

# National Provident Fund Rules 1981

## **Unvalidated References:**

[National Provident Fund Act 1980](#)

National Provident Fund Rules 1980

[National Housing Corporation Act 1990](#)

[Public Health Act 1973](#)

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel

Dated 25 November 2006

## **INDEPENDENT STATE OF PAPUA NEW GUINEA.**

Chapter 377.

### [\*National Provident Fund Rules 1981\*](#)

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MADE under the [National Provident Fund Act 1980](#).

Dated                      200 .

**PART I.** – PRELIMINARY.

**1. INTERPRETATION.**

In these Rules “the commencement date” means 1 July 1981, the date on which the National Provident Fund Rules 1980 came into force.

**PART II.** – NATIONAL PROVIDENT FUND BOARD.

**2. NOTICE CALLING MEETING.**

(1) A notice calling a meeting of the Board shall contain–

- (a) the date, time and place of the meeting; and
- (b) a list of the business to be transacted at the meeting.

(2) A notice under Subsection (1) shall be sent by–

- (a) registered post; or
- (b) special messenger,

to each Trustee.

**3. MATTER OF IMPORTANCE.**

Where the Chairman determines that any matter to be considered by the Board is of sufficient importance he may instruct the Secretary to invite any Trustee, who is unable to attend

the meeting at which the matter is to be decided, to submit his opinion on the matter in writing to the Chairman, and any such written opinions of absent Trustees shall be counted with the votes of Trustees present.

#### 4. MINUTES.

(1) The minutes of each meeting shall be recorded in a minute book as a permanent record.

(2) The minutes shall include the names of Trustees present at each meeting.

(3) Subject to Subsection (4), the Secretary shall send to each Trustee within one month of a meeting of the Board a copy of the minutes of the meeting.

(4) Where a further meeting of the Board is to be held within one month and 10 days of the previous meeting, the Secretary shall send to each Trustee a copy of the minutes of the previous meeting so that each Trustee receives them at least 10 days before the next meeting.

#### **PART III. – DIRECTOR AND OTHER STAFF.**

#### 5. OFFICES.

The Board may open such offices as it considers necessary for the proper management and operation of the Fund.

#### 6. DUTIES OF STAFF.

The Board may define the functions and duties of members of the staff.

#### 7. NOTIFICATION OF APPOINTMENTS.

(1) Notification shall be given to the Board of all staff appointments.

(2) Notification under Subsection (1) shall be given at the next meeting of the Board after the appointment is made.

#### 8. DELEGATION BY BOARD.

(1) The Board may by resolution delegate to–

- (a) the Chairman; and
- (b) the Director,

all or any of its powers relating to–

- (c) expenditure on contingencies, supplies, services and purchases required for administering the Fund; and
- (d) the appointment of staff for the efficient administration of the Fund.

(2) A delegation of financial powers under Subsection (1)(c) shall be within the financial limits of the budget and shall specify the limits within which it may be operated.

## 9. DELEGATION BY DIRECTOR.

The Director may delegate any financial or administrative powers except where delegation by him is expressly or implicitly forbidden.

## PART IV. – MEMBERSHIP OF THE FUND.

## 10. CLASSES OF EMPLOYEES ENTITLED AND REQUIRED TO JOIN THE FUND.

(1) For the purpose of this section “continuous service” means uninterrupted service, but includes service which is interrupted by sickness, accident, authorized leave, strike which has not been declared illegal by a competent authority or involuntary unemployment.

(2) For the purpose of this section in computing the period of work for 60 days–

(a) periods of involuntary unemployment caused by stoppage of work due to shortage of raw materials or fuel, changes in the line of production, break down of machinery or other similar cause; or

(b) periods of authorized leave and authorized maternity leave for any number of days; or

(c) Sundays and other holidays,

intervening the days of actual work shall be deemed to be days in which the employee has worked in the establishment.

