

AN ACT TO ESTABLISH A NATIONAL PROVIDENT FUND<sup>1</sup>

*Ordinances Nos. 19 of 1966*

[1 August 1966]

TABLE OF PROVISIONS

SECTION

PART 1—Preliminary

1. Short title
2. Interpretation

Part 2—Constitution, Powers and Functions of the Board

3. Establishment and constitution of the Board
4. Board to be a body corporate
5. Powers of the Board
6. Power to issue stamps
- 6A. Power to levy fees**

Part 3—Financial Provisions

7. Establishment of Provident Fund
8. Rate of interest
9. Special death benefit
10. Advances by Government
11. Expenses
12. Accounts and audit
- 12A. Part 3 of the Trustee Act does not apply**
- 12B. Duties to be exercised by the Board of Trustees**

Part 4—Contributions to the Fund

13. Payment of contributions
14. Surcharge on late payment
15. Unpaid contributions deemed to be paid in certain circumstances
16. Voluntary contributors
17. Amount standing to credit of member

Part 5—Allocation for Payments into the Fund

18. Contributions to be paid into the Fund and credited to. members
19. Revenue other than contributions

Part 6—Elderly Employees and Members Re-employed after withdrawal

20. Re-employment and continuation in employment after age 55 or withdrawal

---

<sup>1</sup> *This Act was enacted by Ordinance No. 19 of 1966 and amended by Ordinances No. 13 of 1967, 63 of 1968, 41 of 1969, Legal Notice No. 112 of 1970, Acts Nos. 1 of 1970, 9 of 1973, 33 of 1973, 9 of 1974, 21 of 1974, 1 of 1976, 17 of 1978, 11 of 1982, 11 of 1983, 18 of 1983, 12 of 1984, 11 of 1985, 28 of 1985, 18 of 1986, 29 of 1986, Decree No. 5 of 1991, Acts No. 15 of 1995, 34 of 1998, 39 of 1999, 4 of 2001, 10 of 2005*

## Part 7—Elections to Contribute <sup>2</sup>

- 21. **Repealed**
- 22. **Repealed**
- 23. **Repealed**
- 24. **Repealed**
- 25. **Repealed**
- 26. **Repealed**
- 26A. Public Officers electing to contribute to the Fund
- 26B. Payment to the Fund under 51(ii) of Pensions Act
- 26C. **Officers and soldiers of the Fiji Military Forces electing to contribute to the Fund**
- 27. **Repealed**
- 28. **Repealed**
- 29. Exemptions

## Part 8—Withdrawal of Contributions

- 30. Withdrawal to be approved by Board
- 31. Withdrawal otherwise than upon death
- 32. Withdrawal by nominee
- 33. Evidence
- 34. Nomination
- 35. Procedure where there is no nominee or a minor nominee
- 36. Payment of special death benefit

## Part 9—Housing Finance Assistance

- 37. Interpretation
- 38. Power of Board to give housing finance assistance
- 39. Application for housing finance assistance
- 40. Withdrawals, repayments
- 41. Limitation on amount transferred
- 42. Approval of lenders

## Part 9A—Share Investment Scheme

- 42A. Interpretation
- 42B. Purchase or reimbursement of cost of shares
- 42C. Approved companies, corporations and shares
- 42D. Application for transfer of amount
- 42E. Insufficiency of available amount
- 42F. Nominee company
- 42G. Investment account
- 42H. Transaction through specified person
- 42I. Registration of shares
- 42J. Bonus and retained shares entitlement
- 42K. Proceeds of sale and dividends to be credited to Investment Account
- 42L. Net realised profit may be withdrawn

---

<sup>2</sup> The heading of this Part was substituted by Act No. 10 of 2005 s. 8

- 42M. Proceeds of sale to be transferred to Fund
- 42N. New shares may be purchased
- 42O. Withdrawal of contributions from the Fund
- 42P. Termination of Investment Account
- 42Q. Opening a new Investment Account
- 42R. Bankruptcy
- 42S. Recovery of unpaid fees, etc.
- 42T. Statement of account
- 42U. Breach of provisions of this Part
- 42V. Advisory service

#### Part 10—Protection of sums contributed and withdrawn

- 43. Member's credit not subject to sequestration
- 44. Authority of Board to make payments abroad
- 45. Payments under annuities deemed to be sums withdrawn from the Fund
- 46. Bankruptcy of employee
- 47. Bankruptcy, liquidation, etc., of employer
- 48. Secrecy

#### Part 11—Offences, Penalties and Proceedings

- 49. Offences and penalties
- 50. Notice of unpaid contributions
- 51. Further powers of court
- 52. Liability of officers of corporations
- 53. Repayment to employee of illegal deductions
- 54. Prosecutions
- 55. Evidence in proceedings
- 56. Civil proceedings
- 57. Loss of benefit through default of employer
- 58. Proceedings
- 59. Application of sums recovered by Board
- 60. Certificate by Manager

#### Part 12—Powers of Inspectors and Officers of the Fund

- 61. Powers of inspectors
- 62. Powers of officers of the Fund

#### Part 13—Regulations

- 63. Regulations

#### Part 14—Powers of Ministers

- 64. Exemptions and annuities
- 65. Reciprocal agreements
  - First Schedule—Exemptions
  - Second Schedule—Rates of Contribution

## Part 1—Preliminary

### *Short title*

1. This Act may be cited as the Fiji National Provident Fund Act.

### *Interpretation*

2. In this Act, unless the context otherwise requires—

"amount of wages for the month" means—

(a) in respect of an employee paid monthly or at intervals of longer than a month, the amount of wages due to him in respect of the month;

(b) in respect of any other employee, the aggregate amount of wages due to him on such pay days as fall within the month: Provided that, in computing the amount of wages, any cents payable on each occasion of payment shall be ignored, unless on any such occasion the total amount payable is less than \$1, in which case it shall be deemed to be \$1;

**'amount standing to the credit of a member' has the meaning assigned to it by section 17;**

*(Inserted by Act No. 29 of 1986 s. 2(a))*

"Board" means The Fiji National Provident Fund Board established under the provisions of subsection (1) of section 3;

**"contribution" means any sum payable to the Fund under section 13, 16, 40, 47, 50, 51 or 56;**

*(Substituted by Act No. 29 of 1986 s. 2(b), amended by Act No. 34 of 1998 s. 3(a))*

"date of entitlement" means, in respect of any member of the Fund, **the date on which the member's application for withdrawal is approved after** it is proved to the satisfaction of the Board that such member—

*(Amended by Act No. 15 of 1995 s. 4(a)(i), 39 of 1999 s. 2)*

(a) has attained the age of 55 years; or

(b) has died; or

(c) is physically or mentally incapacitated from ever engaging in any further employment; or

(d) is about to leave or has left Fiji with no intention of returning thereto; or

(e) **Repealed by Act No. 34 of 1998 s. 3(b); or**

*(Amended by Act No. 15 of 1995 s. 4(a)(ii) &(iii))*

**"(f) has withdrawn all the money pursuant to section 30;** *(Inserted by Act No. 29 of 1986 s. 2(d), Amended by Act No. 15 of 1995 s. 4(a)(iv))*

"date of entry" means, in respect of any member of the Fund, the first day of the month in which the first contribution payable in respect of that member shall have been made to the Fund;

"employee" means any person, not being a person of any of the descriptions specified in the First Schedule nor a person exempted by an order made under the provisions of paragraph (a) of section 64, who—

*(Amended by Act No. 10 of 2005 s. 2(a)(i))*

(a) is employed in Fiji under a contract of service or apprenticeship or learnership, **or engaged under a contract for services or as an agent remunerated wholly or partly by commission** whether written or oral or whether expressed or implied; or

*(Amended by Act No. 10 of 2005 s. 2(a)(ii))*

(b) being in Fiji, is under a contract for the performance of manual labour entered into by him either as an individual person or as 1 of a group of persons; or

(c) being a citizen of Fiji, is employed in the manner specified in either of paragraphs (a) or (b) outside Fiji by an employer having a place of business in Fiji; or

(d) being a citizen of Fiji, is employed under a contract of service entered into in Fiji as a master or member of the crew of any vessel, or as

- captain or member of the crew of any aircraft, the owners of which have a place of business in Fiji; or
- (e) is declared by the Minister, by notification in the Gazette, to be an employee, for the purposes of this Act, of the Government; or
- (f) a member of a co-operative society employed by the society of which he is a member; or

**“(g) a shareholder, having not more than 20% shares and or a director of a Company, registered in Fiji, employed by the Company of which he is a shareholder and or a director;**

*(Inserted by Act No. 15 of 1995 s. 4(b)(ii)*

"employer" means—

(a) in respect of any employee as defined in paragraph (a) of the definition of "employee", the person with whom such employee has entered into a contract of service or apprenticeship or learnership; **or engaged under a contract for services or as agent remunerated wholly or partly by commission ;** or

*(Amended by Act No. 10 of 2005 s. 2(b))*

(b) in respect of any employee as defined in paragraph (b) of the definition of "employee," the person with, whom such employee has entered into a contract to perform manual labour; or

(c) in respect of any employee as defined in paragraph (c) of the definition of "employee," the Government or the employer having a place of business in Fiji as the case may be; or

(d) in respect of any employee as defined in paragraph (d) of the definition of "employee," the owners of the vessel or aircraft in which the employee as so defined is employed; or

(e) in respect of any employee as defined in paragraph (e) of the definition of "employee," the Government; or

(f) in respect of an employee as defined in paragraph (f) of the definition of "employee," the co-operative society by which he is employed; or

**(g) in respect of an employee as defined in paragraph (g) of the definition of "employee" the Company by which he is employed and of which he is a shareholder and or a director;**

*(Inserted by Act No. 15 of 1995 s. 4 ( c ) (ii)*

"entitled member" means a member who has not re-entered the Fund after having withdrawn the amount standing to his credit on any of the grounds referred to in paragraph (a), (c) , **(d) or (f)** of the definition of "date of entitlement";

*(Amended by Act No. 29 of 1986 s. 2(e), 34 of 1998 s. 3( c )*

"financial year" means the period from 1 July in any year to 30 June in the following year;

"Fund" means the Fund established under the provisions of section 7;

**'General Manager' means the General Manager appointed by the Board in accordance with subsection (1) of section 5;**

*(Inserted by Act No. 29 of 1986 s. 2(f))*

"Housing Authority" means the Housing Authority established under the provisions of section 3 of the Housing Act;

"Manager" **Repealed by Act No. 29 of 1986 s. 2(g)---the word to be deleted)**

"maximum sum" means the sum declared by the Board under the provisions of section 9;

"member of the Fund" or "member" means any person in respect of whom any contribution has been paid to the Fund;

"nominee" means a person nominated by a member of the Fund in accordance with the provisions of section 34 to receive the whole or part of such member's credit in the event of the death of such member;

**"property" includes money, goods, choses in action, land and every description of property, whether movable or immovable; and also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as herein defined;**

*(Inserted by Act No. 10 of 2005 s. 2(c))*

"permitted fund" *Deleted by Act No. 15 of 1995 s. 4(d)—The words to be deleted;*  
"voluntary contributor" means a person who enters the Fund under the provisions of section 16;

**wages" means all emoluments including allowances and commission, which would be due in money to an employee under his contract of service or for services or as an agent if no deductions were made therefrom, whether in pursuance of any law requiring or permitting the making of any deduction or otherwise or whether such emoluments have been agreed to be paid monthly, weekly, daily or otherwise:**

**Provided that payments made by an employer to an employee in reimbursement of sums necessarily expended by him on behalf of his employer for the purposes of his employment shall be deemed not to be wages.**

*(Amended by Ordinance 63 of 1968, s. 2; Legal Notice 112 of 1970; Act 1 of 1970, s. 2; 9 of 1973, s. 2; 9 of 1974, s. 2; 1 of 1976, s. 2, substituted by Act No. 10 of 2005 s. 2(d))*

## Part 2—Constitution, Powers and Functions of the Board

### *Establishment and constitution of the Board*

**3.—(1) There is hereby established a board to be called The Fiji National Provident Fund Board consisting of—**

*(a)* 2 persons holding an office of emolument under the State;

**(b) two representatives of employers not being persons holding an office of emolument under the State; and**

*(Substituted by Act No. 29 of 1986 s. 2)*

**(c) two representatives of employees not being persons holding an office of emolument under the State.**

*(Substituted by Act No. 29 of 1986 s. 3)*

to be appointed by the Minister who shall appoint 1 of such persons to be Chairman of the Board,

*(Amended by Legal Notice 112 of 1970.)*

(2) Members of the Board may be appointed for a term of 3 years or for such shorter period as the Minister may, in any case, determine but nothing in this subsection shall be read as preventing the Minister from re-appointing any member of the Board upon the expiry of his term of office.

*(Amended by Legal Notice 112 of 1970.)*

(3) Every member of the Board and every person appointed by the Board under the provisions of subsection (1) of section 5 shall be deemed to be a person employed in the public service within the meaning of the Penal Code.

(4) A member of the Board shall not communicate or reveal to any person any matter which shall be brought under his consideration or shall become known to him as a member of the Board, except as may be required for the due discharge of his duties as such.

(5) Members of the Board shall be paid such remuneration and such traveling and subsistence allowances as may be fixed by the Board with the approval of the Minister.

*(Amended by Legal Notice 112 of 1970.)*

(6) The quorum of the Board shall be 3.

(7) The Board shall have power to make rules for the conduct of its proceedings.

*Board to be a body corporate*

**4.—(1)** The Board shall be a body corporate and shall, by the name of "The Fiji National Provident Fund Board", have perpetual succession and a common seal which shall be affixed by the Manager or any other officer or servant of the Board appointed in that behalf by the Board and shall be authenticated by the signature of the **General Manager** or such other officer or servant. The Board may sue and be sued in its corporate name and may enter into contracts and may acquire, purchase, take, hold and enjoy real and personal property of every description and may convey, assign, surrender, yield up, charge, mortgage, lease, demise, re-assign, transfer or otherwise dispose of or deal with any real or personal property or any interest therein vested in the Board upon such terms as to the Board seems fit.

*(Amended by Act 11 of 1982, s. 2, 29 of 1986 s. 16.)*

(2) Service of any document on the **General Manager** shall be deemed to be service on the Board.

*(Amended by Act No. 29 of 1986 s. 16)*

*Powers of the Board*

**5.— (1) The Board shall have power to engage and appoint a staff consisting of—**

- (a) a General Manager who shall be the chief executive officer of the Board; and**
- (b) such other officers and servants as are in the opinion of the Board necessary for the purpose of carrying out the provisions of this Act:**

**Provided that the consent of the Minister shall be required to the appointment of the General Manager.**

*(Amended by Legal Notice 112 of 1970., Substituted by Act No. 29 of 1986 s. 4)*

(1A) The **General Manager** shall be paid such salary as is determined from time to time by the Higher Salaries Commission.

*(Inserted by Act 11 of 1983, s. 27, Sch. 2., amended by Act No. 29 of 1986 s. 16)*

(1B) Subject to the provisions of the Higher Salaries Commission Act, the other officers and servants of the Board shall be paid such salaries as the Board from time to time determines.

*(Inserted by Act 11 of 1983, s. 27, Sch. 2.)*

(2) The Board shall have power to appoint agents to carry out such functions as may be necessary for the purpose of this Act and may, by its officers, direct such agents as to the extent and manner in which their functions shall be carried out.

(3) The Board shall have power to appoint, as Inspectors having the powers set out in section 61, any of the persons appointed under the provisions of subsection (1) and, with the consent of the Minister, any persons or classes of persons appointed under the provisions of subsection (2).

*(Amended by Legal Notice 112 of 1970.)*

(4) The Board shall have such powers and shall perform such duties, including the duty of enforcement, as are given or imposed by this Act or by the Fiji National Training Act or as may be prescribed by the Minister by order and may, with the consent of the Minister, by instrument in writing under the common seal, delegate to any person all or any of such powers and duties:

Provided that, if the Board shall delegate any such power or duty to any of its officers or servants, such delegation shall be by a resolution made and recorded at a properly constituted meeting of the board.

*(Amended by Legal Notice 112 of 1970; Act 33 of 1973, s. 2; 11 of 1982, s. 3.)*

*Power to issue stamps*

**6.** The Board may print, sell, issue and utter adhesive or impressed stamps for the purpose of payment of contributions under the provisions of subsection (1) of section 13 or section 16 and may prescribe the design of such stamps and the circumstances and manner in which they shall be used.

(Amended by Act No. 15 of 1995 s. 5)

*Power to levy fees*

**6A The Board may with the approval of the Minister levy fees to be paid to it for the performance and provision of services to its members and investment clients.**

(Inserted by Act No. 15 of 1995 s. 6)

Part 3—Financial Provisions

*Establishment of Provident Fund*

**7.—(1)** For the purposes of this Act, there shall be a fund to be called the Fiji National Provident Fund, hereinafter referred to as "the Fund", into which shall be paid all contributions required to be made under the provisions of this Act and out of which shall be met all payments required to be made by the Fund under the provisions of this Act.

(2) The Board shall be the Trustee of the Fund, and the moneys belonging to the Fund shall, subject to any general direction of the Minister—

(a) be deposited in a bank or banks duly licensed under the provisions of the Banking Act, or in the National Bank of Fiji; or

(b) **be investment in any property:**

(Substituted by Act No. 10 of 2005 s. 3(a))

Provided that it shall be lawful for the Board to make loans or advances to its servants as part of their conditions of employment or grants, payments, loans or advances for purposes relating to such conditions as aforesaid, upon such terms as the Board may consider reasonable.

(Amended by Legal Notice 112 of 1970; Act 9 of 1974, s. 3.)

**(3) The Board may vary an investment at any time.**

(Inserted by Act No. 10 of 2005 s. 3(b))

**(4) The Board shall-**

(a) **exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others;**

(b) **without limiting the matters that the Board may take into account, consider the following factors —**

(i) **the purposes of the Fund and the needs and circumstances of the members of the Fund;**

(ii) **the desirability of diversifying the investments of the Fund;**

(iii) **the nature, of existing Fund investments;**

(iv) **the need to maintain the real value of the capital or income of the Fund;**

(v) **the risk of loss or depreciation of capital or income;**

(vi) **the potential for capital appreciation;**

(vii) **the likely income return and the timing of the income return;**

(viii) **the length of the term of the proposed investment;**

(ix) **the liquidity and marketability of the proposed**

investment during, and on the determination of, the term of the proposed investment;

- (x) the aggregate value of the Fund;
- (xi) the likelihood of inflation affecting the value of the proposed investment or other Fund investments;
- (xii) costs in respect of making proposed investments including commissions, fees, charges and duties; and
- (xiii) the outcome of a review of existing Fund investments.

*(Inserted by Act No. 10 of 2005 s. 3 (b))*

**(5) The Board may—**

- (a) obtain and consider independent and impartial advice, reasonably required for the investment of the Fund or the management of investment from a person whom the Board reasonably believes to be competent to give the advice; and
- (b) pay out of the Fund the reasonable costs of obtaining the advice.

*(Inserted by Act No. 10 of 2005 s. 3)(b))*

*Rate of interest*

**8.** At or before the end of each financial year, the Board shall, having considered the recommendation of the **General Manager**, declare a rate of interest in respect of that financial year, being not less than 2 1/2 per cent per annum and, **subject to subsections (6) and (7) of section 18**, interest shall be payable on the amounts standing to credits of members' accounts as calculated in accordance with the provisions of section 18 at such rate:

*(Amended by Act No. 29 of 1986 s. 5 & 16)*

Provided that—

- (a) no rate of interest exceeding 2 1/2 per cent per annum shall be so declared, unless, in the opinion of the Board, the ability of the Fund to meet all payments required to be paid under this Act is not endangered by the declaration of such rate; and
- (b) no rate of interest exceeding 2 1/2 per cent per annum shall be so declared if any sums advanced by the Government under the provisions of section 10 have not been repaid.

*(Amended by Act 9 of 1974, s. 4.)*

*Special death benefit*

**9.** As soon as possible after the end of each financial year the Board shall, having considered the recommendation of the **General Manager**, declare the maximum sum to be added to an entitled member's credit on his death for the purposes of section 36, provided that the amount so declared shall be not less than \$1,000.

*(Inserted by Act 1 of 1970, s. 3., amended by Act No. 29 of 1986 s. 16)*

*Advances by Government*

**10.** If the Fund is, at any time, unable to pay any sum which is required to be paid under the provisions of this Act, the sum required shall be advanced to the Fund by the Government and the Fund shall, as soon as practicable, repay to the Government the sums so advanced.

*Expenses*

**11.—(1)** All expenses incurred in carrying this Act into effect and in connection with the administration of the Fund shall be paid out of the moneys of the Fund.

