Persons and Persons in Non-Pensionable Employment to Effectively Provide for their Retirement.

52. In addition to the above, an important feature of the reforms is the development of provisions which enable self-employed persons and persons in non-pensionable employment to effectively provide for their retirement. This will require both the inclusion of provisions in the National Pensions Act, and an amendment to the Income Tax Act.

53. The Income Tax Act currently allows for Approved Retirement Schemes which are operated to provide pensions for self-employed persons, and employees who are not contributors to an approved superannuation fund. These schemes are however, unattractive and impracticable, as under the Income Tax Act, self-employed persons are subject to a ceiling on salary contribution towards pensions, of $6,000 per year. This level of contribution provides benefits which are insufficient to meaningfully supplement the benefits payable under the N.I.S.

54. Therefore, the first and most important step in enabling self-employed persons and those in non-pensionable employment to effectively provide for their retirement, is to raise this ceiling. A cap of 20% of the chargeable income of the contributor, subject to a maximum is suggested. The proposed maximum chargeable income to which this cap would be applied is $4,999,200 per annum. The ceiling on contributions towards pensions for self-employed persons would therefore be increased to $999,840 per annum.

55. The Approved Retirement Schemes will be governed by the same legislation as the occupational pension plans and as such, will have to satisfy similar registration requirements.

56. The following provisions will also be made:

- the total of all contributions paid in each calendar year to the individual plan and to any other registered retirement plan may not exceed the maximum allowable under a registered occupational plan. This makes the treatment of individual plans consistent with that for occupational plans.

- the member must contribute regularly (at least annually) to an Approved Retirement Scheme.

- the maximum lump sum on retirement or death for individual plans should also be consistent with the provisions for occupational plans.

- individual pension plans may be administered by any registered fiduciary institution acting as a trustee, operating under a master trust deed with many individual members.

- provisions should be made for the transfer of pension rights from an existing approved
occupational plan into an individual retirement plan, without tax liability, upon the termination of the member from employment that is covered by an approved plan.

E. Conclusion

57. The reform of the pensions system in Jamaica, represents a comprehensive attempt by the Government to ensure that persons are properly provided for after retirement. At this stage, efforts are being focused on the development of the National Pensions Act, which will be enacted to provide for the proper regulation of all Pension/Superannuation Schemes and Approved Retirement Schemes, the Trustees, the Administrators and Investment Managers. An adequate transitional period is to be allowed with respect to all the proposed reforms. These reforms shall be implemented with due concern for the existing arrangements.

58. The Chief Parliamentary Council has begun the drafting of the National Pensions Act. The additional proposals requiring amendments to existing legislation will be addressed in the near future.

59. Further representation on the issues raised in this paper, will be allowed when the Bill is being debated in Parliament.

Omar Davies
Minister of Finance and Planning
February 2001