(3) Subject to Subsection (4), every employee, other than an exempted employee, who is a citizen employed in or in connection with the work of an establishment to which the Act applies, who–

(a) has–

(i) completed three months continuous service; or

(ii) worked not less than 60 days within a period of three months or less,

in–

(iii) that establishment; or

(iv) any other establishment to which the Act applies under the same employer,

or partly in the establishment referred to in Subparagraph (iii) and partly in the other establishment referred to in Subparagraph (iv);  
or

(b) has been declared permanent in that establishment,

whichever first happens, shall be entitled and required to become a member from the beginning of the month following that in which—

(c) this section comes into operation in the establishment; or

(d) he becomes entitled to become a member,

as the case may be.

(4) Where the Act applies to an establishment on the expiry or cancellation of an order of exemption under Section 46 of the Act, every employee who but for the exemption would have become, and continued as, a member, shall immediately become a member.

(5) An exempted employee employed in or in connection with the work of an establishment to which the Act applies shall, on ceasing to be such an employee, be entitled and required to immediately become a member.

(6) On re-election of an employee or a class of employees exempted under Section 13 or 14 to join the Fund or on the expiry or cancellation of an order made under those sections, every employee, who, but for the exemption, would have become, and continued as, a member, shall immediately become a member.

(7) Every employee who is a member of a private provident fund maintained in respect of an exempted establishment and who, but for the exemption would have become and continued as a member of the Fund shall, on joining an establishment to which the Act applies, immediately become a member.

(8) The Director may, on the joint written request of any person or employee of an establishment to which the Act applies and his employer, enrol the person as a member or allow him to contribute at a higher rate and then the employee shall be entitled to the benefits and shall be subject to the conditions of the Fund.

(9) An employee, who is a non-citizen, employed in or in connection with the work of an establishment to which the Act applies, who—

(a) has—

(i) completed three months continuous service; or

(ii) worked not less than 60 days within a period of three months or less,

in—

(iii) that establishment; or

(iv) any other establishment to which the Act applies under the same employer,

or partly in the establishment referred to in Subparagraph (iii) and partly in the other establishment referred to in Subparagraph (iv);  
and

(b) is not in enjoyment of a scheme providing retirement benefits similar to those provided under the Act; and

(c) has by written notice to his employer requested that he be enrolled as a member,

shall be entitled to become a member from the beginning of the month following that in which—

(d) this section comes into operation in the establishment; or

(e) he becomes entitled to become a member,

as the case may be.

## **11. RETENTION OF MEMBERSHIP.**

(1) A member shall continue to be a member until he withdraws, under Part IX of the Act, the amount standing to his credit in the Fund or is covered by a notification of exemption under Section 42 of the Act or an order of exemption under Section 13 or 14.

(2) In an establishment to which this Act applies—

(a) every member who is an employee, other than an exempt employee, shall contribute to the Fund; and

(b) the contribution in respect of the member shall also be payable to the Fund by the employer,

in accordance with the rate specified in Part V of the Act.

## **12. RESOLUTION OF DOUBTS.**

(1) Subject to Subsection (2), where any question arises—

(a) whether an employee is entitled or required to become or continue as a member; or

(b) as regards the date from which he is so entitled or required to become a member,

the decision of the Director or officers subordinate to the Director, authorized by him for the purpose, is final.

(2) A decision shall not be given under Subsection (1) unless both the employer and employee have been heard.

## **13. EXEMPTION OF AN EMPLOYEE.**

(1) Subject to this section, the Director may by an order and subject to such conditions as may be specified, exempt from the operation of the relevant provisions of the Act an employee to whom the Act applies, on receipt of application in Form SF1 from the employee.

(2) An exemption shall be granted only where an employee is entitled to a benefit in the nature of a provident fund, gratuity or old age pension according to the rules of the establishment and the benefits, separately or jointly, are on the whole not less favourable than the benefits provided by the Fund.

(3) Where an employee is exempted under this section the employer shall, in respect of the employee, maintain accounts, submit returns, provide facilities for inspection, and invest provident fund collections in such manner as the Director directs.

(4) An employee exempted under this section may by an application to the Director make a declaration that he will become a member.

(5) An employee shall not be granted exemption or permitted to apply out of exemption more than once on each account.

#### 14. EXEMPTION OF CLASS OF EMPLOYEES.

(1) Subject to this section, the Director may, by order and subject to such conditions as may be specified in the order, exempt from the operation of all or any of the relevant provisions of the Act, any class of employees to whom the Act applies.