(2) For the purposes of this section, such expenses shall include such expenditure as the Board shall consider reasonably necessary or desirable for the benefit or credit of the Fund or the promotion of public or staff relations.  
(*Inserted by Act 1 of 1970, s. 4.*)

*Accounts and audit*

**12.—(1)** The Board shall keep or cause to be kept proper accounts of the Fund and such accounts shall be audited annually by the **an international firm of Chartered Accountants represented in Fiji Islands by practicing members of the Fiji Institute of Accountants and appointed by the Board.**

(*Amended by Act No. 34 of 1998 s. 4(a)*)

(2) As soon as practicable after the end of each financial year, an account of the income and expenditure of the Fund, of contributions received and of withdrawals made and of interest credited to members of the Fund during the preceding financial year, together with a statement of the assets and liabilities of the Fund and the report of the **auditors appointed under subsection (1)** thereon, and also a report by the Chairman of the Board on the activities of the Board during such financial year, shall be laid before Parliament and published in the Gazette.

(*Amended by Legal Notice 112 of 1970, 34 of 1998 s. 4(b)*)

**(3) The Auditor General shall review the report prepared under subsection (2) and report the results of any such review as required by that section.**

(*Inserted by Act No. 34 of 1998 s. 4( c)*)

*Part 3 of the Trustee Act does not apply*

**12A. Part 3 of the Trustee Act does not apply to investments made under section 7.**

(*Inserted by Act No. 10 of 2005 s. 4*)

*Duties to be exercised by the Board as trustees*

**12B.—(1) The Board must abide by all rules and principles of law which impose any duty on a trustee exercising a power of investment including all rules and principles which impose—**

- (a) any duty to exercise the powers of a trustee in the best interests of all beneficiaries of the trust;
- (b) any duty to act impartially towards beneficiaries and between different classes of beneficiaries; and
- (c) any duty to take advice.

**(2) If the Board is under a duty to take advice, the reasonable costs of obtaining the advice are payable out of the Fund.**

(*Inserted by Act No. 10 of 2005 s. 4*)

Part 4—Contributions to the Fund

*Payment of contributions*

**13.—(1)** Every employer shall pay to the Fund in respect of each of his employees, in every month during which such employee is employed by him and in the month following the termination of such employment, a contribution calculated upon the amount of wages payable to such employee by such employer for the preceding month at the appropriate rates set out in the Second Schedule:

Provided that—

- (a) if, in any month of his employment by an employer, an employee is

employed by that employer for a period of less than 12 days excluding Sundays and public holidays, that employer may, at his option, contribute in respect of that employee in the following month until such time as the Minister shall, by notice in the Gazette, declare that such contribution shall be mandatory;

(b) in respect of an employee engaged in any prescribed employment, the Board may direct that payment of contributions in respect of him shall be made at intervals other than a month and, notwithstanding any other provisions of this Act, may direct the manner in which such contributions shall be calculated and paid, whereupon paragraph (a) shall be deemed to be of no effect, and the Board may further direct that payment shall be made by some other person on behalf of and to the exclusion of the employer as defined in section 2, whereupon such other person shall be deemed to be the employer for the purposes of subsection (2);

*(Amended by Act 1 of 1970, s. 5.)*

**(c) the General Manager may, by notice in writing—**

**(i) direct any employer to pay contributions during every month on a date or dates or at periodic intervals or both as specified in the notice;**

**(ii) authorise any employer to pay contributions by a particular method, including direct electronic transfer from the employer's bank account.**

*(Inserted by Act No. 10 of 2005 s. 5(a)(i)(ii))*

(2) Notwithstanding the provisions of any Act or any contract to the contrary, an employer who pays a contribution in respect of any employee in accordance with the provisions of subsection (1) shall be entitled to recover from the wages of such employee, and not otherwise, the portion of such contribution shown in the Second Schedule to be so recoverable:

Provided that no such portion may be recovered by the employer in any manner other than by deduction from the wages in respect of which the contribution is calculated at the time those wages are payable.

*(Amended by Act 1 of 1976, s. 3.)*

(3) Notwithstanding the provisions of any Act and without prejudice to the provisions of subsections (1) and (2), any employer may, in any month, pay to the Fund contributions in respect of any of his employees at a rate in excess of the appropriate rate set out in the Second Schedule:

Provided that—

(a) the total contribution paid in respect of any employee in any month shall be a multiple of 16 cents but shall not exceed 30 per cent of the salary payable to the employee in the preceding month;

*(Amended by Act No. 15 of 1995 s. 7(a)(b), 34 of 1998 s. 5)*

(b) notice of the payment of such voluntary contributions shall be given to the Board in such manner as may be prescribed.

*(Amended by Ordinance 63 of 1968, s. 3; Act 9 of 1973, s. 3; 9 of 1974, s. 5; 17 of 1978, s. 2.)*

(4) Notwithstanding any contract to the contrary, an employer shall not be entitled to recover in any way from an employee, in respect of contribution payable under the provisions of this Act, any sum in excess of that permitted to be recovered under the provisions of subsection (2).

*(Amended by Act 9 of 1974, s. 5.)*

**(5) The Board may, by order published in the Gazette, declare an amount not exceeding \$2 per day as the contribution to be paid to the Fund under subsection (1) where the amount of wages payable to the employee by the employer cannot be otherwise determined: Provided that if there is specified under written law —**

**(a) a maximum number of hours of work for that trade, industry**

or occupation; and

- (b) a minimum hourly rate of remuneration paid to a class of workers engaged in or working in the trade, industry or occupation of the employer, either generally or in any area or areas of the Fiji Islands, and the employee falls within that class,

**the rate paid to that class of workers and those hours must be used to calculate the contribution payable by the employer in respect of that employee.**

*(Inserted by Act No. 10 of 2005 s. 5(b))*

*Surcharge on late payment*

**14.** Where any contributions which an employer is liable to pay under the provisions of subsection (1) of section 13, are not paid in the month during which they are due to be paid, the employer shall be liable to pay a surcharge on the total amount of all contributions not so paid to the Fund by him at the rate of 2 per cent in respect of each month or part of if month after the expiration of the earliest month during which any such contribution was due to be paid:

*(Amended by Act No. 34 of 1998 s. 6)*

Provided that—

- (a) if the amount of surcharge so calculated is less than \$2, the surcharge payable shall be \$2; and
- (b) if the amount of surcharge exceeds \$2, the surcharge payable shall be calculated to the next highest multiple of \$2; and
- (c) the Board may, in any case in which it thinks fit, remit in whole or in part the payment of any surcharge due under the provisions of this section.

*(Amended by Ordinance 41 of 1969, s. 2; Act 9 of 1974, s. 7.)*

*Unpaid contributions deemed to be paid in certain circumstances*

**15.** If any employer fails to pay any contribution which he is required to pay under the provisions of subsection (1) of section 13, the Board may, if it is satisfied—

*(Amended by Act No. 34 of 1998 s. 7)*

- (a) that such failure was not due to the consent or connivance of the employee concerned; and
- (b) that there is no prospect of recovering the amount unpaid within a reasonable time,

credit to the employee the aggregate of the proportionate part of such contributions which would have been credited to his account as a member under the provisions of section 18 had the employer paid such contributions and shall charge the amount so credited to the general revenues of the Fund:

*(Amended by Act No. 10 of 2005 s. 6)*

Provided that—

- (i) nothing in this section shall prejudice the right of the Board to recover the amount of such contributions together with any surcharge due under the provisions of section 14 from the employer and any amount so recovered shall be credited to the general revenues of the Fund;
- (ii) unless otherwise determined by the Board in any particular case, any amount credited to an employee under the provisions of this subsection shall be deemed to have been paid in respect of him on the date on which such credit is made.

*(Amended by Ordinance 41 of 1969, s. 3; Act 9 of 1974, s. 8; 17 of 1978, s. 3.)*

*Voluntary contributors*

**16.—(1)** Any person or class of persons as may be prescribed who are not employees nor persons described in subsection (2) may become voluntary contributors to the Fund, subject to such conditions as may be prescribed, and

contributions paid by such voluntary contributors shall be dealt with under section 18 as though they were employees.

**(2) Persons exempted under paragraph (a) of section 64 or paragraphs 4 and 5 of the First Schedule are classes of persons not entitled to become voluntary contributors.**

*(Amended by Act No.34 of 1998 s. 8(a), and substituted by Act No. 10 of 2005 s. 7(a))*

(3) A person becoming a voluntary contributor may commence payment of contributions not earlier than the half-year in which he gives notice to the Board in accordance with subsection (1):

*(Inserted by Act 1 of 1970; s. 6; amended by Act 11 of 1982, s. 4, 29 of 1986 s. 6.)*

**(4)** *(Inserted by Act no. 34 of 1998 s. 8(b) and repealed by Act No. 10 of 2005 s. 7(b))*

*Amount standing to credit of member*

**17. In this Act, "the amount standing to the credit of a member" means a sum equal to the aggregate of—**

- (a) all contributions made in respect of the member;**
- (b) interest credited to the account of the member in accordance with subsections (5), (6) and (7) of section 18;**
- (c) repayments of money lent or provided in accordance with section 38(1);**
- (d) money transferred from an Investment Account in accordance with section 42 M (2);**  
*(Inserted by Act No.4 of 2001 s. 3(1)(a))*
- (e) money credited to the account of the member in accordance with section 42 O (2) or section 42 P (2), together with accrued interest;**  
*(Inserted by Act No. 4 of 2001 s. 3(1)(a))*

less—

- (i) any deductions made under section 18(8);**
- (ii) any money withdrawn under section 30;**
- (iii) any money lent or provided in accordance with section 38(1);**
- (iv) any expenses payable by the member in respect of the granting of housing finance assistance, or any application therefor, pursuant to section 38 or section 39.**
- (v) any money transferred for the purchase or reimbursement of shares under Part 9 A;**  
*(Inserted by Act No. 4 of 2001 s. 3(1)(b))*
- (vi) any expenses payable by the member in respect of the purchase or reimbursement of shares under Part 9A.**  
*(Inserted by Act No. 4 of 2001 s. 4(1)(b))*

*(Amended by Act 9 of 1974, s. 9, Substituted by Act No. 29 of 1986 s. 7, Amended by Act No. 15 of 1995 s. 8, substituted by Act No. 39 of 1999 s. 4)*

Part 5—Allocation of Payments into the Fund

*Contributions to be paid into the Fund and credited to members<sup>3</sup>*

**18.—(1) Subject to this section, sums recovered or collected on account of contributions are to be paid into the Fund in such manner as the Board directs.**

*(2) Repealed by Act No. 39 of 1999 s. 5(a)—the subsection to be deleted.*

*(3) Repealed by Act No. 39 of 1999 s. 4(a)---the subsection to be deleted.*

*(4) Repealed by Act No. 34 of 1998 s. 9( c)---the subsection to be deleted.*

**(5) Subject to subsections (6) and (7), upon the declaration by the Board, in accordance with section 8, of a rate of interest for a financial year, the Board shall credit to the account of each member in the Fund interest at that rate calculated on the amount standing to the credit in the Fund of each member at the commencement of that financial year.**

**(6) Where the authority of the Board is granted under section 30, 31, 32 or 35 for the withdrawal from the Fund of an amount standing to the credit of a member, the amount of interest due on that amount (excluding transfers in excess of contributions on normal wages made in the current six month period) from the first day of the financial year in which the authority is given to the last day of the month preceding that in which the authority is given shall be calculated by the Board at the rate of interest declared by the Board for the previous financial year, and the amount of interest so calculated shall be credited by the Board to the account of the member in the Fund immediately before the withdrawal, and no account shall be taken of the fact that the rate of interest declared by the Board in respect of that financial year may be different from that declared for the previous financial year.**

**(7) where during a financial year, money in the Fund standing to the credit of a member is withdrawn in part in accordance with subsection (3) of Section 30 or is lent , provided or transferred in accordance with subsection (1) of Section 38, or is transferred to the Investment Account in accordance with section 42B the Board shall—**

*(Amended by Act No. 4 of 2001 s. 3(2)(i)(ii))*

**(a) reduce the amount standing to the credit in the Fund of that member at the commencement of that financial year by the amount so withdrawn, lent, provided or transferred during that financial year, which shall then be considered as the amount standing to the credit in the Fund of that member at the commencement of that financial year for the purposes of subsection (5):**

*(Amended by Act No. 4 of 2001 s. 3 (2)(ii))*

**Provided that—**

**(i) if the amount to be reduced is greater than the amount standing to the credit in the Fund of that member at the**

---

<sup>3</sup> *(The whole of this section was substituted by Act No. 29 of 1986 s. 8)*

commencement of that financial year, the amount to be reduced shall be the total amount standing to the credit in the Fund of that member at the commencement of the financial year; and

(ii) any balance of the amount to be so reduced shall be reduced from the money received to the credit in the Fund of that member during that financial year, prior to the date the amount to be so reduced was withdrawn, lent or provided;

(b) for the purposes of subsection (5), calculate the interest on the amount reduced pursuant to paragraph (a) excluding proviso (ii) of that paragraph, from the first day of the financial year until the last day of the month preceding that in which it was so withdrawn, lent or provided;

(c) for the purposes of subsection (5), credit the aggregate of all interests calculated pursuant to paragraphs (a) and (b) to the account of that member.

*(Substituted by Act No. 15 of 1995 s. 9)*

(8) The Board shall deduct from the account of each entitled member, including a female member who has re-entered the Fund before 1<sup>st</sup> July 1999, after withdrawing on the ground of marriage, in respect of each financial year, such amount as may be prescribed from time to time by the Board either as a lump sum or by installments and shall credit the sums so deducted to the general revenues of the Fund.

*(Amended by Act No. 39 of 1999 s. 5(b))*

(9) For the purpose of calculating any interest due under this section, any fraction of one dollar in the amount standing to the credit of a member of the Fund shall be disregarded.

*Revenue other than contributions*

19. All surcharges collected under the provisions of section 14, together with any other sums which shall from time to time become payable to the Board otherwise than on account of contributions under the provisions of this Act, shall be credited to the general revenues of the Fund.

#### Part 6—Elderly Employees and Members Re-employed after withdrawal

*Re-employment and continuation in employment after age 55 or withdrawal*<sup>4</sup>

20. —(1) Notwithstanding subsection (1) of section 13 but subject to subsection (12), contributions are not payable in respect of an on which he attains the age of 55 years if on that date he is not a member of the Fund.

(2) Notwithstanding subsection (1) of section 13 but subject to subsection (12), contributions are not payable in respect of an employee who withdrew the amount standing to his credit in the Fund on or after his date of entitlement.

(3) Subject to subsections (4) and (5), no contributions are payable in respect of an employee in the month following that in which his date

<sup>4</sup> *(The whole of this section was substituted by Act No. 29 of 1986 s. 9)*

of entitlement occurs or in any subsequent month.

(4) Contributions continue to be payable in respect of a member while he is an employee until such time as he applies to the Board for the withdrawal of the amount standing to his credit in the Fund.

(5) Where an application is not made in accordance with subsection (4) until more than six months after the date on which a member attained the age of 55 years contributions continue to be payable in respect of him and he is not entitled to withdraw the amount standing to his credit in the Fund until he has given the Board at least six months' notice (or such shorter period as the Board may in any particular case accept) of his intention to withdraw the amount standing to his credit in the Fund:

Provided that no contributions are payable in respect of an employee after the date on which he or she attained the age of 65 years.

*(Proviso inserted by Act No. 34 of 1998 s. 10(a))*

(6) Where a person who has not attained the age of 55 years but who withdrew the amount standing to his credit in the Fund on the ground—

- (a) that he was physically or mentally incapacitated from ever engaging in any further employment; or
- (b) that he was about to leave or had left Fiji with no intention of returning,

recommences employment he may, within three months of commencing that employment, (or within such longer period as the Board may in any particular case accept), give notice to the Board and to his employer that he desires to re-enter the Fund, and, subject to subsection (7), he re-enters the Fund from such date as the Board shall authorise.

(7) A person who withdrew the amount standing to his credit in the Fund on the ground that he was physically or mentally incapacitated from ever engaging in any further employment—

- (a) may only re-enter the Fund pursuant to subsection (6) on one occasion; and
- (b) shall not be permitted to re-enter the Fund unless the notice he serves on the Board in accordance with subsection (6) is accompanied by a certificate from a medical practitioner approved by the Board stating that the person is fit to undertake employment on a permanent basis.

(8) Where an employee who has not attained the age of 55 years but who withdrew the amount standing to his credit in the Fund in accordance with subsection (3) of section 30 recommences employment (or within such longer period as the Board may in any particular case accept) he may, within three months of commencing that employment, give notice to the Board and to his employer that he desires to re-enter the Fund, and the Board may, subject to such restrictions and conditions as it considers appropriate in his particular circumstances, allow him to re-enter the Fund from such date as the Board shall authorise.

*(Amended by Act No. 15 of 1995 s. 10)*

(9) Where an employee who has attained the age of 55 and who withdrew the amount standing to his credit in the Fund on the ground that he had reached that age continues in, or

**recommences employment he may, at any time, but subject to the proviso to subsection (5) give notice to the Board and to his employer that he desires to re-enter the Fund, and he shall thereupon re-enter the Fund from such date as the Board shall authorise.**

*(Amended by Act No. 34 of 1998 s. 10 (b))*

**(10) An employee who re-enters the Fund in accordance with subsection (9) may withdraw from the Fund the amount standing to his credit in the Fund at any time after the expiry of one year from the date of his re-entry to the Fund but following any such withdrawal shall not again be entitled to apply for re-entry to the Fund under subsection (9).**

**(11) Repealed by Act No. 39 of 1999 s. 6---the subsection to be deleted**

**(12) Notwithstanding subsections (1) and (2) , but subject to the provisor to subsection (5) where a person becomes or continues to be a member of the Fund in accordance with this section contributions are payable in respect of him in accordance with subsection (1) of section 13.**

*( Amended by Act No. 34 of 1998 s. 10(d))*

**(13) A provision of an agreement that provides that a person—**  
**(a) shall not give a notice referred to in this section; or**  
**(b) shall apply to withdraw the amount standing to his or her credit in the Fund on or after attaining the age of 55 is void.**

*(Substituted by Act No. 34 of 1998 s. 10(e))*

#### Part 7—Election to Contribute <sup>5</sup>

##### *Approval of permitted funds*

**21. Repealed by Act No. 15 of 1995 s. 11**

##### *Revocation of approval*

**22. Repealed by Act No. 15 of 1995 s. 11**

##### *Transfer of credits to the Fund*

**23. Repealed by Act No. 15 of 1995 s. 11**

##### *Permitted funds and insurance policies*

**24. Repealed by Act No. 15 of 1995 s. 11**

##### *Transfer of credits to permitted fund*

**25. Repealed by Act No. 15 of 1995 s. 11**

##### *Winding up of permitted funds*

**26. Repealed by Act No. 15 of 1995 s. 11**

##### *Public Officers electing to contribute to the Fund*

**26A.—(1) Where pursuant to the provisions of section 46 of the Pensions Act, 1983, a public officer elects to contribute to the Fund, such officer shall from the date of his election (determined in accordance with paragraph (a) of subsection (2) of the said section 46) be deemed to be an employee as defined in paragraph (e) of the definition of employee in section 2, and the Government to be his employer and, subject to the provisions of subsection (2), the provisions of this Act shall thereupon accordingly apply to such officer and to the Government.**

**(2) Where pursuant to the provisions of section 46 (2) (c) (i) of the Pensions Act, 1983, a public officer who elects to contribute to the Fund selects the option to receive a gratuity computed in accordance with regulation 25(1) of the Pensions (Civil Service)**

<sup>5</sup> See footnote 1

Regulations, the Chief Executive Officer for Finance shall pay to the Board, and the Board shall accept, the amount of such officer's gratuity and shall place to his credit in the Fund.

*(Inserted by Act 18 of 1983, Amended by Act No. 34 of 1998 s. 11)*

*Payment to the Fund under 51 (ii) of Pensions Act*

**26B.** Where a gratuity is to be paid pursuant to paragraph 51(ii) of the Pensions Act, 1983, then the gratuity shall be paid by the Chief Executive Officer for Finance to the Board, and the Board shall accept that amount and place to the account of the beneficiary in the Fund that amount less one-seventh of that part thereof which bears to the whole thereof the same proportion as the period of the officer's public service from 1 January 1975, to the date of his resignation bears to the whole of his public service from the date of his first appointment to the date of his resignation, and the provisions of this Act shall apply to the amount so placed to the credit of such beneficiary in the Fund.

*(Inserted by Act 11 of 1985, amended by Act No. 34 of 1998 s. 12)*

*Officers and soldiers of the Royal Fiji Military Forces  
electing to contribute to the Fund<sup>6</sup>*

**26c.—(1)** Where, pursuant to section 41A of the Pensions Act, 1983, an officer or soldier of the Fiji Military Forces elects to contribute to the Fund that officer or soldier is, from the date of his election (as determined in accordance with paragraph (a) of subsection (2) of section 41A of the Pensions Act, 1983), deemed to be an employee as defined in paragraph (e) of the definition of employee in section 2, and the Government is deemed to be his employer, and this Act thereupon accordingly applies to that officer or soldier and to the Government.

(2) Where, pursuant to subparagraph (i) of paragraph (c) of subsection (2) of section 41A of the Pensions Act, 1983 an officer or soldier of the Fiji Military Forces elects to contribute to the Fund and selects the option to receive a gratuity computed in accordance with subsection (1) of section 41B of the Pensions Act, 1983, the Commander of the Forces appointed under the Fiji Military Forces Act shall pay to the Board, and the Board shall accept, the amount of that officer's or soldier's gratuity as-so computed and, subject to subsection (3), shall place it to the credit of the officer or soldier in the Fund.