(2) An exemption under this section shall only be granted where the class of employees is entitled to benefits in the nature of a provident fund, gratuity or old age pension according to the rules of the establishment and such benefits separately or jointly are on the whole not less favourable than the benefits provided by the Fund.

(3) Where any class of employees is exempted under this section, the employer shall in respect of that class of employees maintain accounts, submit returns, provide facilities for inspection, and invest provident fund collections in such manner as the Director directs.

(4) A class of employees exempted under this section or the majority of employees constituting that class may, by an application to the Director, make a declaration that the class of employees will become members.

(5) A class of employees shall not be granted exemption or permitted to apply out of exemption more than once on each account.

#### 15. TRANSFER OF ACCUMULATIONS FROM EXISTING PROVIDENT FUNDS.

(1) Every authority in charge of, or entrusted with the management of, any provident fund in existence on 30 June 1980, the accumulations of which are to be transferred to the Fund under the Act shall, before the commencement date, or such later date as the Director fixes—

(a) send to the Director a statement showing—

(i) the amount standing to the credit of each subscriber on the date of the transfer; and

(ii) the total accumulations to the credit of subscribers generally on that date; and

(iii) the advances (if any) taken by the subscribers; and

(b) transfer to the Board all passbooks, books of account and other documents relating to the accumulations; and

(c) transfer to the Fund in the manner specified in this section the total accumulations standing to the credit of the subscribers in relation to each establishment.

(2) Subject to Subsections (3) and (4) all accumulations standing to the credit of the subscribers, however invested, shall be transferred to the Fund by the authority in cash.

(3) Where the whole or any part of the accumulations, referred to in Subsection (2), consists of investments in Government securities or in securities guaranteed by an appropriate government as regards repayments of principal and payment of interest or in both, the authority making the transfer to the Fund shall transfer those securities at the price for which they were actually purchased or transfer the sum equivalent to that price.

(4) Where the whole or any part of the accumulations, referred to in Subsection (2), consists of investments in securities not bearing the guarantee of an appropriate government as regards repayment of principal and payment of interest, the Government may, in exceptional cases, allow acceptance of the transfer of the securities from the authority making the transfer to the Fund at the price for which they were actually purchased.

(5) Any cash transferred under Subsection (2)–

(a) shall be deposited to the credit of the Board in any office or branch of the Bank of Papua New Guinea or bank nominated for the Fund and the receipt obtained in respect of the cash shall be forwarded to the Director; and

(b) where there is no office, or branch of either of the Banks at the place where the establishment is situated–shall be credited to the Board by means of a Bank of Papua New Guinea Governmental Draft at par.

(6) The accumulations transferred to the Fund in accordance with this section shall be credited to the account of each of the members, to the extent to which he may be entitled, having regard to the statement furnished by the authority making the transfer.

(7) Where the accumulations in any provident fund referred to in Subsection (1) have been transferred to the Fund, the Director may, by notice in the National Gazette declare that the subscribers of the provident fund have become members and that the accumulations have become vested in the Board.

## **PART V. – CONTRIBUTIONS.**

### **16. RECOVERY OF A MEMBER'S SHARE OF CONTRIBUTION.**

(1) Subject to this section, the amount of a member's contribution paid by the employer shall, notwithstanding the provisions of the Act or any other law or any contract to the contrary, be recoverable by means only of deduction from the pay of the member.

(2) Subject to Subsection (3) deductions for contribution may not be made from any pay other than that paid in respect of the period or part of the period in respect of which contribution is payable.

(3) Where, by an accidental mistake or clerical error, a deduction has not been made from a pay other than that paid in respect of the period for which the contribution has been paid or is

payable, the employer or an agent, with the written consent of an Inspector, is entitled to recover the employee's share from a subsequent pay.

(4) Deductions made from the pay of a member paid on a daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(5) Any sum deducted by an employer, or an agent, from the pay of an employee under the Act shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

#### **PART VI. – DECLARATION, CONTRIBUTION RECORDS AND RETURNS.**

#### **17. DECLARATION BY PERSONS ALREADY EMPLOYED AT THE TIME OF INSTITUTION OF THE FUND.**

On the date of coming into operation of the Fund, every person who is required or entitled to become a member shall be asked by his employer to furnish and shall, on such demand, furnish to him for communication to the Director, in Form SF2, particulars concerning himself and his nominee, and the employer shall enter the particulars in the form and obtain the signature and left thumb impression (in the case of an illiterate person left thumb impression only) of the person concerned duly witnessed and countersigned by the employer.

#### **18. DECLARATION BY PERSON TAKING UP EMPLOYMENT AFTER THE FUND HAS BEEN ESTABLISHED.**

(1) Before taking any person into employment, the employer in relation to an establishment shall ask him to state in writing whether or not he is a member, and if he is, to produce his membership card containing his account number and name, and to furnish particulars of his last employer.

(2) Where the person is unable to produce his membership card he shall provide particulars regarding himself and his nominee required for completion of Form SF2 to be forwarded to the Director, and the employer shall complete the form and obtain the signature and left thumb impression (in the case of an illiterate person left thumb impression only) of the person concerned.

#### **19. PREPARATION OF CONTRIBUTION RECORDS.**

Each employer shall prepare such contribution records as may be specified by the Director, in respect of every employee in his employment at the commencement date or who is taken into employment after that date and who is required or entitled to become or is a member, including those who produce an account number and in respect of whom no fresh declaration form is prepared.

#### **20. DUTIES OF EMPLOYERS.**

(1) Every employer shall send to the Director, within 15 days of the date gazetted to do so, a return on Form SF5 of the employees required or entitled to become members showing—

- (a) the basic pay and details of other allowances paid to each of such employees; and
- (b) such other details as may be required.

(2) Subject to Subsection (3), every employer shall send to the Director within 15 days of the close of each month a return—

(a) in Form SF5A—

- (i) of the employees who became members for the first time during the preceding month; and
- (ii) the declarations in Form SF2 furnished by qualifying employees; and

(b) in Form SF6—of the employees leaving the service of the employer during the preceding month.

(3) If there is no employee who becomes a member for the first time or there is no employee leaving the service of the employer during the preceding month, the employer shall send a 'NIL' return.

(4) Every employer shall maintain—

(a) an inspection notebook in such form as the Director specifies, for an Inspector to record his observations on his visit to the establishment; and

(b) such registers in respect of his employees as are specified by the Director from time to time.

(5) Every employer shall maintain such accounts in relation to the amounts contributed to the Fund by him and by his employees as the Director, from time to time, directs, and it is the duty of every employer to assist the Director in making such payments from the Fund to his employees as are sanctioned by or under the authority of the Board.

(6) Notwithstanding this section, the Board may issue such directions to employers generally as it considers necessary or proper for the purpose of implementing the Act, and it is the duty of every employer to carry out such directions.

## **21. EMPLOYER TO FURNISH PARTICULARS OF OWNERSHIP.**

(1) Every employer in relation to an establishment to which the Act applies on the date of coming into operation of the Fund, or to which it is applied after that date, shall furnish to the Director—

(a) within 15 days of the date gazetted to do so—in Form SF3, particulars of all the branches and departments, owners, occupiers, directors, partners, manager or any other person or persons who have the ultimate control over the affairs of the establishment together with any other details required; and

(b) an intimation of any change in those particulars within 15 days of the change,

by registered post and in such other manner as may be specified by the Director.

(2) Every person becoming or again becoming an employer after the commencement date shall comply with the requirements of Subsection (1) within 15 days of becoming such an employer.

## **22. ALLOCATION OF REGISTRATION NUMBER.**

The Director shall register and allocate to each employer, a registration number to be used in all correspondence with the Fund.

## **23. ALLOTMENT OF ACCOUNT NUMBERS.**

On receipt of the information referred to in Sections 17, 18 and 20 the Director shall—

(a) promptly allot an account number to each employee who is entitled to become a member; and

(b) forward to the member through the employer a membership card containing his name and account number.

## **24. MODE OF PAYMENT OF CONTRIBUTIONS.**

(1) The employer shall, before paying the member his pay in respect of any period or part of a period for which contributions are payable, deduct the employee's contribution from his pay which, together with his own contribution, he shall, within 15 days of the close of every month, pay to the Fund by bank drafts or cheques or postal orders on account of contributions.