(3) The gratuity to be placed to the credit of an officer or soldier in the Fund in accordance with subsection (2) shall be reduced by 1/7<sup>th</sup> of that part of the gratuity which bears to the whole of the gratuity the same proportion as the period of the officer's or soldier's qualifying service (as defined in subsection (1) of section 31 of the Pensions Act, 1983) from 1 January 1975 to the date of his election to contribute to the Fund bears to the whole of his qualifying service from the date of the start of that service to the date of his election.

(4) This Act applies to an amount placed to the credit of an officer or soldier in the Fund in accordance with subsection (2).

---

<sup>6</sup> *(The whole of this section was inserted by Act No. 18 of 1986 s. 3)*

*(Amended by Act No. 34 of 1998 s13)*

*Date of receipt by Fund of sums out of permitted funds*

**27. Repealed by Act No. 15 of 1995 s. 11**

*Rules and accounts of permitted funds*

**28. Repealed by Act No. 15 of 1995 s. 11**

*Option to become or remain a member of the Fund*

**29—(1) Not later than 3 months after commencement of his employment in the Fiji Islands, a person employed in the Fiji Islands who is not a citizen of the Fiji Islands and his employer may, by notice in writing given to the General Manager, elect that the employee become a member of the Fund.**

**(2) Within 3 months of the commencement of the Fiji National Provident Fund (Amendment) Act 2005 a person employed in the Fiji Islands who is not a citizen of the Fiji Islands and who was a member of the Fund immediately prior to the commencement of that Act and his employer may, by notice in writing given to the General Manager, elect that the employee continue to be a member of the Fund.**

**(3) If the Board is satisfied, on the application of the employee and his employer under subsection (1) or (2), that—**

- (a) the employee is not a citizen of the Fiji Islands; and**
- (b) the employer has accepted the obligations of an employer under this Act in respect of that employee, the employee from the date of his election shall be deemed an employee or continue to be deemed an employee as defined in paragraph (a) of the definition of "employee", and the employer to be his employer and the provisions of this Act shall thereupon accordingly apply, or continue to apply, to such employee and such employer.**

*(Amended by Act 9 of 1973, s. 4, 34 of 1998 s. 14, substituted by Act No. 10 of 2005 s. 9.)*

#### Part 8—Withdrawal of Contributions

*Withdrawal to be approved by Board*

**30.—(1) Money standing to the credit of a member in the Fund shall not be withdrawn from the Fund except with the authority of the Board.**

**(2) The Board shall not give its authority under subsection (1) before the date of entitlement of the member of the Fund.**

*(Substituted by Act No. 29 of 1986 s. 11)*

**(3) The Board may, on the application of a member, having regard to his age or other circumstances, permit that member to withdraw all or part of the money in the Fund standing to his credit at that time.**

*(Substituted by Act No. 29 of 1986 s. 11)*

**(4) Notwithstanding subsection (2), any excess contributions in the Fund standing to the credit of a member may be withdrawn by the member at any time subject to the guidelines approved by the Board.**

*(Inserted by Act No. 10 of 2005 s. 10)*

*Withdrawal otherwise than upon death*

31. The Board shall, after the date of entitlement of any member of the Fund otherwise than upon his death, and upon his application or that of any committee of his person appointed under the provisions of the Mental Treatment Act, pay to the applicant the amount standing to the credit of such member in the Fund.

*Withdrawal by nominee*

32. The Board shall, after the death of any member of the Fund and upon the application of a person nominated under the provisions of section 34, pay to the applicant such part of the sum standing to the credit of such member as shall have been set out in the memorandum executed in accordance with that section.

*Evidence*

33. All applications for withdrawal shall be supported by such evidence as may be prescribed and by such further evidence as the Board may reasonably require.

*Nomination*

34. Any employee or member of the Fund may, by a memorandum executed in the prescribed manner, nominate a person or persons to receive in his or their own right such portions of the amount payable out of the Fund under the provisions of section 32 on his death as such memorandum shall indicate, and any employee who does not nominate such a person may be required by the Board to declare, in writing, that he does not desire to do so:

Provided that the subsequent marriage of a nominator shall render any nomination made by him null and void.

*Procedure where there is no nominee or a minor nominee*

**35.—(1) If, at the time of the death of a member of the Fund, there is no person nominated under section 34 the Board, on being notified of the death of the member, shall pay into Court the amount standing to the credit of the member in the Fund for disposal in accordance with the law.**

**(2) If, at the time of the death of a member of the Fund—**  
**(a) a sole nominee under section 34 is dead; or**  
**(b) a nomination under section 34 is of no effect,**  
**the Board, on being notified of the death of the member, shall pay into Court such proportion of the amount standing to the credit of the member in the Fund, as is indicated in the nomination for disposal in accordance with the law.**

**(3) Where no claim is made in respect of money paid into Court in accordance with subsection (1) or (2) within one year of being so paid in to Court, the Court shall repay the money to the Board and the Board shall credit it to the general reserves of the Fund.**

**(4) Where a person, other than a spouse, is—**  
**(a) nominated under section 34; or**  
**(b) entitled by virtue of subsection (1) or (2) to receive all or part of the amount standing to the credit of a deceased member of the Fund,**  
**and the person so nominated or entitled is under the age of 18 at the time of payment of the amount payable out of the Fund, the amount to be paid shall be paid by the Board or the Court, as the case may be, to the Public Trustee for the benefit of the person so nominated or entitled.**

(5) Where no claim is made in respect of money paid to the Public Trustee in accordance with subsection (4) within one year of being so paid to the Public Trustee, the Public Trustee shall repay the money to the Board and the Board shall credit it to the general reserves of the Fund.

(6) Subsections (3) and (5) do not prejudice the right of any person found to be entitled to receive any amount paid into the general reserves of the Fund in accordance with those subsections.

(7) Where a person is found entitled to receive any amount which has been credited to the general reserves of the Fund pursuant to subsection (3) or (5) the Board shall, subject to subsection (8), pay interest on that amount calculated from date upon which it was credited to the general reserves of Fund until the date upon which payment is made by the Board to the person entitled thereto at the maximum rate of interest being offered by licensed banks in Fiji for savings deposits on the date of such payment by the Board.

(8) Nothing in subsection (7) shall be construed as requiring the Board to pay interest upon interest.

*(The whole section substituted by Act No. 29 of 1986 s. 12)*

*Payment of special death benefit*

36.—(1) On the death of an entitled member after 1 January 1971, the amount standing to his credit in the Fund shall be increased by such proportion of the maximum sum as may be prescribed and the amount of such increase shall be paid from the general revenues of the Fund. *(Amended by Act No. 15 of 1995 s. 12(a))*

(2) **The amount to be added to the deceased member's credit for the purpose of subsection (1) shall be payable in such manner as may be prescribed.** *(Substituted by Act No. 15 of 1995 s. 12(b))*

(3) The amount payable under subsection (1) shall not be taken into consideration in the assessment of compensation or damages payable to the dependants or beneficiaries of the deceased member under the provisions of the Compensation to Relatives Act. *(Substituted by Act 1 of 1970, s. 8.)*

Part 9—Housing Finance Assistance<sup>7</sup>

*Interpretation*

37. In this Part, unless the context otherwise requires—  
"appropriate date" **means the date on which an application is approved;** *(Substituted by Act No. 15 of 1995 s. 13)*

"approved lender" means—

- (a) the Housing Authority;
- (b) the Home Finance Company Limited;
- (c) a bank in possession of a valid licence under the Banking Act 1983; or
- (d) a lender approved under section 42;

"approved purpose", in respect of a loan to a member, means a loan acquired or required by that member for one or more of the following purposes—

- (a) to purchase a dwelling house;
- (b) to purchase land on which to erect a dwelling house;

<sup>7</sup> The whole of this Part was substituted by Act No. 29 of 1986 s. 13

- (c) to erect a dwelling house;
  - (d) to alter or improve a dwelling house;
- where—

- (i) the dwelling house is or is to be occupied by the member;

- (ii) title to the dwelling house is, or is to be, vested in the member absolutely or jointly with other persons, and may include expenses associated with any such purpose or in respect of the loan application;

"dwelling house" includes a part of a building to be occupied as a separate dwelling;

"loan" includes any arrangement by which credit is made available;

"native land" has the meaning assigned to it in the Native Land Trust Act;

"village" has the meaning assigned to it in the Fijian Affairs (Interpretation) Regulations.

*Power of Board to give housing finance assistance*

**38.—(1)** Subject to this section and to section 41, the Board may, following receipt from a member of an application for housing finance assistance made in accordance with section 39, at its discretion either—

- (a) lend to the member money in the Fund standing to the credit of that member—

- (i) for an approved purpose; or

- (ii) for transfer to an approved lender to reduce the amount owed by the member to that approved lender under a loan for an approved purpose; or

- (b) provide to the member money in the Fund outstanding to the credit of the member.

**(2) Subjection to subsection 4 and 13. the Board shall not lend money under paragraph (a) of subsection (1) unless the loan is secured by the charge on the relevant property pursuant to subsection (3).**

*(Substituted by Decree No. 5 of 1991 s. 3(a))*

**(3)** For the purposes of subsection (2)—

- (a) a charge on the relevant property shall be registered by the Registrar of Titles against the title of the land charged upon the filing with him by the General Manager, or any officer of the Fund authorised in writing by the General Manager, of a memorandum setting forth the description of the land charged and the amount of the loan;

- (b) when any such charge has been satisfied the General Manager, or any officer of the Fund authorised in writing by the General Manager, shall deposit with the Registrar of Titles a Memorandum of Satisfaction and the Registrar of Titles shall register the same against the title of the land: **Provided that if the member, sold or transferred the relevant property, after attaining the age of 50 years, the General Manager may consent to the transaction without the repayment of the loan then outstanding, and any such charge on the relevant property shall be deemed to have been satisfied.**

*(Inserted by Act No. 15 of 1995 s. 14(b))*

(4) Where the relevant property for the purposes of subsection (2) is native land or a dwelling house constructed or to be constructed on native land, the loan **may** be secured by a mortgage, charge or other security over any real property of the member or any other person which, in the opinion of the Board is of sufficient value, or by a guarantee given by a bank in possession of a valid licence under the Banking Act, 1983.

*(Amended by Act No. 15 of 1995 s. 14 (c))*

(5) A **housing finance assistance given under subsection(1)** may be granted subject to such conditions as the Board considers appropriate in each case to safeguard the Fund and the future financial security of the member.

*(Amended by Act No. 15 of 1995 s. 14 (d))*

(6) Without prejudice to the generality of subsection (5), **housing finance assistance under subsection (1) shall** be granted subject to a provision that if the member withdraws from the Fund after his date of entitlement occurs, the loan then outstanding shall become the absolute property of the member.

*(Amended by Act No. 15 of 1995 s. 14 (e)(i)(ii))*

**(7) Where the Board approves a housing finance assistance under subsection (1) it may require the member to repay by installment the amount so approved.**

*(Substituted by Act No. 15 of 1995 s. 14 (f))*

(8) Where a member is required to make repayments pursuant to subsection (7) the member shall enter into a deed in a form approved by the Board providing for the member to make regular monthly repayments to the Board or to the approved lender as the case may be: **Provided that, if contrary to the deed, the member who is in possession' of the relevant property, after attaining the age of 50 years, wished to repay the loan then outstanding, either in part or in full, the General Manager may refuse to accept such repayments.**

*(Inserted by Act No. 15 of 1995 s. 14 (g) 9i)(ii))*

(9) Every payment received by an approved lender under subsection (8) shall be transferred to the Board by the approved lender before the end of the month following the month in which such payment is received by the approved lender.

(10) Any approved lender failing to transfer payments in accordance with subsection (9) shall be liable to pay a surcharge on the total amount of all payments not so transferred to the Board at the rate of two per cent in respect of each month or part of a month after the expiration of the month following the month during which any such payment was received by the approved lender.

(11) For the purposes of subsection (10)—

- (a) if the amount of surcharge is less than two dollars, the surcharge payable shall be two dollars;
- (b) if the amount of surcharge exceeds two dollars the surcharge payable shall be calculated to the next highest multiple of two dollars;
- (c) the Board may in any case in which it thinks fit remit in whole or in part the payment of any surcharge for which an approved lender has become liable.

**(12) (12) the Board shall not provide any money to a member under paragraph (b) of subsection (1) unless it is satisfied—**

- (a) (i) that the money is to be used to construct, alter or improve a dwelling house on land within a village: or
- (ii) that the money is to be used to construct, alter or improve a dwelling house on hanua ne Kainaga in the Island of Rotuma: and
- (b) that the dwelling house is or is to be occupied by the member.

*(Substituted by Decree No. 5 of 1991 s. 3(b)).*

(13) (a) for the purposes of subsection (2). where the relevant property is on hanua pau or hanua ne on tore in the Island of Rotuma or on land in Rabi Island whether it be Banaban land or not the charge on such lands shall be recorded in the Register;

(b) when the charge on land described in paragraph (a) above has been satisfied the General Manager or any officer of the Fund authorised in writing by him shall deposit a certificate of satisfaction with the District Officer in the case of Rotuma and with the Island Scribe in the case of Rabi Island and the said officers shall enter a memorial of satisfaction in the Register.

*(Inserted by Decree No. 5 of 1991 s. 3(c))*

*Application for housing finance assistance*

**39.**—(1) An application for housing finance assistance under subsection (1) of section 38 shall—

- (a) be made on a form provided for the purpose by the Board; and
- (b) be accompanied by such supporting documents as the Board may need to satisfy itself in respect of any matter under this Part.

(2) The Board shall not approve an application for housing finance assistance under this section—

- (a) unless the applicant has been a member of the Fund for two years and has at **an eligibility of at least \$1,000 after taking into consideration all previous transactions, if any, under section 30 or section 38(1);**

*(Amended by Act No. 34 of 1998 s. 15)*

or

- (b) subject to section 41, if the applicant has on a previous occasion had money lent or provided to him under subsection (1) of section 38.

(3) The Board may require a person who has made an application under this section to supply to it such further evidence as the Board may consider necessary to satisfy itself in respect of any matter under this Part.

*Withdrawals and repayments*

**40.**—(1) Where money in the Fund standing to the credit of a member is lent or provided in accordance with subsection (1) of section 38 the money in the Fund standing to the credit of that member shall be reduced by an amount equivalent to the amount so lent or provided.

(2) Notwithstanding subsection (1), where money is lent or provided in accordance with subsection (1) of section 38 it shall not be deemed to be a withdrawal for the purposes of—

- (a) the definition of "entitled member" in section 2;
- (b) paragraph (c) of subsection (2) of section 16; or
- (c) section 20.

(3) Payments received by the Board—

(a) pursuant to the provisions of a loan made under subsection (1) of section 38;

(b) pursuant to subsection (9) of section 38,

shall be paid into the Fund by the Board, without deduction, and shall be credited to the account of the member concerned as if they were contributions paid in respect of the **month** in which they were received. *(Amended by Act No. 15 of 1995 s. 15)*

(4) Where pursuant to the provisions of—

(a) a loan made under subsection (1) of section 38; or

(b) a deed made under subsection (8) of section 38,

a member is required to make regular monthly payments and, in the opinion of the Board, is failing to make those payments, the Board may at any time disallow the member from making any further payments in respect of that loan or pursuant to that deed except with the Board's approval.

(5) The provisions of subsection (4) shall apply notwithstanding any provision of the relevant loan agreement or deed to the contrary.

*General limitations on loans, etc.*

**41.**—(1) Subject to subsection (2), the Board may lend or provide money to a member under subsection (1) of section 38 on a second or subsequent occasion—

(a) if the whole amount previously lent or provided has been transferred back to the member's account with the Fund:  
**Provided that the total amount withdrawn, lent or provided in respect of a member, at any time, shall not be more than two thirds of the amount standing to the credit of that member if no previous transactions had taken place under the provisions of Section 30 and or subsection (1) of Section 38;**

*(Inserted by Act No. 15 of 1995 s. 16)*

(b) in the case of a loan, if the purpose of such loan is to enable a member to erect a dwelling house on land which was purchased with the assistance of money previously lent to that member pursuant to paragraph (a) of subsection (1) of section 38; or

(c) where, after examination of a member's personal circumstances, the Board is satisfied that special grounds exist for lending or providing money on a second or subsequent occasion.

(2) Notwithstanding subsection (1), the Board shall not in respect of a member lend or provide under this Part an amount which is more than—

(a) two thirds of the amount standing to the credit of that member at the appropriate date;

(b) the amount by which the amount standing to the credit of the member in the Fund on the appropriate date exceeds \$100,

whichever is the less.

*Approval of lenders*

**42.** The Minister may, by notice in the Gazette, approve a lender to be an approved lender for the purposes of this Part and any such

approval may be general or limited to a specified case:  
**Provided that, if an approved lender fails to fulfil the requirements of this Part or of any regulations prescribed by the Board from time to time, inspite of three warnings, the Board may suspend the approved lender for the purposes of this Part for a maximum period of one year. Any suspension for a period of more than one year or the cancellation of the status of an approved lender shall need the approval of the Minister.**  
*(Inserted by Act No. 15 of 1995 s. 17)*

#### Part 9A — Share Investment Scheme<sup>8</sup>

##### *Interpretation*

**42A.—(1)** In this Part, unless the context otherwise requires—

"approved company or corporation" means a company or corporation which is approved by the Board under section 42C for the purposes of this Part;

"approved shares" means shares in an approved company or corporation which are specified by the Board under section 42C(2);

"company" means a company formed and registered under the Companies Act and a subsidiary of such a company;

"corporation" means a body incorporated by statute in the Fiji Islands and a subsidiary of such a body;

"investment account" means an account opened and maintained for a member by a nominee company under section 42G;

"nominee company" means a company nominated by the Board under section 42F;

"ordinary account" means the amount standing to the credit of a member of the Fund as defined in section 17;

"permitted available amount" means—

(a) in respect of every member—a proportion of the member's ordinary account declared by the Board from time to time by notice in the Gazette as the permitted available amount; plus

(b) in respect of an individual member — the amount standing to the member's credit in his or her investment account;

"sale" and "sell" in relation to shares include any form of disposal of shares;

"shares" means fully paid shares as defined in the Companies Act;

"specified transaction" means a transaction which is specified in an application for withdrawal under subsection 42D(1);

"subsidiary", in relation to a company or a corporation, has the same meaning as in section 156 of the Companies Act .

(2) For the purposes of this Part—

---

<sup>8</sup> The whole of this Part was inserted by Act No. 4 of 2001.

- (a) interest on money transferred to an investment account is to be calculated in the same manner as interest on an ordinary account under section 18(5);
- (b) a transfer of an amount is not a withdrawal of contributions for the purposes of Part 8.

*Purchase or reimbursement of cost of shares*

**42B.**—(1) Subject to this Part, a member who has attained the age of 18 years may use the permitted available amount—

- (a) for the purchase of approved shares in an approved company or corporation; or
- (b) for reimbursement of the cost of such shares.

(2) For purposes of this Part, the shares which may be purchased, or the cost of which may be reimbursed, include shares issued on the taking up of a rights issue.

*Approved companies, corporations and shares*

**42C.**—(1) The Board may approve a company or corporation which is—

- (a) listed on the South Pacific Stock Exchange; and
- (b) approved for trustee investments under the Trustee Act ,

as one whose shares may be purchased, or the cost of whose shares may be reimbursed, under this Part.

- (2) In approving a company or a corporation under subsection (1) the Board must specify which share issues or types of share of the company or corporation are approved for purchase, or the cost of whose shares may be reimbursed, under this Part.
- (3) The Board may at any time vary or revoke an approval under subsection (1) without affecting any transaction entered into for a member under this Part before such variation or revocation.

*Application for transfer of amount*

**42D.**—(1) A member wishing to have shares purchased for him or her, or to obtain reimbursement, under this Part must apply on a form approved by the Board for authorisation to transfer the whole or part of the permitted available amount for a specified transaction.

- (2) An application under subsection (1) may be approved by the Board subject to any terms or conditions the Board imposes.
- (3) The amount which may be transferred under this section must not exceed the amount needed for the specified transaction together with the cost of brokerage fees, nominee company fees and other professional expenses in connection with the transaction.
- (4) No transfer may be made under this Part by a member jointly with any other person, whether a member or otherwise.
- (5) An application under subsection (1) for the reimbursement under this Part of the cost of shares purchased by a member, may be approved for an amount not exceeding the weighted average closing price of the shares on the South

Pacific Stock Exchange over a period of 5 trading days immediately preceding the date of the application.

- (6) An application from a member to reimburse the cost of the purchase of shares which are quoted on the South Pacific Stock Exchange, but which are suspended from trading, may only be approved on the sixth trading day after the resumption of trading in those shares and the amount reimbursed must not exceed the weighted average closing price of the shares on the South Pacific Stock Exchange over a period of 5 trading days immediately after the resumption of trading in those shares.

*Insufficiency of available amount*

- 42E.**—(1) If the permitted available amount is insufficient to pay for the purchase of shares in full or to reimburse a member fully for his or her shares already purchased as permitted by the Board, the balance of the purchase price must be paid by the member in cash to retain the balance of such shares, subject to any terms or conditions the Board imposes.
- (2) If a member has paid the balance of the purchase price in cash under subsection (1), the member may not subsequently transfer any amount to reimburse him or her for the purchase price so paid.
  - (3) If a member is permitted to retain shares under subsection (1), the shares so retained must be held by the nominee company and must be dealt with under this Part.

*Nominee company*

- 42F.**—(1) The Board must nominate in writing a company to manage members' investments under this Part.
- (2) The nominee company must hold—
    - (a) money transferred by members of the Fund under section 42D;
    - (b) any shares purchased or the cost of which is reimbursed with such money;
    - (c) any retained shares the cost of which is paid by members in cash under section 42E:
    - (d) any bonus shares received in respect of shares referred to in paragraphs (b) and (c);
    - (e) any shares issued on the taking up of a rights issue in respect of shares referred to in paragraph (b) and (c);
    - (f) any dividends receivable on shares referred to in paragraphs (b), (c), (d), and (e); and
    - (g) any proceeds of sale of such shares,

in trust for the Fund, to be dealt with in accordance with this Part.

- (3) The nominee company must have as its main purpose the carrying on of the business of financial services and must not carry on any other business than the management of members' investments under this Part unless so authorised by the Board in writing.

- (4) The nominee company may charge reasonable fees, which may be—
- (a) paid in cash by the member
  - (b) paid out of the amount transferred under section 42D; or
  - (c) debited to the member's investment account.

*Investment account*

- 42G.**—(1) If a member is authorised to transfer an amount under section 42D, the Board must transfer the approved amount to the nominee company.
- (2) The nominee company must, in respect of a member who is authorised to transfer an amount under section 42D—
- (a) open an investment account for the member;
  - (b) place in that account the money transferred to it under subsection (1).
- (3) If a member who has been authorised to transfer money for the purchase of shares is subsequently unsuccessful in the purchase of the relevant shares, the money must be credited to the member's investment account and remain in that account to be dealt with under this Part.

*Transaction through specified person*

- 42H.**—(1) All purchases and sales of shares on behalf of a member under this Part must be conducted by the nominee company through the South Pacific Stock Exchange and must be effected by—
- (a) a licensed broker; or
  - (b) a person designated in writing by the Board

*Registration of shares*

- 42I.**—(1) Shares to which this section applies must be—
- (a) registered by the nominee company in the name of the Fiji National Provident Fund; and
  - (b) held in trust for the Fund by the nominee company.
- (2) Shares to which this section applies must not be pledged as collateral for any purpose, and any pledge, mortgage or charge given by a member of his or interest in the shares is void and unenforceable against the member or the nominee company.
- (3) The nominee company must open a Share Register in which must be recorded the number and details of all shares to which this section applies and which are held for members.
- (4) This section applies to any shares of a kind mentioned in section 42F (2).

*Bonus and retained shares entitlement*

- 42J.**—(1) Any bonus shares issued in respect of shares which are purchased or retained, or the cost of which is reimbursed, under this Part are deemed to be profit and withdrawal of the proceeds of sale of such shares may be permitted under section 420 after deducting any outstanding net realised loss or

charges.

- (2) If an entitlement to a right issue in respect of shares which are purchased or retained or the cost of which is reimbursed under this Part is sold upon the application of a member, the proceeds of sale are deemed to be profit and subsection (1) applies.
- (3) If any shares retained under subsection 42E or any bonus shares issued in respect of such shares or any entitlement to a rights issue in respect of such shares are or is sold, the proceeds of sale are deemed to be profit and subsection (1) applies.

*Proceeds of sale and dividends to be credited to Investment Account*

**42K.**—(1) If the nominee company, upon the application of a member, sells—

- (a) any shares mentioned in section 42F(2); or
- (b) the member's entitlement to any rights issue in respect of those shares,

the whole proceeds of the sale, less any expenses, must forthwith be credited to the member's Investment Account.

- (2) All dividends declared and received in respect of shares to which section 421 applies must be credited to the respective member's Investment Account.
- (3) If the proceeds of sale credited under subsection (1) are less than the purchase cost, the member does not have any claim in respect of the loss against the nominee company or the Board.

*Net realised profit may be withdrawn*

**42L.**—(1) A member who wishes to withdraw the net realised profit on the sale of the shares to which section 421 applies must apply to the Board on an approved form.

- (2) The withdrawal of a net realised profit under this section is subject to any terms, conditions and procedures the Board imposes.

- (3) The net realised profit (NRP) or net realised loss (NRL) for a financial year is to be calculated in accordance with the formula—

$$\text{NRP or NRL} = [A + -B] - [C + D + E + F + G],$$
 where in relation to that financial year—

A is the sale price of the shares; B is the aggregate of—

- (a) dividends on all shares held by the nominee company for the member; and
- (b) any net realised profit carried forward from the previous financial year;

C is the cost price of the shares sold (excluding the cost of shares which have not been purchased or the cost of which has not been reimbursed under this Part);

D is the total amount of expenses, charges and fees incurred on the purchase and sale of the shares;

E is the interest on the outstanding transferred amount under this Part as at the end of the preceding financial year that would have accrued in the member's ordinary account if the member had not transferred that amount;

F is the cost of any new share purchased under section 42N (3); and

G is any net realised loss carried forward from the previous financial year.

- (4) A member is not entitled to withdraw the net realised profit any earlier than in the financial year following that in which it accrues.
- (5) If a member does not apply under this section to withdraw the net realised profit for any financial year, the profit for that year must be carried forward to the next financial year as accumulated profit.
- (6) If a member has incurred a net realised loss for any financial year, the loss must be carried forward to the next financial year.

*Proceeds of sale to be transferred to Fund*

**42M.**—(1) If —

- (a) the nominee company sells shares which have not been purchased, or the cost of which have not been reimbursed under this Part; and
- (b) the proceeds of sale of such shares have been credited to a member's Investment Account under section 42K,

the nominee company may, upon the application of the member and subject to subsection (4), transfer the proceeds of the sale from the member's Investment Account to the Board, for payment to the member.

- (2) If in June of any year the amount in a member's Investment Account exceeds \$1,000.00 the nominee company must, subject to subsection (3) and (4), transfer the excess amount from the Investment Account to the Board, for crediting to the member's ordinary account.
- (3) An amount transferred from a member's Investment Account under subsection (2)—
  - (a) must not include any net realised profit;
  - (b) must not be more than the sum of the outstanding amount transferred under this Part from the member's ordinary account and the outstanding accrued interest.
- (4) No amount is to be transferred from a member's Investment Account and paid to a member, or credited to his or her ordinary account as the case may be, before recovery is made—
  - (a) for any outstanding net realised loss; and
  - (b) for any outstanding fees and charges permitted under this Part.

*New shares may be purchased*

- 42N.**—(1) If shares which were purchased under this Part have been sold and the proceeds credited to a member's Investment Account under section 42K (1), the member may, upon application, be permitted by the Board to use the proceeds of sale to purchase new approved shares.
- (2) Shares purchased under subsection (1) are deemed to be shares purchased for the member under this Part.
- (3) A member, upon application, may be permitted by the Board to use net realised profit as defined in section 42L to purchase new approved shares.
- (4) Shares purchased under subsection (3) are deemed to be shares retained under section 42E.
- (5) A reference in this section to shares purchased includes shares the cost of which is reimbursed.

*Withdrawal of contributions from the Fund*

- 42O.**—(1) If a member who is entitled to withdraw money from the Fund under Part VIII applies to withdraw in full his or her credit in the Fund, the nominee company must—
- (a) pay to the Board the amount standing to credit in the member's Investment Account; and
- (b) at the election of the member either—
- (i) sell any shares held for the member and pay the proceeds of the sale to the Board; or
- (ii) in respect of unsold shares held for the member — transfer the registration of them to the member and send them to the Board for delivery to the member.
- (2) On receiving a payment under subsection (1)(a) or (b)(i) the Board must—
- (a) credit the member's ordinary account with the outstanding amount transferred under this Part, together with accrued interest, for withdrawal by the member under Part 8; and
- (b) pay any balance to the member as net realised profit under this Part.
- (3) If, on the death of a member, an application is made under Part 8 to withdraw the sum standing to the member's credit in the Fund, the nominee company must sell any shares held for the member and pay the proceeds of the sale to the Board which must—
- (a) credit the member's ordinary account with the outstanding amount transferred under this Part, together with accrued interest, for payment in accordance with Part 8; and
- (b) pay any balance, in accordance with Part 7, as net realised profit under this Part.

*Termination of Investment Account*

**42P.**—(1) If a member, before reaching the date of entitlement, wishes to terminate his or Investment Account, the nominee company, upon application by the member, must—

- (a) sell all the shares purchased for the member, or the cost of which has been reimbursed, under this Part;
- (b) at the request of the member, sell any shares held by the company for the member which were not purchased, or the cost of which was not reimbursed, under this Part; and
- (c) calculate the net realised profit or the net realised loss and pay the total proceeds of the sale to the Board.

(2) On receiving a payment under subsection (1) (c) the Board must—

- (a) credit the member's ordinary account with the outstanding amount transferred under this Part, together with accrued interest;
- (b) pay any balance to the member as net realised profit under this Part.

(3) If the nominee company holds for the member any unsold shares which were not purchased, or the cost of which was not reimbursed, under this Part, the company must—

- (a) transfer the registration of them to the member; and
- (b) send them to the Board for delivery to the member.

*Opening a new Investment Account*

**42Q.**—(1) A member who has terminated his or her Investment Account with the nominee company may in a subsequent financial year open a new Investment Account by applying to purchase new shares, or to have the cost of new shares reimbursed, under this Part and thus open a new Investment Account.

(2) If -

- (a) there is a net realised loss pending in a member's Investment Account when it is terminated; and
- (b) the member subsequently opens a new Investment Account under this section,

the loss must be carried forward to the new Investment Account and dealt with under this Part.

*Bankruptcy*

**42R.**—(1) If a member is adjudicated bankrupt after he or she has applied to transfer an amount from the Fund under this Part the Board may, notwithstanding the bankruptcy, permit a transfer to be made for the specified transaction and the shares so purchased do not form part of the member's after acquired property.

(2) Any bonus shares or an entitlement to a rights issue issued in respect of shares which are purchased, or the cost of which is reimbursed, under this Part after a member is adjudicated bankrupt do not form part of the member's after acquired property.

- (3) A member to whom this section applies must not make any further transfers for any purpose under this Part for so long as he or she remains bankrupt.

*Recovery of unpaid fees, etc.*

**42S.**—(1) If in the month of June of each year any amount in respect of purchase and sale of shares, professional fees, brokerage fees and charges or any similar charge remains unpaid from a member's Investment Account due to a net realised loss, the Board may transfer an amount, equal to the unpaid amount, from the member's ordinary account to his or her Investment Account to clear the debt.

- (2) A amount under section (1) is deemed to be an amount transferred under section 42D.

*Statement of account*

**42T.**—(1) As soon as possible after the end of each financial year the nominee company must issue, to every member who has an Investment Account, a statement of account giving—

- (a) the number and details of the shares held for the member; and
- (b) an account of the purchase and sale of the shares, showing the net realised profit or net realised loss.

*Breach of provisions of this Part*

**42U.**—(1) If the Board after due enquiry is satisfied that a member has contravened any provision of this Part, or made a false representation or furnished any false information in connection with this Part, the Board may—

- (a) require the nominee company to sell any shares of the member which were purchased or the cost of which was reimbursed, under this Part and refund the proceeds, less any profit, to the member's ordinary account;
  - (b) require the nominee company to pay any profit from the sale of such shares to the general revenues of the Fund; and
  - (c) prohibit the member from making any transfer under this Part for a period of one year, or such longer period as the Board determines, from the date the breach was committed by the member.
- (2) The Board must not make any finding or impose any penalty by way of a requirement or prohibition under subsection (1) unless it has first given the member adequate opportunity to make representations as to the facts and as to the appropriate penalty.

*Advisory service*

**42V.**—(1) Before processing a transaction for a member under this Part the nominee company must advise the member of the legal and financial implications of the transaction, but the nominee company does not thereby incur any liability to the member for the advice so given.

- (2) Neither the Board nor the nominee company is liable to any member for any transaction entered into on behalf of the member at the member's request under this Part and no liability to the member is incurred by the Board or the

nominee company as a result of any such transaction.

- (3) The nominee company is required to update members who use the scheme regularly on the performance of companies authorised by the Board under section 42C

#### Part 10—Protection of sums contributed and withdrawn

##### *Member's credit not subject to sequestration*

**43.**—(1) Notwithstanding the provisions of any other written law but subject to the provisions of subsection (2), no contribution to the Fund, nor any amount standing to the credit of a member in the Fund nor interest on any such contribution or amount, nor withdrawals made by the authority of the Board from the Fund **in accordance with section 30, 31 or 35**, nor the rights of any member of the Fund acquired under this Act, nor the right to receive any annuity under any order made under the provisions of paragraph (b) of section 64, shall be assignable or transferable or liable to be attached, sequestrated or levied upon for or in respect of any debt or claim whatsoever.

*(Amended by Act No. 29 of 1986 s. 14)*

(2) Notwithstanding the provisions of any other written law, all moneys paid out of the Fund on the death of any member of the Fund shall be deemed to be impressed with a trust in favour of the person nominated under the provisions of section 34 by the deceased member or, if no such person has been nominated, the person or persons determined by the Court in accordance with the provisions of subsection.(1) of section 35 to be entitled thereto and shall be deemed not to form part of the deceased member's estate nor to be subject to his debts.

*(Amended by Act 9 of 1974, .s,' 16.)*

##### *Authority of Board to make payments abroad*

**44.** Notwithstanding the provisions of any other written law, it shall be lawful for the Board to make payment of any sum due as a withdrawal or the payment of any annuity payable under this Act to a member of the Fund in any country in which that member is resident at the time when such payment becomes due.

*(Inserted by Act 9 of 1974, s. 17.)*

##### *Payments under annuities deemed to be sums withdrawn from the Fund*

**45.** For the purpose of any written law, any payment in respect of an annuity payable under any order made under the provisions of paragraph (b) of section 64 shall be deemed to be a sum withdrawn from the Fund and shall be exempt from any tax or levy imposed by any written law.

*(Inserted by Act 9 of 1974, s. 17.)*

##### *Bankruptcy of employee*

**46.** The bankruptcy of an employee shall not affect the payment of contributions from the wages of the employee in accordance with the provisions of this Act, but such payments shall continue to be made notwithstanding the provisions of any other Act and the portion of wages so paid shall be deemed not to form part of his after acquired property.

##### *Bankruptcy, liquidation, etc., of employer*

**47.**—(1) Where any trustee in bankruptcy, assignee, liquidator, receiver, personal representative or other such person is dealing with the property, business or estate of any employer who has failed to pay any contributions payable by the employer under the provisions of this Act, such person shall pay such contributions in such manner as may be determined by the Board before making any distribution of such property, business or estate.

(2) Any trustee in bankruptcy, assignee, personal representative or other such person shall, before distributing any assets under his control, obtain from the **General Manager** of the Fund a certificate to the effect that all contributions payable under the provisions of this Act by such person out of any estate under his control have

been paid.

*(Amended by Act No. 29 of 1986 s. 16)*

(3) If any distribution is made by any trustee in bankruptcy, assignee, personal representative or other such person without first obtaining a certificate under the provisions of subsection (2), then such person shall be personally liable for any unpaid contributions together with any surcharge payable under the provisions of section 14.

**(4) Nothing in this section affects the operation of section 312 of the Companies Act, 1983, and section 35 of the Bankruptcy Act.**

*(Substituted by Ordinance 63 of 1968, s. 4; subsecs. (1) and (2) amended by Act 21 of 1974, s. 3, subsection (4) inserted by Act No. 29 of 1986 s. 15)*

*Secrecy*

**48.** Notwithstanding the provisions of any other Act, the Board shall not be required to divulge, save to the member, or if the member is dead, to his nominee, any matter relating to the amount standing to the credit of a member of the Fund, nor any particulars of such member or of any employer save with the consent of such member or employer:

Provided that nothing in this section shall prevent the Board or its officers from giving evidence relating to any such matter in any criminal proceedings.

Part 11—Offences, Penalties and Proceedings

*Offences and penalties*

**49.—**(1) If any person—

- (a) for any purpose connected with this Act—
  - (i) knowingly makes any false statement; or
  - (ii) produces or furnishes or causes or knowingly allows to be produced or furnished any document which he knows to be false in a material particular;
- (b) fails to pay to the Fund in any month any amount which, under the provisions of subsection (i) of section 13, he is liable to pay in that month;
- (c) obstructs any officer or servant of the Board in the discharge of his functions as such;
- (d) ***Repealed by Act No. 34 of 1998 s. 16---the paragraph to be deleted;***
- (e) ***Repealed by Act No. 34 of 1998 s. 16---the paragraph to be deleted;***
- (f) fails to pay to the Board, within such period as may be prescribed, any surcharge which he is liable to pay under the provisions of section 14 **or subsection (10) of section 38;** *(Amended by Act No. 15 of 1995 s. 18)*
- (g) being or ever having been a member, officer, servant or agent of the Board directly or indirectly communicates or reveals to any person any matter relating to the business of the Board which shall have become known to him in his capacity as member, officer, servant or agent, except as may be required for the due discharge of his duties as such member, officer, servant or agent or as may be permitted by the Board;
- (h) procures any member, officer, servant or agent of the Board or any person who had ever been such member, officer, servant or agent to communicate or reveal any such matter as is set out in paragraph (g);
- (i) ***Repealed by Act No. 34 of 1998 s. 16---the paragraph to be deleted ;***
- (j) fails to pay any contribution or surcharge which he is required to pay under the provisions of section 47;
- (k) fails to produce at the time specified, any document required to be produced by notice in writing under the provisions of paragraph (c) of section 61,

he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

*(Amended by Ordinance 13 of 1967, s. 3; 63 of 1968, s. 5; Act 1 of 1970, s. 9; 21 of 1974, s. 4.)*

- (2) If any person—
- (a) makes, in respect of any contributions, any deductions in any manner other than by deduction from the wages in respect of which such contributions are calculated or at time other than the time at which such wages are payable;
  - (b) deducts from the wages of any employee any sum greater than that permitted to be recovered under the provisions of this Act; or
  - (c) having made any deductions, fails to pay to the Fund in the months in which they are due the contributions in respect of which such deductions have been made,

he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment. (*Substituted by Act 1 of 1976, s. 6.*)

(3) Notwithstanding the provisions of any other Act, proceedings may be taken for any offence under this Act within 3 years of the date of commission of such offence.

*Notice of unpaid contributions*

**50.** If notice of intention so to do is served by the prosecuting officer upon the defendant, evidence may be given, at any trial for an offence under the provisions of paragraph (b) of subsection (1) or of subsection (2) of section 49, of other contributions unpaid at the date of the service of the summons upon the defendant, in respect of other employees, in the form of a certificate under the hand of the **General Manager or of any officer, servant or agent of the Board authorized in writing for the purpose by the General Manager** and, if the defendant is convicted of such offence, the court by which he is so convicted **shall**, without prejudice to any right under the provisions of section 56, order the defendant to pay to the Fund the amount of such unpaid contributions, together with any contribution unpaid at the date of trial in respect of the charge upon which the defendant has been convicted, and the provisions of the Penal Code relating to fines shall apply to any such contributions or any portion thereof so ordered to be paid.

(*Amended by Ordinance 63 of 1968, s. 6; 41 of 1969, s. 7; Act 9 of 1973, s. 5; 21 of 1974, s. 5, 29 of 1986 s. 16., 15 of 1995 s. 19, 34 of 1998 s. 17*)

*Further powers of court*

**51.** Where any person is convicted under the provisions of paragraph (f) or (j) of subsection (1) of section 49 of failure to make any transfer or to pay any surcharge, the court by which he is so convicted **shall**, without prejudice to the provisions of section 56, order the defendant to pay to the Fund the amount required to be transferred or to be paid as a surcharge in the same way as is provided in relation to the payment of contributions under the provisions of section 50. (*Inserted by Ordinance 41 of 1969, s. 8, amended by Act No. 15 of 1995 s. 20, 34 of 1998 s. 18*)

*Liability of officers of corporations*

**52.** Where an offence under this Act has been committed by a body corporate, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or other body of persons or was purporting to act in such capacity shall, as well as such body corporate, firm, society or other body of persons, be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

*Repayment to employee of illegal deductions*

**53.** Where it is shown to the satisfaction of any court, on conviction for any offence under this Act, that any employer has made any deductions or recovered any money from any employee in respect of any contributions otherwise than in accordance with the provisions of this Act, the court may order such employer to repay to any employee in respect of whom such illegal deductions or recoveries have been

made the amount of such illegal deductions or recoveries.