(2) Where payment is made by a cheque on an outstation bank, the actual bank collection charges (if any) in respect of the contribution shall be included in the amount for which the cheque is drawn.

(3) Where there is no branch of the Bank of Papua New Guinea at the station where the establishment is situated, the employer shall pay to the Fund the amount referred to in Subsection (1) or (2) by means of a Bank of Papua New Guinea Governmental Draft at par on account of contributions.

(4) All payment of contributions to the Fund shall be accompanied by Form SF7 duly completed or by such other forms as the Director from time to time specifies.

(5) A receipt for each sum paid to the Fund shall be given by the Director.

(6) The Director shall provide to employers—

(a) Employees Contribution Form SF7; and

(b) six-monthly pre-printed schedules of all members registered with that employer in Form SF8; and

(c) such supplementary schedules as are necessary from time to time.

(7) Every month the employer shall enter on the schedule the amount payable to the Fund in respect of each employee.

(8) Every month every employer shall complete the Employer Contributions Form SF7, by entering on it—

- (a) the total of the amounts payable in respect of all his employees for that month; and
- (b) any penalties, bank collection charges (if any) and other charges,

and forward it with a remittance for the total amount to reach the Director within 15 days of the end of the month as specified in Subsection (1).

(9) Every employer shall keep duplicate copies of schedules and employer contribution forms.

(10) Where, during the currency of any schedule referred to in Subsection (6), any employee leaves the service of the employer, the employer shall—

- (a) strike through the space against that employee's name for the remaining months of the half year for which no contributions are due; and
- (b) enter the total of contributions in respect of that employee in one final column of the schedule.

(11) At the end of each six months period, each employer shall—

- (a) complete the schedule referred to in Subsection (6) by adding together the amounts payable in respect of each employee during the half year to which the schedule relates; and
- (b) enter the total calculated under Paragraph (a) in the final column of Form SF8; and
- (c) enter manually, details of those of his employees for whom no pre-printed schedule has been received; and
- (d) add such totals and enter the grand total in the space provided; and
- (e) detach the schedule from its duplicate and forward it to the Director within 15 days of the expiry of the six month period to which it relates.

(12) Where an establishment ceases to be liable to pay contributions under the Act or closes down it shall immediately dispatch to the Director completed schedules and employer contribution forms together with all remittances due to the Fund.

(13) Where during any half-year an employee applies to withdraw the amount standing to his credit in the Fund or any person applies on his behalf, the Director may, by issue to that employee's employer of the appropriate form, require that employer to complete an interim statement of contributions setting out the amount of contributions due to that employee up to such date as may be determined and the employer shall complete and return the interim statement within 14 days of the date of its issue.

(14) Notwithstanding this section, the Director may, if the circumstances so warrant, vary the methods, forms and procedures used for payment of contributions.

## **25. INSPECTION OF CONTRIBUTION SCHEDULES BY MEMBER.**

Any member making a request to the employer to be permitted to inspect his contribution schedule himself or to have it inspected by any person duly authorized by him in writing to do so shall, within 72 hours of making the request, be permitted to do so, provided that no such request shall be considered more than once in every four calendar months.

## **26. PRODUCTION OF CARDS AND RECORDS FOR INSPECTION BY THE DIRECTOR, ETC.**

Every employer, when the Director or any other officer authorized by him for the purpose or an Inspector so requests, either in person or by written notice, shall—

(a) produce before the Director, officer or Inspector, as the case may be, the contribution schedule of any member employed by him or any duplicate copies of employers contribution forms; and

(b) if so required—deliver the record to the Director, officer or Inspector, who may, if he thinks fit, retain the record provided that he gives a receipt for every record retained by him.

## **27. SUPPLY OF FORMS TO EMPLOYERS.**

(1) Subject to Subsection (2), the Director shall supply to employers, free of charge on demand, contribution schedules, declaration forms and other forms referred to in these Rules.

(2) Where an employer desires to obtain any forms in excess of the number which the Director considers necessary, the Director may, if he thinks fit, supply such extra forms and make such charge as he considers reasonable.