*(Inserted by Act 1 of 1976, s. 7)*

*Prosecutions*

**54.** Prosecutions in respect of any offences under this Act may be instituted by the Manager, or by any officer, servant or agent of the Board authorised in writing in that behalf by the **General Manager or of any officer, servant or agent of the Board authorized in writing for the purpose by the General Manager**, and the Manager or any such authorised officer, servant or agent may conduct any such prosecutions, whether or not he was the person who made the complaint to institute or otherwise instituted the proceedings.

*(Substituted by Act 21 of 1974, s. 6., 29 of 1986 s. 16, amended by Act No. 34 of 1998 s. 19)*

*Evidence in proceedings*

**55.** In any criminal or civil legal proceedings under the provisions of this Act, a copy of an entry in the records or accounts of the Fund duly certified under the hand of the Manager shall be *prima facie* evidence of such entry having been made and of the truth of the contents thereof, and a certificate under the hand of the Manager that there is no entry shall be *prima facie* evidence that no entry has been made.

*Civil proceedings*

**56.—**(1) All contributions payable under the provisions of this Act may, without prejudice to any other remedy, be recoverable by the Board as a debt due.

(2) Proceedings for the recovery as civil debts of any contribution may, notwithstanding anything in any other Act to the contrary, be brought at any time within 6 years from the date when the contribution becomes due.

(3) Proceedings for the recovery as civil debts of contributions may be instituted by the Manager, or by any officer, servant or agent of the Board authorised in writing in that behalf by the **General Manager**, and the **General Manager** or any such authorised officer, servant or agent may conduct any such proceedings whether or not he was the person who instituted the proceedings.

*(Substituted by Act 21 of 1974, s. 7, amended by Act No. 29 of 1986 s. 16.)*

(4) In this section, the word "contribution" shall be deemed to include any surcharge under the provisions of section 14.

*Loss of benefit through default of employer*

**57.** If, as a consequence of a failure by an employer to pay any contribution at the time when such contribution is due, any benefit under the provisions of this Act which would have been payable to any person if such failure had not occurred is not payable, such employer shall, if convicted in any court of failure to pay such contribution at the time it was due, be liable to pay to the Fund the amount of benefit which would have been payable had the contribution been paid at the due time.

*(Inserted by Act 1 of 1976, s. 8.)*

*Proceedings*

**58.** Any sum which an employer shall be liable to pay under the provisions of section 57 shall be recoverable by the Board as a debt due and proceedings for the recovery of such a debt may be instituted by any of the persons authorised to institute proceedings under the provisions of subsection (3) of section 56.

*(Inserted by Act 21 of 1976, s. 8.)*

*Application of sums recovered by Board*

**59.** Any sum recovered by the Board under the provisions of sections 57 or 58 shall be paid by the Board to the person or persons who would, but for the offence of which the employer has been convicted, have been entitled to receive it under any of the provisions of this Act and, for the purposes of section 43, such payment shall be deemed to be a withdrawal from the Fund.

*(Inserted by Act 21 of 1976, s. 8.)*

*Certificate by Manager*

**60.** In any proceedings instituted under the provisions of section 58, a certificate under the hand of the **General Manager or of any officer, servant or agent of the Board authorized in writing for the purpose by the General Manager** as to the amount of benefit which would have been payable had the offence in respect of which an employer has been convicted not been committed shall be *prima facie* evidence of the nature and amount of the debt due.

*(Inserted by Act 21 of 1976, s. 8, amended by Act No. 29 of 1986 s. 16, 34 of 1998 s. 20)*

Part 12—Powers OF Inspectors and Officers of the Fund

*Powers of inspectors*

**61.** An inspector appointed under the provisions of subsection (3) of section 5 may, at any reasonable time—

- (a) enter any premises or place where persons are believed to be engaged as employees;
- (b) make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act are being or have been complied with in any such premises or place;
- (c) require the production of any document which an employer is required to keep under the provisions of this Act or of the Employment Act, or any document relating to a contract or the conditions of service existing between an employer and his employee or employees and, for this purpose, may, by notice in writing served on an employer, either in accordance with the provisions of subsection (6) of section 2 of the Interpretation Act or, in any case, by sending it by registered post to an employer's address, require such production at any place reasonably accessible to such employer on a date and at a time specified in such notice, provided that the date so specified shall not be less than 21 days from the date of service of such notice and the notice shall be deemed to have been served upon the employer when the notice would arrive at the nearest post office in the ordinary course of post;
- (d) examine, either alone or in the presence of any other person, with respect to any matters under this Act on which he may reasonably require information, every person whom he has reason to believe can give information respecting the subject matter of the inquiry, and require such person to be examined, and for the purposes of such examination, may summon any such person to attend at the time and place specified in such summons.

*(Amended by Act 1 of 1970, s. 10; 9 of 1973, s. 6; 21 of 1974, s. 8.)*

*Powers of officers of the Fund*

**62.** An inspector, or any person appointed under the provisions of section 5 and so authorised in writing by the **General Manager**, may make such examination and inquiry as may be necessary for ascertaining the truth of any statement made for the purpose of establishing the date of entitlement of any member of the Fund and may, for that purpose—

*(Amended by Act No. 29 of 1986 s. 16)*

- (a) examine, either alone or in the presence of any other person, with respect to any matters under this Act on which he may reasonably require information, every person whom he has reason to believe can give information respecting the subject matter of the inquiry, and require every such person to be examined and, for the purposes of such examination, may summon any such person to attend at the time and place specified in such summons;
- (b) require any person who makes any such statement to sign a declaration as to its truth.

## Part 13—Regulations

### *Regulations*

- 63.** The Board may make regulations for any purpose for which regulations may be made under the provisions of this Act and for prescribing anything which may be prescribed thereunder and otherwise for the purpose of carrying this Act into effect, and, in particular, but without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters:—
- (a) to provide for the registration of employers and employees in anticipation of the coming into force of any of the provisions of this Act;
  - (b) to provide for the manner of payment and collection of contributions and any matters incidental thereto;
  - (c) to provide for the disposal of amounts which are unclaimed, unpaid or otherwise remain in the Fund;
  - (d) to provide for—
    - (i) the return of contributions under the provisions of this Act, or any part of such contributions, paid in error;
    - (ii) the payment of contributions under the provisions of this Act, or of any part of such contributions, omitted to be paid in error;
  - (e) to provide for the keeping of books, accounts or records by employers;
  - (f) to provide for the appointment of medical boards for the purposes of paragraph (c) of the definition of "date of entitlement" in section 2 and for such other purposes as may be prescribed;
  - (g) to prescribe the procedure for the withdrawal of amounts from the Fund;
  - (h) to prescribe the evidence to be produced and the person, officer or authority to whom such evidence is to be produced for the purposes of section 33;
  - (i) to prescribe the procedure to be followed when contributions are paid by an employer into the Fund;
  - (j) to prescribe the form and period of any notice to be given by an employee to his employer under the provisions of paragraph (a) of subsection (3) of section 13;
  - (k) to prescribe the procedure to be followed when any voluntary contribution is paid to the Fund;
  - (l) to prescribe the returns to be made by employers, and the forms and registers to be used, in carrying out the provisions of this Act;
  - (m) to prescribe the amount, frequency of payment and duration of any annuity payable under the provisions of paragraph (b) of section 64;
  - (n) to prescribe anything needed to give effect to Part 9 A (Share Investment Scheme).**

*(Inserted by Act No. 4 of 2001 s. 3(3))*

## Part 14—POWERS OF THE MINISTER<sup>9</sup>

### *Exemptions and annuities*

- 64.** The Minister may, in addition to any other powers conferred by the provisions of this Act, after consulting the Board—
- (a) exempt by order any person or class of persons from all or any of the provisions of this Act;
  - (b) provide, by order, that, notwithstanding the provisions of sections 31, 32, 35 and 36, any person or class of persons, entitled under the provisions of those sections to receive the whole or part of the amount standing to the credit of a member in the Fund, may receive, in place of all or part of any sum due to them, an annuity based upon that sum or part

<sup>9</sup> The heading of this Part was amended by Legal Notice No. 112 of 1970.

thereof.  
(Amended by Legal Notice No. 112 of 1970)

*Reciprocal agreements*

**65.—(1)** The Minister, after consulting the Board, may enter into a reciprocal agreement with the government of any other country or territory in which a fund similar to the Fund has been established and such agreement may provide, amongst other matters that—

- (a) any period of work for an employer in that country or territory shall be treated as a period of work in Fiji for that employer for the purpose of the definition of "employee" contained in section 2; and
- (b) subject to such conditions as may be laid down in the reciprocal agreement, any amount standing to the credit of any member of the Fund who works for any employer in that country or territory may be transferred to his credit in such fund, and any amount standing to the credit in such fund of any person who becomes a member of the Fund may be transferred to his credit in the Fund,

and, if any such reciprocal agreement containing such provisions shall be entered into, the definition of "employee" contained in section 2 shall be deemed to be modified accordingly, so, however, that no person shall be required to contribute to the Fund in respect of any period during which he did not work in Fiji and no employer shall be required to contribute in respect of any such employee during such period and the transfer by the Board of credits to and from the Fund in such manner shall be permitted.

(Amended by Legal Notice 112 of 1970.)

(2) Any reciprocal agreement made under the provisions of subsection (1) shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be provided in the agreement.

FIRST SCHEDULE  
(Section 2)

---

EXEMPTIONS

1. Any domestic servant or child as defined in the Employment Act.
  2. Any outworker as defined in the Workmen's Compensation Act.
  3. Any person detained in any prison, approved school, mental hospital or leper asylum.
  4. Any person who is a member of a Provident Fund established by the provisions of any other Act.
- 5. Any person who is not a citizen of Fiji and has privileges extended to him under the Diplomatic Privileges and Immunities Act.**

(Substituted by Act No. 15 of 1995 s. 21)

SECOND SCHEDULE<sup>10</sup>  
(Section 13)

---

RATES OF CONTRIBUTION

The monthly contribution by an employer under the provisions of subsection (1) of section 13 shall be **16** cents in respect of each complete dollar in the amount of wages of the employee for the preceding month, and the amount which may be recovered by the employer under the provisions of subsection (2) of such section from the employee's wages for the preceding month shall be one half of such contribution:

Provided that, where, in any month, the rate of wages payable to an employee does not exceed 30 cents per hour, no sum shall be recoverable by an employer from the employee's wages for that month.

*Controlled by Ministry of Finance*

---

<sup>10</sup> This Schedule was amended by Ordinance 63 of 1968, s. 7; Act 9 of 1973, s. 7; 9 of 1974, s. 19; 17 of 1978, s. 6, 34 of 1998 s.21)

SECTION 2—DECLARATION OF EMPLOYEES

*Legal Notice No. 223 of 1974*

The following persons shall be, or be deemed to be, employees for the purpose of the Act:—

The Members of the Legislative Council, the House of Representatives and the Senate, with effect from 21 October 1966, in respect of all wages arising out of any period of such Membership.

SECTION 63—FIJI NATIONAL PROVIDENT FUND REGULATIONS

*Regulations 21 June 1966, Legal Notices Nos. 20 of 1968, 83 of 1969, 2 of 1970, 2 of 1971, 65 of 1971, 6 of 1972, 20 of 1973, 124 of 1974, 88 of 1978, 39 of 1979, 44 of 1982, 8 of 1987, 53 of 1990, 95 of 1995, 102 of 1995, 125 of 1998, 8 of 2000, 20 of 2002*

TABLE OF PROVISIONS

REGULATION

Part 1—Preliminary

1. Short title
2. Interpretation
3. Delegation

Part 2—Registration of Employers and Employees

4. Employers required to register
5. Employer's reference number
6. Manager to supply registration forms for employees
7. Employer to register employees
8. Employee to sign or make thumbprint
9. Employee to furnish information
10. Certificate of membership
- 11.** Notices of nomination
12. Incomplete documents
13. **Repealed**
14. Voluntary membership

Part 3—Payment of Contributions into the Fund

- 15.** Manner of payment of contributions
- 16.** Documents to accompany payment
- 17.** Receipts
- 18.** Six-monthly schedules and remittance statements
- 18A.** **Repealed**
- 19.** Procedure for schedules, remittance statements and receipts
20. Completion of remittance statements
21. Remittance by voluntary member
22. Duplicates to be kept

- 23. Receipts
- 24. New employees
- 25. Employee leaving service of employer
- 26. Schedule to be sent to Manager half-yearly
- 26A. **Repealed**
- 27. Where employer ceases to be liable to pay contributions
- 28. Interim statements
- 28A. **Employee opting to re-enter after withdrawal**
- 28B. **Contributions paid in respect of withdrawn members**
- 29. Arrears
- 30. No alterations to be made to schedules
  
- 31. Documents to be available for inspection
- 32. Date for payment of surcharge
- 33. Voluntary excess contributions
- 34. **Repealed**
- 35. Procedure on rejoining Fund
- 36. **Repealed**
- 37. Appropriate forms to be forwarded to the General Manager

Part 4—Contributions made or omitted to be made in error

- 38. Refunds and offsets
- 39. No refund without Board's consent
- 39A. **Contributions made on behalf of non-eligible persons**
- 40. Late payments

Part 5—Disposal of amounts unclaimed or otherwise remaining in the Fund

- 41. Unidentified contributions
- 42. Disposal of moneys when no application made under section 32
- 43. Disposal of other moneys
- 44. Contributions remaining in the Fund
- 45. Unclaimed Deposits Account
- 46. Payments out of Unclaimed Deposits Account
- 47. No interest to be added
- 48. Unclaimed Deposits Account to form -part of Fund
- 49. General Reserve Account

Part 6—Nominations

- 50. Persons who may nominate and be nominated
- 51. Invalid nominations
- 52. Nomination to be in writing
- 53. Attestor not to benefit
- 54. Nomination to be sent during lifetime of member
- 55. Revocation of nomination
- 56. Death of nominee
- 57. Saving for nominations made under Fiji National Provident Fund (Preliminary Registration) Regulations, 1966

Part 7—Withdrawals

- 58. Applications
- 59. Age given on registration form to be binding
- 60. Evidence of death
- 61. Member not heard of for 7 years
- 62. Evidence of incapacity
- 63. Medical boards
- 64. Evidence of leaving Fiji

- 65. Evidence of marriage
- 66- Death of a member during withdrawal
- 66A. Interpretation**
- 66B. Prescribed amount**

Part 8—Special Death Benefit

- 67. Conditions
- 68. Rate of benefit
- 69. Posthumous payment cannot be premium
- 70. Benefit in case of posthumous membership

Part 9—Payments out of the Fund

- 71.** Method of payment of withdrawals
- 72. Receipts
- 73. Persons of unsound mind
- 74. Where no committee appointed
- 75. Posting to be equivalent to delivery

**Part 9A----Share Investment Scheme**

**75A. Permitted available amount**

Part 10—Members Statements of Accounts

- 76. Statements of account to be sent to employer
- 77. Employer to deliver statements to employees
- 78. Employees who do not receive accounts

Part 11—Offences and Penalties

- 79. Offences by employers
- 80. Offences by employees
- 81.** Forms to remain property of the Board

Part 12—Miscellaneous

- 82. Duplicate certificates
- 83. Exercise of option
- 84. **Repealed**
- 85. **Repealed**
- 86.** **Repealed**

Schedule—Persons Eligible to Become Voluntary Contributors

Part 1—Preliminary

*Short title*

**1.** These Regulations may be cited as the Fiji National Provident Fund Regulations.

*Interpretation*

**2.** In these Regulations, unless the context otherwise requires—  
 "appropriate form" means a form approved by the Manager for use in any particular case pursuant to these Regulations;

"contribution half-year" or "half-year" *Repealed by Legal Notice No. 102 of 1995 r. 2(a)---the definition to be deleted;*

"General Manager" means the General Manager or, with respect to any matter, any officer appointed under the provisions of subsection (1) of section 5 of the Act and authorized by the General

Manager to act on his behalf in such matter;  
(Amended by Legal Notice No. 8 of 1987 r. 12)  
"test period" **Repealed by Legal Notice No. 102 of 1995 r. 2(b)---the definition to be deleted;**  
"voluntary member" means a voluntary contributor who is a member of the Fund.  
(Amended by Legal Notice 2 of 1971.)

*Delegation*

3. Anything which is required to be done or which may be done by the Board under the provisions of these Regulations, may be done by an officer of the Board to whom power has been delegated by the Board for such purpose and anything which is required to be shown to the satisfaction of the Board may be shown to the satisfaction of such officer.

Part 2—Registration of Employers and Employees

*Employers required to register*

4.—(1) Every person being an employer as at 1 August 1966 shall forthwith register himself as an employer by obtaining, completing and forwarding the appropriate form to the General Manager at the office of the Fund, unless he has already done so under the provisions of the Fiji National Provident Fund (Preliminary Registrations) Regulations, 1966.

(2) Every person who is registered and who subsequently ceases to be an employer shall inform the General Manager accordingly within 1 month of ceasing to be an employer.

(3) Every person becoming or again becoming an employer after 1 August 1966 shall forthwith register in the manner aforesaid.

(4) Every employer who has registered shall inform the General Manager forthwith in writing of any change in his address.

*Employer's reference number*

5. The General Manager shall register and allot an employer's reference number to every registered employer.

*Manager to supply registration forms for employees*

6. As soon as possible after an employer is registered, the General Manager shall forward to him, in respect of each of his employees who is under the age of 55 years, the appropriate form for registration of an employee, and every employer receiving such forms shall complete them in respect of such employees and return them to the General Manager within 14 days.

*Employer to register employees*

7. Every employer shall, as soon as any person not already a member of the Fund under the age of 55 years becomes his employee, register him on the appropriate form and forward such form to the General Manager within one month of the date of commencement of his employment.

*Employee to sign or make thumbprint and provide photograph*

8.—(1) Every employee who is required to complete a registration form by virtue of regulation 7 must provide—

- (a) a recent passport size photograph of himself or herself; and
- (b) his or her written signature in the space provided on the form.

(2) If an employee is unable to write, he or she must instead of a written signature provide on the form a clear impression of his or her left thumbprint or, if unable to provide such an impression, a clear impression of his or her right

**thumbprint.**

**(3) The impression or signature required by sub-regulation (1) or (2) must be witnessed and countersigned by—**

- (a) the employer**
- (b) a representative of the employer; or**
- (c) an officer of the Fund**

**(4) If an employee is unable to provide the impression or signature required in sub regulation (1) or (2), the General Manager may in writing authorise any other mark of identification that the General Manager thinks fit.**

**(5) The photograph required by sub-regulation (1)(a) must be countersigned on the reverse by one of the people mentioned in sub-regulation (3) to the effect that it is true likeness of the employee.**

*(Substituted by Legal Notice No. 8 of 2000 r. 2)*

*Employee to furnish information*

**9.** Every employee shall furnish to his employer all such details as may be necessary for the completion of such returns as are required to be made by his employer under the provisions of these Regulations.

*Certificate of membership*

**10.** On the first occasion when an employee is registered by his employer, the General Manager shall forward to the employer a certificate of membership of the Fund in the appropriate form together with a notice of nomination in the appropriate form and every employer to whom such forms are sent shall, as soon as reasonably possible, hand them over to the employee concerned or, if that employee is no longer in his employment, return them to the General Manager.

*(Amended by Legal Notice No. 102 of 1995 r. 3)*

*Notices of nomination*

**11.** Every employee receiving a notice of nomination shall complete and forward it to the General Manager within 1 month of receipt.

*Incomplete documents*

**12.** If, in the opinion of the General Manager, any document required to be completed by an employer under the provisions of these Regulations is incomplete or inaccurate or insufficiently legible or any impression made thereon is insufficiently clear to identify the employee, the General Manager may return the document to the employer who shall, as the General Manager may require, either forthwith obtain, complete and forward to the General Manager within one week of the date of return to him of the said document a fresh document in place thereof or correct and return the original document within one week.

*Members of permitted funds to be registered*

**13.** Repealed by Legal Notice No. 102 of 2995 r. 25

*Voluntary membership*

**14.—(1)** Any person who was a voluntary contributor immediately before 7 May 1982 shall continue to be a voluntary contributor.

**(2)** Any person who is not an employee nor a person described in subsection (2) of section 16 of the Act and who is a person of any of the descriptions set out in the Schedule may become a voluntary contributor upon giving to the Board notice in accordance with paragraph (3).

**(3)** A person who desires to become a voluntary contributor shall give

notice to the Board of such his desire by completing the appropriate registration form and delivering it or sending it by post to the Board; and, in the case where he desires to become a voluntary contributor as a former employee, such notice shall be so given not more than 6 months (or such longer period as the Board may in any case allow) after he ceased to be an employee.

(4) A notice under paragraph (3) shall be deemed to have been given to the Board on the date on which the appropriate registration form constituting the same was received at the Board's office.

(5) Where such notice has been given by a person of any of the descriptions set out in the Schedule, the General Manager shall send him a certificate of voluntary membership in the appropriate form together with a notice of nomination in the appropriate form; and such form of notice of nomination shall be completed and returned by that person to the Board within 1 month of its receipt by that person.

(6) A person who becomes a voluntary contributor may commence payment of contributions not earlier than the half-year in which he gives notice to the Board in accordance with paragraph (3).

*(Inserted by Legal Notice 2 of 1971; substituted by Legal Notice 44 of 1982, amended by Legal Notice No. 102 of 1995 r. 4.)*

### Part 3—Payment of Contributions into the Fund

#### *Manner of payment of contributions*

15. All contributions to the Fund shall be paid to the Fund either—
- (a) in cash at the office of the Fund to an officer of the Fund authorized by the General Manager in that behalf; or
  - (b) by money order, postal order or cheque, drawn on any bank in Fiji, delivered or sent by post to the office of the Fund; or
  - (c) in such other manner as the General Manager may from time to time authorize in any particular case or class of cases.

#### *Documents to accompany payment*

16. All payments of contributions to the Fund shall be accompanied by the appropriate forms duly completed, or by such other forms as the General Manager may in any particular case or class of cases permit.

#### *Receipts*

17. A receipt for each sum paid to the Fund on account of contributions to the Fund shall be given by the General Manager on the appropriate form.

#### *Six-monthly schedules and remittance statements*

18. The General Manager shall dispatch, at the appropriate time, to every employer who is registered under the provisions of regulation 5 six-monthly schedules of contributions (hereinafter called "schedules") and monthly contribution remittance statements (hereinafter called "remittance statements") in the appropriate form for "the recording and payment of contributions payable to the Fund under the provisions of section 13 of the Act.

*(Amended by Legal Notice No. 102 of 1995 r. 5)*

#### *Implementation of Act No. 17 of 1978*

- 18A. *(Inserted by Legal Notice 39 of 1979, Repealed by Legal Notice No. 102 of 1995 r. 14.)*

#### *Procedure for schedules, remittance statements and receipts*

19. On receipt of the schedule, the employer shall enter thereon, in the spaces provided, the name and membership number of every employee (**if not already pre-printed**) employed by him and , shall enter, against the name of each such employee, the amount payable to the Fund by the employer in respect of that employee under the provisions of section 13 of the Act:

**Provided that the General Manager may permit an employer to use his own computer produced schedule subject to the condition that the schedule so produced shall have all the information in the same fashion as is required on the appropriate form and is accompanied, for the purpose of Regulation 26, by magnetic media or electronic device which could be used to electronically transfer the contributions of his employees as they appear on the schedule.**

*(Amended by Legal Notice No. 102 of 1995 r. 6)*

*Completion of remittance statements*

**20.** In every month, every employer shall complete the remittance statement appropriate to that month by entering upon it the total of the amounts payable in respect of all of his employees for that month and shall forward it, together with a remittance for such total amount, so as to reach the General Manager during the relevant month.

*Remittance by voluntary member*

**21.** To remain in full benefit, every voluntary member shall complete the remittance statement at least once in every contribution half-year and shall forward it, together with the remittance, which shall total at least \$24 in each half-year, so as to reach the General Manager during the relevant half-year.

*(Inserted by Legal Notice 88 of 1978, Amended by Legal Notice No.102 of 1995 r. 7(a))*

*Duplicates to be kept*

**22.** Every employer shall keep duplicate copies of schedules and remittance statements on the copy sheets provided.

*Receipts*

**23.** The General Manager shall cause a receipt for the amount remitted to be sent to the employer who shall affix it in the appropriate place upon his duplicate copy of the remittance statement.

*New employees*

**24.** If, during the currency of any schedule, any employee shall enter the service of any employer, the employer shall forthwith enter his name in the appropriate column of the schedule together with his membership number if he is a member of the Fund. If he is not a member of the Fund, he shall enter in the schedule the name of the employee only and enter the membership number when notified by the General Manager by the issue of a membership card.

*Employee leaving service of employer.*

**25.** If, during the currency of any schedule, any employee shall leave the service of the employer, the employer shall strike that employee's name. **Write 'Left Employment' against that employee's cancelled name in the space provided for entering contribution.**

*(Amended by Legal Notice No. 102 of 1995 r. 8)*

*Schedule to be sent to Manager half-yearly*

**26.** In each month every employer shall complete the schedule by entering contributions payable in respect of each employee in the month to which the schedule refers. He shall then add all such contributions and enter the total in the space provided upon the form for so doing. He shall then detach the schedule from his duplicate copy form and forward it, together with remittance statement for the month, and the appropriate remittance, to the General Manager so as to be received by the General Manager before the end of the' month to which the schedule refers:

**Provided that, in addition to the schedule, an employer may be required, at his own cost, to forward such magnetic media or electronic device which could be used to electronically transfer the contributions of his employees as they appear on the schedule.**

*(Amended by Legal Notice 20 of 1968., substituted by Legal Notice No. 102 of 1995 r. 9)*

*Submission of Form A3/78*

**26A.** *(Inserted by Legal Notice 39 of 1979, Repealed by Legal Notice No. 102 of 1995 r. 25.)*

*Where employer ceases to be liable to pay contributions*

**27. If during any month an employer is not liable to pay contributions under the provisions of Section 13 of the Act, he shall forthwith dispatch to the General Manager schedules and remittance statement which refer to that month with a notation such as 'No Employees This Month' or 'Business Ceased' or 'Business Transferred' etc. written across all schedules.**

*(Substituted by Legal Notice No. 102 of 1995 r. 10)*

*Interim statements*

**28.—(1) If during any month an employee shall apply to withdraw the amount-standing to his credit in the Fund, the General Manager shall, by issue to that, employee's employer of the appropriate form, notify that employer of—**

*(a) that employee's withdrawal application; and*

*(b) that employee's option to re-enter or not to re-enter the Fund.*

**(2) Where the desire of that employee is to re-enter the Fund, the employee receipt of the notice shall get the appropriate form completed by that employee for the purpose of regulation 28 A.**

**(3) Where the desire of that employee is not to re-enter the Fund, the employer on receipt of the notice shall—**

*(a) strike the name of that employee from the schedule which refers to that month;*

*(b) pay any contributions payable in that month directly to that employee and write 'Withdrawn Contributions Refunded' in the space against his name on the schedule; and*

*(c) not pay any further contributions in respect of that employee, subject to regulation 28A.*

*(Substituted by Legal Notice 20 of 1973, substituted by Legal Notice No. 102 of 1995 r. 11.)*

*Employee opting to re-enter after withdrawal*

**28A—(1) If during any month an employee shall apply to re-enter the Fund after having withdrawn from the Fund, and is permitted to do so under the provisions of section 20 of the Act, the General Manager shall, by issue to that employee's employer of the appropriate form, require that employer to get the appropriate form completed by that employee and forward such form to the General Manager for registration within one month of the date of its issue; and**

**(2) After registration, the General Manager shall forward to the employer a reentry membership card of the Fund in the appropriate form together with a notice of nomination in the appropriate form and the**

**employer after entering that employee's name and membership number on the schedule which refers to that month shall hand them over to the employee concerned or, if that employee is no more in his employment, return them to the General Manager.**

*(Inserted by Legal Notice No. 102 of 1995 r. 12)*

*Contribution paid in respect of withdrawn members*

**28B. Any sum paid in respect of a person who has withdrawn, and who either has opted not to re-enter or is ineligible to re-enter the Fund, must be refunded—**

- (a) if paid in the month following the month of entitlement—to the person;**
- (b) if paid more than one month after the month of entitlement—to the employer who paid the sum.**

*(inserted by Legal Notice N. 8 of 2000 r. 3)*

*Arrears*

**29. If any employer shall, for any reason, require to pay arrears in respect of any employee, he shall so inform the General Manager who shall issue to him appropriate forms to accompany such payment of arrears.**

*No alterations to be made to schedules*

**30. No adjustment shall be made by an employer to any contribution which shall be payable in respect of any employee in any month, except where the provisions of regulation 28 apply, but if, after payment of any contribution for any month, the employer discovers that an error has been made he shall inform the General Manager in writing as soon as the error comes to his notice of the amount and nature of the error and the General Manager shall direct how it shall be adjusted.**

*(Substituted by Legal Notice No. 102 of 1995 r. 13)*

*Documents to be available for inspection*

**31. Every employer shall retain the duplicate copies of schedules and remittance statements, together with the relevant receipts for a period of 2 years following their date of issue and shall, during such period, make such forms available, on request, for inspection by any inspector appointed under the provisions of subsection (3) of section S of the Act.**

*Date for payment of surcharge*

**32. Any sum due to the Fund by way of surcharge under the provisions of section 14 of the Act shall be paid to the Fund within fourteen days of a demand for such payment signed by the Manager or other authorized officer of the Fund.**

*Voluntary excess contributions*

**33. Any voluntary excess contribution which is paid under section 13 (3) in respect of an employee must be entered in the relevant schedule against the entry for that employee on the following basis—**

- (a) the amount of contributions paid under section 13(1) in the contribution column; and**
- (b) the amount of excess contributions paid under section 13(3) in the voluntary excess column.**

*(Substituted by Legal Notice No. 8 of 2000 r.4)*

*Transfer of sums from permitted funds*

**34. Repealed by Legal Notice No. 102 of 1995 r. 25**

*Procedure on rejoining Fund*

**35. Any person who, having withdrawn from the Fund on the grounds that he was leaving Fiji with no intention of returning, desires to re-enter the Fund**

under the provisions of paragraph (a) of the proviso to subsection (1) of section 20 of the Act shall—

(a) give notice to the Board and to his employer of his intention; and

(b) pay to the Fund the amount so withdrawn, within 3 months of commencing re-employment in Fiji or within 3 months of 23 December 1969, whichever shall be the later date; Provided that the Board may extend the period of 3 months, if it is satisfied the circumstances are of such a nature so as to justify the extension.

*(Inserted by Legal Notice 2 of 1970; amended by Legal Notice 88 of 1978.)*

*Sums paid to be deemed contributions*

36. *(Inserted by Legal Notice 2 of 1970, Repealed by Legal Notice No. 102 of 1995 r. 25.)*

*Appropriate forms to be forwarded to the Manager*

37. Any person making payment to the Fund of the amount required under the provisions of regulation 35 shall complete and forward to the General Manager the appropriate forms with the remittance for the amount due.

*(Inserted by Legal Notice 2 of 1970.)*

Part 4—Contributions made or omitted to be made in error

*Refunds and offsets*

38. When the Board is satisfied that any amount has been paid to the Fund by error in respect of any employee, either wholly or partly in excess of the amount that was due to be paid, the Board may, subject to the provisions of regulation 39, refund the amount so paid in excess to the person by whom it was made:

Provided that—

(a) if the excess payment was, in the opinion of the Board, made by error occasioned by negligence on the part of the person by whom it was made, or if the refund of such excess payment is not claimed within 2 years of the date on which it was made, or if the member in respect of whom it was made has withdrawn it, such excess payment shall not be refunded but shall be deemed to have been properly made as an excess contribution under the provisions of subsection (3) of section 13 of the Act for the employee in respect of whom it was made; and

(b) if any amount is due to the Fund from the person to whom refund of the amount paid in excess would otherwise be made, the Board may retain the whole or any part of such payment and set it off against such amount as is due.

*No refund without Board's consent*

39. No refund shall be made and no amount shall be set off under the provisions of regulation 38, except with the consent of the Board, who may require the person by whom the excess payment was made to make a written application for refund and to furnish such information as the Board may require to determine the amount of the excess payment and the circumstances in which it occurred.

*Contributions made on behalf of non-eligible persons*

**39A.—(1) When the Board is satisfied that any amount has been paid to the Fund by error, whether in respect of a person who is not eligible to be a member of the Fund or otherwise, the Board may, subject to sub-**

**regulations (2), (3) and (4) refund the actual amount so paid in error to the person by whom the payment was made.**

**(2). There shall be excluded from a refund under sub-regulation (1) any interest accrued on the amount contributed in error in respect of the period during which it was held in the Fund.**

**(3) Before making a refund under this regulation the Board may require the person by whom the payment was made to make a written application for refund and to furnish such information as the Board may require to determine the amount paid in error and the circumstances under which the error arose.**

**(4) No refund shall be made under this regulation unless the amount in error exceeds \$2.**

*(Inserted by Legal Notice No. 8 of 1987 r. 4)*

*Late payments*

**40.** When any contribution or the full amount of the contribution due by or in respect of any person has, by error, not been paid to the Fund during the month when it should have been paid, the employer shall, as soon as such error comes to his notice, pay the amount due to the Fund accompanied by the appropriate forms.

Part 5—Disposal of Amounts unclaimed or otherwise remaining in the Fund

*Unidentified contributions*

**41.** If any contribution is received and after reasonably diligent inquiry it is not possible to determine the member to whose account it should be credited, the contribution shall be transferred to an unclaimed deposits account hereinafter referred to as "the Unclaimed Deposits Account".

*(Substituted by Legal Notice 6 of 1972.)*

*Disposal of moneys when no application made under section 32*

**42.** If, within 1 year of the death of any member of the Fund, any nominee has not made an application under the provisions of section 32 of the Act, the amount which would have been payable to such nominee shall be transferred to the Unclaimed Deposits Account.

*(Inserted by Legal Notice 83 of 1969.)*

*Disposal of other moneys*

**43.** All moneys received by the Fund which cannot be identified as having been paid under the provisions of section 19 of the Act or which are not affected by the provisions of regulation 41 shall be transferred to the Unclaimed Deposits Account.

*(Inserted by Legal Notice 83 of 1969.)*

*Contributions remaining in the Fund*

**44.** Any amount standing to the credit of any member in respect of whom no contributions have been received for the period of 10 years after he has attained the age of 55 years and in respect of which no notice of withdrawal has been received before the end of that period shall be regarded as an unclaimed deposit and shall be transferred to the Unclaimed Deposits Account.

*(Amended by Legal Notice 83 of 1969.)*

*Unclaimed Deposits Account*

**45.** Where any amount has been authorized to be paid out of the Fund to any person, and such person has not obtained payment within 1 year after the date of authorization, such amount shall be regarded as an unclaimed deposit and shall be transferred to the Unclaimed Deposits Account.

(Amended by Legal Notice 83 of 1969.)

*Payments out of Unclaimed Deposits Account*

**46.** Any amount which has been transferred to the Unclaimed Deposits Account shall be paid to any person who can show legal title thereto within a period of 10 years from the time of its transfer into the Unclaimed Deposits Account, but no amount which has been so transferred shall be paid to any person, unless application for its withdrawal has been made by that person within a period of 10 years from the time of its transfer to the Unclaimed Deposits Account.

(Amended by Legal Notice 83 of 1969.)

*No interest to be added*

**47.** No interest shall be added to any amount in respect of any period during which it is in the Unclaimed Deposits Account.

(Amended by Legal Notice 83 of 1969.)

*Unclaimed Deposits Account to form part of Fund*

**48.** The moneys in the Unclaimed Deposits Account shall form part of the Fund and the interest from the investment thereof shall be placed to the general revenues of the Fund.

(Amended by Legal Notice 83 of 1969.)

*General Reserve Account*

**49.—(1)** Any income of the Fund remaining unappropriated at the end of any financial year, together with any sum which remains unclaimed after the expiration of 10 years after such sum has been transferred to the Unclaimed Deposits Account, shall be carried to a reserve account, hereinafter referred to as "the General Reserve Account".

(2) The moneys in the General Reserve Account shall form part of the Fund and any interest arising from the investment thereof shall be placed to the general revenue of the Fund.

(3) The General Reserve Account shall be disposed of by the Board from time to time in such manner as the Board shall deem appropriate for the furtherance of social security measures.

(Inserted by Legal Notice 83 of 1969.)

Part 6----- Nominations

*Persons who may nominate and be nominated*

*Persons who may nominate and be nominated*

**50.—(1)** Subject to these Regulations, a member may nominate—

(a) any person; or

(b) any body corporate approved by the Board,

to receive any sum due to him on his death.

(2) A nomination under sub-regulation (1)(a) may be in favour of one person or of not more than four persons who shall be clearly designated in the appropriate form and where there is more than one nominee the nominator may in such form direct that the nominees shall take the amount the subject of the nominations in specific shares of not less than one-eighth of the amount standing to the member's credit on his death:

Provided that—

(a) in the absence of any such directions or, if such directions purport to dispose of more or less than the amount standing to the credit of the member at the date of his death, the Board shall pay the amount nominated to the nominated persons in equal

**shares;**  
**(b) the Board may on the application of a member allow more than four persons to be nominated if it is satisfied with the reasons for the request.**

*(Amended by Legal Notice 83 of 1969; 88 of 1978, substituted by Legal Notice No. 8 of 1987 r. 5.)*

*Invalid nominations*

**51.** The Board may, in its discretion, refuse to accept any nomination where it has reason to believe that such nomination has been made under undue influence, or is in favour of the nominator's employer if such employer is not a relative, or if the effect of the nomination is to pledge the amount, or any part of the amount standing to the member's credit as security, and any such nomination shall be null and void.

*Nomination to be in writing*

**52.** Every nomination shall be made, in writing, on the appropriate form and shall be signed by the nominator in the presence of a witness and the signature of the nominator shall be attested by such witness.

*Attestor not to benefit*

**53.** Any person who attests the signature of a nominator to a nomination shall not be entitled to any benefit thereunder.

*Nomination to be sent during lifetime of member*

*Nomination to be submitted during lifetime of member*

**54. A nomination shall be of no effect unless it is submitted to, and acknowledged by, the General Manager during the lifetime of the member.**  
*(Substituted by Legal Notice No. 8 of 1987 r. 6)*

*Revocation of nomination*

**55.** A nomination shall be revoked—  
(a) by the death of the nominee or, where there is more than 1 nominee, by the death of all the nominees in the lifetime of the nominator;  
(b) so far as relates to the interest thereunder of any nominee, being 1 of 2, or more nominees, by the death of that nominee in the lifetime of the nominator, unless the interest of the nominee is disposed of by the nomination:

Provided that, in the event of any such revocation, the amount which would have been payable to such deceased nominee shall be paid to the surviving nominees in equal shares;

(c) by a subsequent nomination duly made in accordance with the provisions of these Regulations by the same nominator;  
(d) by the marriage of the nominator as provided in section 34 of the Act, but a nomination shall not be revoked by any will or by any other act, event, or means whatsoever.

*(Amended by Legal Notice 83 of 1969.)*

*Death of nominee*

**56.** Where a nominee dies after the death of the nominator but before any sum has been paid to him as a nominee, the provisions of these Regulations shall apply to the nominee and the sum shall be payable to him as if, at the date of his death, the deceased nominee were a member of the Fund and the sum due to him in that respect.

*Saving for nominations made under Fiji National Provident  
Fund (Preliminary Registration) Regulations, 1966*

**57.** A nomination made by a member in the appropriate form under the provisions of the Fiji National Provident Fund (Preliminary Registration) Regulations, 1966, and sent to the Manager of the Fund under the provisions of those Regulations, shall, subject to the provisions of regulation 51, if duly signed and attested in the manner provided for by these Regulations, have effect as if it had been validly made under the provisions of these Regulations by the nominator on 1 August 1966, unless such nomination had before that date been revoked by the happening of any event of the kind specified in regulation 55,

**Part 7—Withdrawals**

*Applications*

**58.** A member wishing to withdraw any amount standing to his credit in the Fund, or, where the member has died, the person claiming to be entitled under the Act to the amount standing to the credit of the member or any part thereof, shall give notice to the General Manager in the appropriate form and shall forward such form together with the member's certificate of membership to the General Manager at the office of the Fund:

Provided that the Manager may, if he is satisfied that it is reasonable in the circumstances so to do, dispense with the production of the certificate of membership.

*(Amended by Legal Notice No. 102 of 1995 r. 14)*

*Age given on registration form to be binding*

**59.** Where the application is made on the ground that the member has attained the age of 55 years, the date of birth entered on the member's registration form shall be deemed to be binding upon the member, but the Board may, if it has reason to believe that such date was not correctly stated, require to be furnished with further evidence of age to its satisfaction.

*Evidence of death*

**60.—**(1) Where the application is made on the ground that the member has died, the applicant shall supply proof of the death of the member. Such proof, in the absence of a grant of probate or letters of administration, shall be the death certificate or a certified extract from the register of deaths issued by the Registrar-General or by any other officer empowered to issue such extracts:

Provided that the Board may accept as proof of death such other documents as it may, in its absolute discretion, think fit.

(2) The applicant shall, in addition, provide such proof of his own identity as the Board may require.

*Member not heard of for 7 years*

**61.—**(1) The Board may accept as conclusive proof of the death of the member a statement or declaration that such member has not been heard of for a period of 7 years or more by persons, who, if the member had been alive, would be likely to have heard of him.

(2) A receipt for any payment that may be made under the provisions of these Regulations in reliance on such statement or declaration as aforesaid shall be a valid discharge to the Board for the sum paid, notwithstanding that the member may, in fact, be alive at the time of such payment.

*Evidence of incapacity*

**62.** Where the application is made on the ground that the member is physically or mentally incapacitated from ever engaging in any further employment, the member shall forward with the notice referred to in regulation 58 a certificate in the appropriate form signed by a **medical practitioner approved by the Board, either by name or by designation** in support of the facts therein stated for the purposes of the Act.

*(Amended by Legal Notice No. 8 of 1987 r. 7)*

*Medical boards*

**63.** If the Board is not satisfied by any medical evidence produced by the member, the General Manager may appoint 1 or more registered medical practitioners as a Medical Board to examine the applicant and to make a report and may require such applicant to appear before such Medical Board and be examined at such time or place as the Medical Board may appoint.

*(Amended by Legal Notice No. 102 of 1995 r. 15)*

*Evidence of leaving Fiji*

**64.** Where the application is made on the ground that the member is about to leave or has left Fiji with no intention of returning thereto, the member shall supply such evidence in support of his application as the General Manager may require.

*Evidence of marriage*

**65. Repealed by Legal Notice No. 8 of 2000 r. 5**

*Death of a member during withdrawal*

**66.** If, having applied for withdrawal, a member shall die before having received payment of any amount due to him in respect of such application, such application for withdrawal shall be deemed to be null and void.

*(Inserted by Legal Notice 20 of 1973.)*

*Interpretation*

**66A.** In this Part, "**prescribed amount**" means the amount prescribed by the Board for the purposes of section 18(8) of the Act.

*(Inserted by Legal Notice No. 8 of 1987 r. 8)*

*Prescribed amount*

**66B.** The amount prescribed by the Board for the purposes of section 18(8) of the Act is \$14.

*(Inserted by Legal Notice No. 8 of 1987 r. 8, 53 of 1990 r. 2, 95 of 1995 r. 2, 125 of 1998 r. 2, 8 of 2000 r. 6)*

Part 8—Special Death Benefit

*Conditions*

**67.** For the purposes of section 36 of the Act, the amount to be added to a deceased entitled member's credit shall be the maximum sum declared by the Board in accordance with the provisions of section 9 of the Act, provided that, at the date of his death, the following conditions are satisfied:—

(a) the cumulative amount deducted from the member's credit in accordance with **section 18(8)** of the Act at the date of the last such deduction, together with deductions normally made by the Board at other times during the financial year from further credits due to the member, excluding credits arising from payments made since the date of death, shall have been not less than **prescribed amount**; and

(b) **in the case of a voluntary member, who has not been a voluntary member for twelve months preceding the month in which he died, a cumulative amount of not less than \$42 shall have been paid by or in respect of him in the months since he registered as a voluntary**

**member; or**

*(Substituted by Legal Notice No. 102 of 1995 r. 16))*

**(c) Repealed by Legal Notice No. 102 of 1995 r. 16(a)—the paragraph-h to be deleted**

*(Substituted by Legal Notice 65 of 1971; amended by Legal Notice 88 of 1978, 8 of 1987 r. 9.)*

*Rate of benefit*

**68.** In the case of a deceased entitled member who did not, at the date of his death, satisfy the conditions set out in regulation 67, the amount to be added to his credit at the date of his death shall be calculated in the following manner:—

(a) if the cumulative amount deducted from the deceased member's account in accordance with the provisions of section 9 of the Act at the date of the last such deduction, together with deductions normally made by the Board at other times during the financial year from further credits due to the member, excluding credits arising from payments made since the date of death, shall have been less than **prescribed amount**, the maximum sum for the purpose of paragraphs (b) and (c) shall be deemed to be such proportion of the maximum sum as the cumulative amount deducted as aforesaid shall bear to **prescribed amount**;

*(Amended by Legal Notice No. 8 of 1987 r. 10, 102 of 1995 r. 17(a))*

and

**(b) in the case of a voluntary member, who has not been a voluntary member for twelve months preceding the month in which he died, such maximum sum shall be abated by \$500 if a cumulative amount of \$42 or more shall have not been paid by or in respect of him in the months since he registered as a voluntary member:**

**Provided that, if the deceased member, during the membership of the Fund, was both an employee and a voluntary member, full maximum sum, subject to paragraph (a), shall be payable.**

*(Substituted by Legal Notice 65 of 1971; amended by Legal Notice 88 of 1978, substituted by Legal Notice No. 102 of 1995 r. 17)*

*Posthumous payment cannot be premium*

**69.** For the purposes of paragraph (a) of regulation 68, any deficiency in the cumulative amount from **prescribed amount** may not be made up by relying on deductions from payments made after the date of death.

*(Inserted by Legal Notice 88 of 1978, amended by Legal Notice No. 8 of 1987 r. 11.)*

*Benefit in case of posthumous membership*

**70.** In the case of an employee who died before becoming a member of the Fund, special death benefit is not payable, but the Board may grant an *ex gratia* payment of up to the amount of the special death benefit to his personal representative.

*(Inserted by Legal Notice 88 of 1978.)*

## Part 9—Payments out of the Fund

*Method of payment of withdrawals*

**71.** Where a withdrawal from the Fund has been authorized in favour of any person, the General Manager shall issue to that person a cheque drawn on the Fund's bankers for the amount standing to the credit of the member or deceased member of the Fund, as the case may be:

Provided that, if payment of any amount is to be made to any person outside Fiji, such amount "**less charges**" may be paid by bank draft, or by such other method as the General Manager may deem appropriate in any

particular case or class of cases.  
(Amended by Legal Notice No. 102 of 1995 r. 18)

*Receipts*

**72.** Where payment is made by a cheque issued under the provisions of regulation 71, a receipt for the amount specified in the cheque shall be given on the reverse thereof by the payee named in the cheque, and such receipt shall be a proper discharge to the Fund for the sum specified therein.

*Persons of unsound mind*

**73.** In the case of a person who has been found to be of unsound mind, anything required to be done by him under the provisions of regulation 58, 59, 60 or 62 may be done on his behalf by the committee of his person appointed under the provisions of the Mental Treatment Act and any amount due to be paid to such person may be paid to such committee.

*Where no committee appointed*

**74.** Where a person is of unsound mind and no committee of his person has been appointed under the provisions of the Mental Treatment Act, the General Manager may, if satisfied that it is just and expedient so to do, pay the amount, or any part of such amount payable to such person, to the Public Trustee or any person whom the General Manager shall judge proper to receive the sum in the interests of the person to whom it is due, and the receipt of the Public Trustee or such person shall be a proper discharge to the Fund for the sum so paid.

*Posting to be equivalent to delivery*

**75.** The posting of a letter containing a cheque sent in pursuance of these Regulations addressed to any person at the address furnished on the application for withdrawal by that person shall, as regards the liability of the Fund, be equivalent to the delivery of the cheque to the person to whom the letter was addressed.

(Amended by Legal Notice No. 8 of 2000 r. 7)

## **Part 9A---Share Investment Scheme**

*Permitted available amount*

**75A. The Board has approved in respect of a member to make available under the Fund's Share Investment Scheme—**

**(a) an amount which is not more than one third of the amount standing to the credit of the member provided that no transactions had taken place under section 30, 38(1) and 42D; or**

**(b) \$10,000.**

**whichever is the lesser.**

(Inserted by Legal Notice No. 20 of 2002 r. 2)

## **Part 10—Members' Statements of Account**

*Statements of account to be sent to employer*

**76.** As soon as possible after the end of each financial year, the Manager shall cause to be dispatched to every employer who has completed a six-monthly schedule of contributions for the last 6 months of the financial year statements of account in the appropriate form for each of the employees listed

on such schedule as being in his employment in the month of May of such financial year:

*(Amended by Legal Notice 20 of 1968, 102 of 1995 r. 19(a))*

**Provided that no statements of account shall be dispatched for the employees who have already received a statement of account as a result of a housing transfer or a partial withdrawal during that financial year.**

*(Inserted by Legal Notice No. 102 of 1995 r. 19(b)(c))*

*Employer to deliver statements to employees*

77. The employer receiving statements of account under the provisions of regulation 76 shall, within 14 days of their receipt, either deliver them to the employees to whom they are addressed or, if any of these employees are not still in his employment, return the undeliverable statements to the General Manager.

*Employees who do not receive accounts*

78. If a member of the Fund who has not received his statement of account under the provisions of regulation 77 shall apply to the General Manager for a statement of account, the General Manager shall forward to him, within one month of such application, a statement of account up to the end of the financial year preceding that in which the application is made:

Provided that, if the application is made between the end of the financial year and the date when statements of account are dispatched to employers in accordance with the provisions of regulation 76, the General Manager shall send the statement of account to the applicant as soon as possible thereafter.

## Part 11—Offences and Penalties

*Offences by employers*

79.—(1) Any employer who—

- (a) fails to obtain, complete or forward any registration documents as required under the provisions of these Regulations;
- (b) fails to complete or return any six-monthly schedule of contributions or monthly contribution remittance statements as required under the provisions of these Regulations;
- (c) fails or refuses to make available the duplicate copy of any six-monthly schedule of contributions or monthly contribution remittance statements in accordance with the provisions of these Regulations;
- (d) fails to deliver to any of his employees any document he is required so to deliver under the provisions of these Regulations; or
- (e) fails, by the prescribed date, to complete and return any interim statement as required by regulation 28A, shall be guilty of an offence against these Regulations and shall be liable, on conviction, to a fine not exceeding \$500 or to imprisonment for a term not exceeding 2 months, or to both such fine and imprisonment.

*(Amended by Legal Notice 20 of 197, 102 OF 1995 R. 20.)*

(2) Where any person has been convicted of an offence under the provisions of sub-paragraph (a) or sub-paragraph (b) of paragraph (1) of failing to forward or return any document, schedule or statement, the Court by which he is so convicted may order the production of such document, schedule or

statement to the General Manager within such time as it may consider reasonable in the circumstances and may further order that, in default of such production, such person shall be liable to a penalty not exceeding \$25 for every day during which such default continues.

*(Inserted by Legal Notice 83 of 196, 102 OF 1995 R. 20(e))*

*Offences by employees*

**80.** Any employee who—

(a) fails to make an impression or signature required by the provisions of regulation 8;

(b) fails to provide to his employer the information required by the provisions of regulation 9; or

(c) fails to complete and forward a notice of nomination as required by the provisions of regulation 11,

shall be guilty of an offence against these Regulations and shall be liable, on conviction, to a fine not exceeding **\$50**, or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

*(Amended by Legal Notice No. 102 of 1995 r. 210)*

*Forms to remain property of the Board*

**81.** Every appropriate form issued to an employer or employee under the provisions of these Regulations shall remain, at all times, the property of the Board and any person in possession of any such form shall deliver it up on demand to the General Manager of the Fund or any inspector appointed under the provisions of subsection (3) of section S of the Act, and any person in possession of an appropriate form who refuses or fails so to deliver it up shall be guilty of an offence against these Regulations and shall be liable, on conviction, to a fine not exceeding **\$500** or to imprisonment for a term not exceeding 2 months, or to both such fine and imprisonment.

*(Inserted by Legal Notice 20 of 1973, 102 of 1995 r. 22)*

**Part 12—Miscellaneous**

*Duplicate certificates*

**82.—**(1) If the certificate of membership of any employee is lost or destroyed, the employee concerned may apply to the General Manager for the issue to him of a duplicate certificate in place thereof and the General Manager may, if he sees fit, issue such duplicate, after obtaining such information as may be required and may make a charge of **\$3** therefor.

(2) Every duplicate certificate shall, before issue, have endorsed upon it the word "duplicate" and the date of issue.

*(Amended by Legal Notice 88 of 1978., 102 of 1995 r. 23, 8 of 2000 r. 8.)*

*Exercise of option*

**83.** Any employee who, under any of the provisions of section 20 of the Act, is entitled to exercise an option to join or rejoin the Fund shall give notice to the Board by obtaining, completing and forwarding to the Manager the appropriate form.

*Procedure for revocation of certificate of permitted fund*

**84.** Repealed by Legal Notice No. 102 of 1995 r. 25

*Board may reconsider revocation*

**85.** Repealed by Legal Notice No. 102 of 1995 r. 25

*Revocation of certificate*

**86.** Repealed by Legal Notice No. 102 of 1995 r. 25

SCHEDULE <sup>11</sup>  
(Regulation 14)

---

PERSONS ELIGIBLE TO BECOME VOLUNTARY CONTRIBUTORS

1. A person of any age who, having been an employee and having had contributions paid in respect of him under subsection (1) of section 13 in 2 successive contribution half-years, ceases to be an employee.
2. A person who is not less than 16 years and not more than 25 years of age and who is not a person of the description set out in paragraph 1.
3. A person who is more than 25 years of age and not more than 50 years of age (not being a person of the description set out in paragraph 1) and who has paid to the Board—
  - (a) in the case where he was more than 25 years of age on 1 January 1971, **\$10** in respect of each completed year during the period commencing on that day and ending on the date on which he gave notice to the Board in accordance with paragraph (3) of regulation 14 of his desire to become a voluntary contributor;
  - (b) in any other case, **\$10** in respect of the year in which he attained the age of 25 years and in respect of each successive completed year until the date on which he gave such notice to the Board.
4. A person who is more than 25 years of age and not more than 50 years of age (not being a person of the description set out in paragraph 1) and who has—
  - (a) undergone a medical examination by a Medical Board consisting of 1 or more registered medical practitioners appointed by the Board; and
  - (b) produced to the Board a report of such Medical Board containing a recommendation that he should be accepted by the Board as a voluntary contributor:

**Provided that—**

- (i) **the Board may in any case in which it thinks fit, remit in whole or in part, payment of any amount payable under the provisions of paragraph 3; and**
- (ii) **the Board may in any case in which it thinks fit, excuse the production of the medical report required under the provisions of this paragraph.**

*(Inserted by Legal Notice No. 102 of 1995 r. 24 (b)(c))*

---

<sup>11</sup> This Schedule was inserted by Legal Notice 44 of 198 and amended by Legal Notice No. 102 of 1995 )

SECTION 63—FIJI NATIONAL PROVIDENT FUND  
(ANNUITIES) REGULATIONS

*Legal Notices No. 104 of 1974, 125 of 1974,  
219 of 1974, 87 of 1978, 47 of 1982, 42 of 1985, 9 of 1987, 146 of 1995.*

*Substituted by Legal Notice No. 39 of 1999, amended by Legal Notices No.  
11 of 2000, 5 2002*

TABLE OF PROVISIONS

REGULATION

Part 1---Preliminary

1. Short title and commencement
2. Interpretation
3. Delegation

Part 2---Amount of Annuities

4. Calculation of annuities
5. Interpretation of calculation
6. Option to receive or not to receive annuity
7. Annuities in respect of qualified members
8. Annuities in respect of other members
9. Limitation of annuities
10. Annuity in respect of deceased entitled members
11. Joint annuities
12. Right to be part of amount as lump sum and balance as annuities
13. Further option to receive annuity

Part 3---Exercise of Option

14. Notification of entitlement
15. Option form
16. Time for exercise of option
17. Option to be irrevocable

Part 4---Duration of Payment of Annuities

18. Duration of annuities
19. Dates of payment
20. Pension orders or cheques
21. Identity card
22. Alternative method of payment

Part 5---Evidence

23. Certificate that pensioner is alive
24. Determination of nominee of deceased eligible member
25. Repeal

Schedule

Part 1—Preliminary

*Citation and commencement*

1.—(1) These Regulations may be cited as the Fiji National Provident Fund (Annuities) Regulations 1999.

(2) These Regulations come into force on 1st July 1999 except regulation 25(2) which comes into force on *Gazetted* of these regulations.

*Interpretation*

2.—(1) In these Regulations, unless the context otherwise requires—

"annuity" means an annuity payable to a person under the Order; "Basic Annuity Schedule" means the Schedule to these Regulations;

"eligible member" means a member eligible to receive an annuity under the provisions of the Order;

"Order" means the Fiji National Provident Fund (Annuity) Order 1997;

"pensioner" means a person receiving an annuity under the Order and these regulations.

(2) In these Regulations "period of membership", or words importing a period of membership, mean—

(a) in respect of any entitled member of the Fund - the period commencing with the member's date of entry and ending on his or her date of entitlement;

(b) in respect of **any member of the Fund who having withdrawn, after 1<sup>st</sup> January 1975, the amount standing to his or her credit has re-entered the Fund** - the aggregate of—

*(Amended by Legal Notice No. 5 of 2002 r. 2(1)(a))*

(i) the period commencing on 1<sup>st</sup> January 1975 **or on the member's date of entry, whichever is later**, and ending on his or her first date of entitlement; and

*(Amended by Legal Notice No. 5 of 2002 r. 2(1)(b))*

(ii) the period commencing on the member's date of re-entry to the Fund and ending on his or her second date of entitlement;

***(c) in respect of any member of the Fund who having withdrawn, before 1<sup>st</sup> January 1975 the amount standing to his or her credit has re-entered the Fund the period commencing on 1<sup>st</sup> January 1975 or on the date of his or her re-entry whichever is the later, and ending on his or her second date of entitlement;***

*(Inserted by Legal Notice No. 5 of 2002 r. 2(1)(c))*

(d) in respect of members of the Legislative Council, the House of Representatives and the Senate who are deemed by an Order of the Minister to be employees of the Government- a period commencing with the first day of the month in which contributions become payable in respect of any such member under the provisions of such Order, and ending on the date of entitlement.

*(Paragraph re-numbered by Legal Notice No. 5 of 2002 r. 2(1)(d))*

*Delegation*

3. Anything required to be done by the Board under these Regulations may be done by an officer of the Board to whom power has been delegated by the Board for such purpose and anything required to be shown to the satisfaction of the Board may be shown to the satisfaction of such officer.

Part 2—Amount of Annuities

*Calculation of annuities*

4. The amount, frequency of payment and duration of an annuity payable in accordance with the Order is to be calculated in the manner set out in the following regulations.

*Interpretation for calculation*

5.—(1) For the purpose of regulations **7 and 8**—  
(Amended by Legal Notice No. 11 of 2000 r. 2(2))

- (a) subject to paragraph (b) "qualified member" means, in respect of an eligible member whose date of entitlement occurs on or after 1st July 1999, a member who at the date of entitlement has been a member of the Fund for at least 120 complete months during his or her period of membership;
- (b) a deceased eligible member, or an eligible member who withdraws on the ground of incapacity, is deemed to be a qualified member irrespective of his or her date of entry into or period of membership of the Fund;
- (c) ***Revoked by Legal Notice No. 11 of 2000 r.2(1)----to be deleted;***
- (d) ***Revoked by Legal Notice No. 11 of 2000 r. 2(1)---to be deleted;***
- (e) ***Revoked by Legal Notice No. 11 of 2000 r. 2(1)---to be deleted;***
- (f) "M", in respect of an eligible member, means the number of complete months of membership of the member at his or her date of entitlement, except that, if an eligible member is during the period of membership both an employee and a voluntary member, the complete months when he or she was a voluntary member are to be excluded;
- (g) "N", in respect of a voluntary member, means the number of complete months of voluntary membership at his or her date of entitlement.

(2) For the purpose of regulations **7 and 8** the term "basic annuity" means the amount calculated as a percentage of the amount standing to a member's credit at his or her date of entitlement in accordance with the Basic Annuity Schedule and in accordance with his or her option for a single or a joint annuity, but does not include-

(Amended by Legal Notice No. 11 of 2000 r. 2(2))

- (a) any excess contributions paid in respect of the member after 30th June 1999 under section 13(3) of the Act; and

(b) any sum payable under section 36 of the Act,

and the aggregate of such excluded sums must be paid separately as a lump sum.

(3) In the case of an eligible member who has been a voluntary member mere must for the purpose of calculating the basic annuity be excluded from contributions received during the period of voluntary membership any sum in excess of \$200 multiplied by N, except that—

(a) in any calendar year the aggregate of contributions paid in that year must not be more than \$2,400; and

(b) the aggregate of such excluded sums must be paid separately as a lump sum.

*Option to receive or not to receive an annuity*

6. A person entitled to receive an annuity in accordance with the Order must exercise the option to receive or not to receive the annuity by so indicating in the space provided for the purpose on the application form provided for withdrawal of contributions.

*Annuities in respect of qualified members*

7. The annuity payable in respect of a qualified member is the basic annuity.

*Annuities in respect of other members*

8. The annuity payable in respect of a member who is not a qualified member is the basic annuity multiplied by (M+N) and divided by 120.

*Limitation on annuities*

9. ~~Repealed by Legal Notice No. 11 of 2000 r. 3---The regulation to be deleted~~

*Annuities in respect of deceased entitled members*

10. In the case of a deceased member, if under section 36 of the Act any sum is to be added to the amount standing to the member's credit on death—

(a) the sum so payable must be paid as a lump sum; and

(b) the annuity payable in respect of the member is the annuity calculated in accordance with regulation 7.

*(Amended by Legal Notice No. 11 of 2000 r. 4)*

*Joint annuities*

11. In the case of a married member of the Fund who opts to receive a joint annuity with his or her spouse under paragraph 3 of the Order, the joint annuity is the amount calculated in accordance with the Basic Annuity Schedule and with either regulation 7 or regulation 8, as the case may be.

*(Amended by Legal Notice No. 11 of 2000 r. 5)*

*Right to take part of amount as lump sum and balance as annuity*

12.—(1) Subject to sub-regulation (2), a person entitled to receive an annuity may, if he or she so declares when exercising the option to receive an annuity, receive any part of the amount standing to the credit of the member as a

lump sum, whereupon the annuity calculated under regulation 7 or regulation 8 must, be calculated as though the amount standing to the credit of the member had been abated by the amount received as a lump sum.

*(Amended by Legal Notice No. 11 of 2000 r. 4)*

(2) Any payment received in respect of, or identified as being due to, a member after entitlement has been notified pursuant to regulation 14 must be paid as a lump sum.

*Further options to receive annuity*

**13.**—A person entitled to receive an annuity may, if he or she so declares when exercising the option to receive an annuity, receive out of the amount standing to credit of the member—

- (a) (i) a part as a lump sum;
- (ii) another part as an annuity calculated under regulation 7 or 8, as the case may be; and
- (iii) the balance as a joint annuity calculated under regulation 11;
- or
- (b) (i) a part as an annuity calculated under regulation 7 or 8, as the case may be; and
- (ii) the balance as a joint annuity calculated under regulation 11.

*(2) Repealed by Legal Notice No. 11 of 2000 r. 6—to be deleted. Consequent of that, sub-regulation (1) has been restructured by removing “(1) Subject to sub-regulation (2)”.*

Part 3—Exercise of Option

*Notification of entitlement*

**14.** Where a person has opted to receive an annuity in accordance with regulation 6, the General Manager must, as soon as practicable after the determination of the member's date of entitlement, notify the person of the entitlement and of the amount of it.

*Option form*

**15.** The General Manager must, at the time of notifying a person in accordance with regulation 14, send the person a form providing for the person to choose the type of annuity he or she wishes to receive.

*Time for exercise of option*

**16.**—(1) Subject to sub-regulation (2), if the form sent to a person under regulation 15 is received by the General Manager, duly completed, within 2 months of the date on which it was sent, the General Manager must make payment of the annuity selected by the person.

(2) If the form, duly completed, is not received from a person by the General Manager within 2 months of being sent, the person, notwithstanding his or her option under regulation 6, is deemed to have opted to receive a lump sum and payment must be made accordingly.

*Option to be irrevocable*

**17.** An option exercised under regulation 6 or 15 or deemed to have been

exercised under regulation 16(2) is irrevocable.

#### Part 4—Duration of Payment of Annuities

##### *Duration of annuities*

**18.—(1)** Subject to sub-regulation (2) the duration of an annuity is—

- (a) in the case of withdrawal on attaining age 55—the life-time of the pensioner;
- (b) in the case of withdrawal on the ground of total incapacity—the life-time of the pensioner or until he or she resumes employment;
- (c) in the case of withdrawal by a sole nominee (other than a person to whom section 35(4) of the Act applies)—the life-time of the nominee;
- (d) in the case of withdrawal by a sole nominee to whom section 35(4) of the Act applies - until the person attains the age of 18 or ceases to receive full-time education, whichever is the later, except that no annuity is payable to such a person after he or she attains the age of 24 years;
- (e) in the case of a joint annuity for a married couple - the life-time of the last surviving spouse.

(2) If on the death of a pensioner the sums paid or payable under sub-regulation (1) are less than the basic annuity calculated under regulation 7 or 8 the Board may, pay a gratuity, equal to the deficiency, to the pensioner's nominee or nominees.

*(Amended by Legal Notice No. 11 of 2000 r. 4)*

##### *Dates of payment*

**19.** Subject to regulation 22, an annuity is payable monthly in arrears, the first monthly payment becoming due 1 month after the date of entitlement of the member in respect of whom the annuity is payable.

##### *Pension orders or cheques*

**20.—(1)** The General Manager must, as soon as practicable after a date of entitlement, issue to a person who is entitled to and has opted to receive an annuity, a book containing a number of pension orders or pension cheques, as the person's choice may be, for the payment of the annuity.

(2) When the last pension order or cheque in a book of pension orders or cheques issued to a person by the General Manager has become due, the General Manager may, upon proof that the person is still living and entitled to receive an annuity, issue the person with another book of pension orders or cheques.

(3) Each pension order or cheque is negotiable for up to 6 months from the date on which it falls due for payment, after which regulations 45,46,47 and 48 of the Fiji National Provident Fund Regulations apply in respect of any unused pension order or cheque.

(4) If a person receiving an annuity dies or otherwise ceases to be entitled to receive the annuity, the person holding any unused pension orders or cheques in respect of that person must immediately return them to the General Manager.

(5) The General Manager, if satisfied that a pension order or cheque issued to a person has been lost or destroyed or has become non-negotiable under sub-regulation (3), may issue the person with another pension order or cheque in substitution for the one lost, destroyed or non-negotiable.

#### *Identity card*

**21.**—(1) The General Manager may require a person entitled to an annuity to attend at any reasonable time and at a convenient place to be photographed and to provide his or her thumbprint or other proof of identity, and may thereupon supply to the person an appropriate identity card.

(2) A person in possession of an identity card issued under sub-regulation (1) must produce it on each occasion on which he or she negotiates any pension order or cheque.

#### *Alternative methods of payment*

**22.**—(1) Subject to sub-regulation (2) the General Manager may, on the written application of a person entitled to an annuity, pay an annuity by any other method or at any other intervals convenient to the person and acceptable to the General Manager.

(2) An annuity may not be paid at intervals of less than one month and no payment may be made before the date when it would have become payable under regulation 19.

### Part 5—Evidence

#### *Certificate that pensioner is alive*

**23.**—(1) For the purpose of regulation 20(2), but subject to sub-regulation (2), the General Manager may accept as proof that a pensioner is still living a certificate to that effect signed by one of the following persons to whom the pensioner is personally known—

- (a) a Justice of the Peace;
- (b) a Commissioner for Oaths;
- (c) a Distinct Officer;
- (d) a minister of religion;
- (e) a public officer holding a post of or above grade AD04 or its equivalent;
- (f) a medical practitioner;
- (g) a bank manager;
- (h) an officer of the Fund authorised for the purpose by the General Manager.

(2) In the absence of a certificate as mentioned in sub-regulation (1), the General Manager may accept any other evidence he or she considers satisfactory.

*Determination of nominee of deceased eligible member*

24. For the purpose of determining whether a sole nominee was dependent upon a deceased eligible member in his or her life-time in accordance with paragraph 2(1) of the Order—

- (a) the following are deemed without further proof to be so dependent—
  - (i) the wife of the deceased;
  - (ii) an unmarried child, brother or sister of the deceased under the age of 18 years;
- (b) the following are deemed to be so dependent if a declaration to that effect is signed by nominee or, if the nominee is under the age of 18 years, by his or her parent or guardian—
  - (i) the father, mother, step-father or step-mother of the deceased;
  - (ii) a step-child, step-brother or step-sister of the deceased under the age of 18 years;
- (c) a nominee other than those listed in paragraphs (a) and (b) must produce as evidence of dependency any evidence the Board requires in each particular case;
- (d) a statement made by the deceased member in his or her life-time that the nominee was so dependent is *prima facie* evidence to that effect.

*Repealed*

25.—(1) The Fiji National Provident Fund (Annuities) Regulations 1974 are repealed.

(2) The Fiji National Provident Fund (Annuities) (Amendment) Regulations 1998 are repealed.

SCHEDULE  
(Regulation  
5(2))

BASIC ANNUITY SCHEDULE

<i>Date of entitlement</i>	<i>Percentage of the amount standing to a member's credit</i>	
	<i>Single Annuity</i>	<i>Joint Annuity</i>
From 1st July 1999 to 30th June 2000 inclusive	24%	16.4%
From 1st July 2000 to 30th June 2001 inclusive	23%	15.8%

From 1st July 2001 to 30th June 2002 inclusive	22%	15.2%
From 1st July 2002 to 30th June 2003 inclusive	21%	14.6%
From 1st July 2003 to 30th June 2004 inclusive	20%	14.0%
From 1st July 2004 to 30th June 2005 inclusive	19%	13.4%
From 1st July 2005 to 30th June 2006 inclusive	18%	12.8%
From 1st July 2006 to 30th June 2007 inclusive	17%	12.2%
From 1st July 2007 to 30th June 2008 inclusive	16%	11.6%
1st July 2008 and later	15%	

---

**SECTION 64—FIJI NATIONAL PROVIDENT FUND  
(ANNUITY) ORDER**

*Legal Notices Nos. 95 of 1974, 46 of 1982, 104 of 1985, 37 of 1997*

*Substituted by Legal Notice No. 48 of 1997, amended by Legal Notice N. 6 of 2002*

---

**TABLE OF PROVISIONS**

**ORDER**

1. Short title and commencement
2. Persons entitled to annuities
3. Joint annuities
4. Amount, frequency and duration of annuities
5. Revocation

*Short title and commencement*

**1.**—This order may be cited as the Fiji National Provident Fund (Annuity) Order and comes into force on 1<sup>st</sup> July 1999.

*Persons entitled to annuities*

**2.**—(1) Notwithstanding the provisions of sections 31, 32 and 35 of the Act, the following classes of persons entitled under the provisions of those sections to receive the amount standing to the credit of a member of the fund on or after 1 July 1999 may, if such persons exercise an option in the prescribed manner, receive in place of all or part of any sums which become due to them on or after 1 July, 1999 annuities based upon such sums or parts thereof:-

- (a) any entitled member whose date of entitlement occurs after 1 July, 1999 and who withdraws on the ground of attaining the age of 55;
- (b) any entitled member whose date of entitlement occurs after 1 July, 1999 and who withdraws on the ground of physical or mental incapacity;
- (c) any member who having withdrawn, the amount standing to his credit on the ground of:
 

*(Amended by Legal Notice No. 6 of 2002 o. 2)*

  - (i) leaving Fiji with no intention to return,

or (ii) marriage, being a woman,

has re-entered the Fund, and whose date of entitlement occurs after 1 July, 1999 and who withdraws on the ground of attaining the age of 55;

(d) any member who having withdrawn, the amount standing to his credit on the ground of:

*(Amended by Legal Notice No. 6 of 2002 o.2)*

(i) leaving Fiji with no intention to return, or

(ii) marriage, being a woman,

has re-entered the Fund, and whose date of entitlement occurs after 1 July, 1999 and who withdraws on the ground of physical or mental incapacity;

(e) a person who is the sole nominee of a deceased entitled member dying on or after 1 July, 1999 and who satisfies the Board that he was wholly or partially dependent on contributions from the deceased for the provision of the ordinary necessities of life suitable for persons in his class or position;

(f) a person who is the sole nominee of a deceased member, who having withdrawn the amount standing to his credit on the ground of:

*(Amended by Legal Notice No. 6 of 2000 o. 2)*

(i) leaving Fiji with no intention to return, or

(ii) marriage, being a woman

had re-entered the Fund, and dies on or after 1 July, 1999, and who satisfies the Board that he was wholly or partially dependent on contribution from the deceased for the provision of the ordinary necessities of life suitable for persons in his class or position:

Provided that —

(i) if such dependent nominee to whom paragraph (e) or paragraph (f) applies is a person to whom subsection (4) (a) of section 35 of the Act applies, the option to receive an annuity may be exercised on his behalf by the Public Trustee after consultation with the Board;

(ii) if any person is aggrieved by the decision of the Board in respect of dependency, he shall have a right of appeal to an ad hoc Appeals Tribunal appointed by the Minister, consisting of the following, whose decision shall be final and conclusive:-

(aa) a Chairman, who shall be a Barrister and Solicitor;

(bb) a representative of employees; and

(cc) an independent person of good standing in the community:

Provided that members of the Board or of the staff of the Fund may not be appointed to any such Appeals Tribunal.

(2) If any person entitled to do so under paragraph (1) does not exercise his option within the time limit prescribed or does not opt to receive an annuity, he shall receive such sum as would be due to him as if this Order had not been made.

*Joint Annuities*

3. Any person entitled to receive an annuity under the provisions of subparagraph (1) [excluding (1) (e) and (1) (f)] of paragraph 2 may, if that person is married at his or her date of entitlement, opt to receive a joint annuity together with his or her spouse.

*Amount, frequency and duration of annuities*

4. The amount, frequency of payment and duration of such annuities shall be as prescribed in the Fiji National Provident Fund (Annuities) Regulations:

Provided that, if the amount of any annuity calculated under the provisions of the said Regulations amounts to less than \$240 per annum, no annuity shall be payable and the amount payable shall instead be the amount which would have been payable had this Order not been made.

*Revocation*

5. The Fiji National Provident Fund (Annuity) Order of 24th May, 1974 and Legal Notices Numbers 46 of 1982 and 104 of 1985 shall be revoked with effect from 1 July, 1999:

SECTION 64—FIJI NATIONAL PROVIDENT FUND  
(EXEMPTIONS) ORDER

*Legal Notice No 49 of 1983  
Amended by Legal Notice No. 39 of 2005*

---

TABLE OF PROVISIONS

ORDER

1. Short title
2. Interpretation
3. Employees entitled to other benefits applicable to Government employees, etc.
4. Expatriate employees
5. Hardship
6. Transitional
7. Revocation

*Short title*

1. This Order may be cited as the Fiji National Provident Fund (Exemptions) Order.

*Interpretation*

- 2.— (1) In this Order, unless the contrary intention appears—  
"basic salary", in relation to a person and a period, means the total amount payable, by way of salary, to the person during the period, but does not include any amount payable to the person by way of overtime, an allowance or salary supplementation;

"Government employee" means a person who is employed by the Government of Fiji or is declared, in pursuance of paragraph (e) of the definition of "employee" in section 2 of the Act, to be an employee, for the purposes of the Act, of the Government.

(2) For the purposes of this Order, a person shall be taken to be entitled, under the terms and conditions of his employment, to a gratuity of a specified percentage of his basic salary if, subject to his having rendered satisfactory service, he is entitled, under those terms and conditions—

(a) upon the completion of the period of his employment; or  
(b) upon the completion of each of a number of periods that, together, comprise the whole of the period of his employment, to the payment, in addition to his salary and any allowances payable to him, of an amount equal to that percentage of his basic salary for that period.

*Employees entitled to other benefits applicable to Government employees, etc.*

3. A person shall be exempt from all the provisions of the Act, if—

- (a) he is a Government employee who—
- (i) is eligible, on retirement, to payment of a pension under the provisions of any law for the time being in force relating to the payment of pensions to public officers;
  - (ii) is eligible, on retirement, to payment of a retiring allowance under the provisions of regulation 25 of the Pensions (1958) Regulations; or
  - (iii) was, on 31 October 1971, the holder of an office specified in the First Schedule to the Pensions and Gratuities (Disciplined Services) Act and has continued, without interruption, since that date, to be the holder of that office or of offices so specified;
- (b) he is an officer or soldier in the Regular Force of the Royal Fiji Military Forces; or
- (c) he is an employee of the Fijian Affairs Board who has elected to be eligible, on retirement, to payment of a pension for the whole of his service until retirement under the provisions of any law for the time being in force relating to the payment of pensions to public officers.

*Expatriate employees*

4.—(1) Subject to subparagraph (3), a Government employee who is not a citizen of Fiji shall be exempt from all the provisions of the Act, if—

- (a) he has been recruited under—
- (i) the United Kingdom Government aid scheme known as the Overseas Staffing Assistance Scheme;
  - (ii) the Australian Government aid scheme known as the Australian Staffing Assistance Scheme; or
  - (iii) the New Zealand Government aid scheme known as the New Zealand Supplementation Scheme;
- (b) he is employed in Fiji on terms and conditions under which he is entitled to a gratuity of not less than 25% of his basic salary; or
- (c) the Minister, acting on the recommendation of the General Manager, has certified to the Board that he is satisfied that adequate provision of a kind similar in intent to that of the Act is made in the conditions of employment of the person.

(2) *Repealed by Legal Notice No. 39 of 2005 o. 2---the subsection to be deleted and the section to be re-numbered*

(3) Sub-paragraphs (1) and (2) do not apply to a person who—

- (a) was, on 1 December 1973, a member of the Fund; and  
(b) has continued, without interruption, since that date, to be a member of the Fund.

(4) Where, in respect of—

- (a) employment during the period that commenced on 14 May, and ended on 30 September, 1982; or

(b) employment that, in pursuance of a written contract entered into before 1 October 1982, commenced on or after that date, a person would, but for his failure to make an election under item (a) of subparagraph (2), be an employee for the purposes of the Act, he shall, in respect of that employment, be exempt from all the provisions of the Act unless his employer has, by notice in writing given to the Manager, not later than 1 July 1983, accepted the obligations of an employer under the Act in respect of that employment.

*Hardship*

5. A person shall be exempt from all the provisions of the Act, and shall be deemed to have been so exempt from the commencement of his employment, if—
- (a) not later than 3 months after the commencement of his employment, he or his employer has, by notice in writing given to the Manager, applied, on grounds of hardship, that the employee be exempted from the provisions of the Act; and
  - (b) the Board is satisfied that—
    - (i) the employee is a contributing member of a scheme that provides benefits on retirement; and
    - (ii) the person by whom the notice was given would suffer hardship if the Act were to apply to the employee.

*Transitional*

6. Nothing in this Order shall be taken to require the making of contributions to the Fund by, or in respect of, a person in relation to his service before 1 July 1983 as an officer or soldier in a part of the Fiji Military Forces other than the Regular Force.

*Revocation*

7. The Fiji National Provident Fund (Exemptions) Order in Legal Notice No. 45 of 1982 is revoked.

SECTION 5-----NATIONAL PROVIDENT FUND (FINANCIAL SERVICES) ORDER

*Legal Notice No. 5 of 1999*  
*Amended by Legal Notice No. 23 of 1999*

TABLE OF PROVISION

ORDER

- 1. Short title
- 2. Interpretation
- 3. Powers of Board

*Citation*

1. This Order may be cited as the Fiji National Provident Fund (Financial Services) Order.

*Interpretation*

2.—(1) In this Order—

"Act" means the Fiji National Provident Fund Act ;

"financial services" means any one or more of the following

activities—

- (a) the issue, allotment, drawing, acceptance, endorsement, transfer of ownership, sale or purchase of a debt security;
- (b) the issue, allotment, transfer of ownership, sale or purchase of an equity security or a participatory security;
- (c) underwriting or sub-underwriting the issue of a debt security, equity security or participatory security;
- (d) the renewal or variation of a debt security, equity security or participatory security;
- (e) the provision, taking, variation or release of a guarantee, indemnity, security or bond in respect of the performance of obligations under a debt security, equity security or participatory security, or in respect of the activities specified in paragraphs (a) to (d);
- (f) the payment or collection of any interest, principal, dividend or other amount in respect of any debt security, equity security, participatory security or future contract;
- (g) any other activity deemed necessary by a trustee exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others and having regard at all times to the best interests of the beneficiaries;
- (h) agreeing to perform, or arranging, any of the activities in paragraphs (a) to (g)-

"contributory scheme" means any scheme or arrangement that, in substance and irrespective of the form, involves the investment of money in such circumstances that—

- (a) the investor acquires, or may acquire, an interest in or right in respect of property; and
- (b) pursuant to the terms of the investment, the interest or right will or may be used or exercised in conjunction with any other interest in or right in respect of property acquired in like circumstances, whether at the same time or not;

"debt security" means any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property) and includes—

- (a) a debenture, debenture stock, bond, note, certificate of deposit or

convertible  
note; and

- (b) a renewal or variation of the terms and conditions of any such interest or right of a security referred to in paragraph (a);

"equity security" means any interest or right to a share in the capital of a body corporate;

"participatory security" means any interest or right to participate in any capital, assets, earnings or other property of any person where that interest or right forms part of a contributory scheme, as defined, and includes any interest in a unit trust, as defined, but does not include an equity security or debt security;

"unit trust" means any scheme or arrangement, whether made before or after the commencement of this Order, that is made for the purpose, or has the effect of providing, facilities for the participation, as beneficiaries under a trust, by subscribers or purchasers as members of the public (and not as an association) in income and gains, whether in the nature of capital or income, arising from the money, investments and other property that are for the time being subject to the trust.

#### *Powers of Board*

3.—(1) The Board has power to carry on the business of financial services, to the extent that such services are not inconsistent with section 7 of the Act.

(2) Without limiting sub-paragraph (1) the Board has power to incorporate or subscribe to any company which has as its main purpose the carrying on of the business of financial services, to the extent that such services are not inconsistent with section 7 of the Act.

#### SECTION 42----NOTIFICATION OF APPROVED LENDER

*Legal Notice No. 120 of 1992*

The Minister hereby approved:

LIFE INSURANCE CORPORATION OF INDIA

As an approved lender for the purposes of Part 9 of the said Act.

#### SECTION 42-----NOTIFICATION OF APPROVED LENDER

*Gazette Notice No. 1847 of 2001*

The Minister hereby approved:

MERCHANT BANK OF FIJI

As an approved lender for purposes of Part 9 of the Act.

SECTION 13----NOTICE UNDER SECTION 13(1)-PAYMENT OF CONTRIBUTIONS

*Legal Notice No. 64 of 2005*

The Minister hereby declared that, from 1st January 2006, if, in any month of his employment by an employer, an employee is employed by that employer for a period of less than 12 days excluding Sundays and Public Holidays, that employer must contribute in respect of that employee in the following month a contribution calculated upon the amount of wages payable to such employee by such employer for the preceding month at the appropriate rates set out in the Second Schedule to the Act.

*Controlled by Ministry of Finance*