## **28. CURRENT ACCOUNT.**

The Director shall deposit the Bank Draft or cheques or postal orders received from the employers in the Bank of Papua New Guinea or any other bank as decided by the Government, in the current account of the Fund.

## **PART VII. – ADMINISTRATION OF THE FUND, ACCOUNTS AND AUDIT.**

## **29. CENTRAL ADMINISTRATION ACCOUNT.**

A separate account shall be kept called the “Central Administration Account” for recording all administrative expenses of the Fund.

## **30. PROVIDENT FUND ACCOUNT.**

The aggregate amount received as the employers’ end employees’ contributions to the Fund shall be credited to an account to be called the “Provident Fund Account”.

## **31. INTEREST SUSPENSE ACCOUNT.**

All interest, rent and other income realized, and net profits or losses (if any) from the sale of investments not including the transactions of the Central Administration Account, shall be credited or debited, as the case may be, to an account called the “Interest Suspense Account”.

## **32. INVESTMENT OF MONEYS.**

(1) All moneys belonging to the Fund shall—

(a) be deposited in the Bank of Papua New Guinea or in such other scheduled banks as may be approved by the Government from time to time; or

(b) be invested, subject to such directions as the Minister may from time to time give, in securities, debentures and other ways, provided that such securities are payable both in respect of capital and of interest in Papua New Guinea.

(2) All expenses incurred in respect of, and loss (if any) arising from, any investment shall be charged to the Fund.

### **33. DISPOSAL OF THE FUND.**

(1) Subject to the Act and these Rules, the Fund, not including the Central Administration Account, shall not, except with the previous sanction of the Government, be expended for any purpose other than the payment of the sums standing to the credit of individual members, to the individual members or to their nominees or heirs or legal representatives in accordance with these Rules.

(2) The Fund shall be operated by such officers as may be authorized for the purpose, by the Board.

### **34. EXPENSES OF ADMINISTRATION.**

(1) All expenses relating to the administration of the Fund shall be met from the Fund.

(2) All expenses of the administration of the Fund, including—

(a) the fees and allowances of the Trustees and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to the Fund and other benefit fund instituted for the officers and employees of the Board; and

(b) the cost of audit of the accounts, legal expenses and all stationery and forms incurred in connection with the purchase and the construction of office buildings and staff quarters,

shall be met only from the Central Administration Account.

(3) The expenses incurred by the Government in connection with the establishment of the Fund shall be treated as a loan and the loan shall be repaid from the Central Administration Account in such instalments as may be fixed by the Government, if such repayment is decided on by the Government.

### **35. FORMS OF ACCOUNTS.**

The accounts of the Fund including the Central Administration Account, shall be maintained by the Director in such form and manner as specified by the Board.

### **36. AUDIT.**

(1) The accounts of the Fund, including the Central Administration Account, shall be audited in accordance with the provisions of the Act.

(2) The charges on account of audit shall be paid out of the Central Administration Account.

### **37. TRANSFER OF MEMBERS.**

Where a member ceases to be employed in one establishment and secures employment in another establishment, which is not covered under the Act but has a provident fund scheme of its own, he may apply to the Director, in such form as the Director specifies for transfer of the balance of the Fund in his existing account to his account in the new establishment where he takes up employment.

### **37A. TRANSFER FOLLOWING EXEMPTION OF ESTABLISHMENT.**

11Where an establishment has been exempted from the operations of the Act under—

- (a) Section 3 of the Act; or
- (b) Section 42 of the Act,

the total amount of accumulations standing to the credit in the Fund of an employee in that establishment shall be transferred to the credit of that employee in the provident fund of that establishment.

### **38. BUDGET.**

(1) The Director shall place before the Board each year before 14 November, a budget showing separately the probable receipts from the contributions and the expenditure which he proposes to incur during the following financial year and the budget as approved by the Board shall be submitted to the Minister for information within one month of its being placed before the Board.

(2) The Director may, at any time during the year, make budgetary reappropriation of funds sanctioned in the budget by the Board provided that—

- (a) the total amount sanctioned in the budget by the Board is not exceeded; and
- (b) it is made only for meeting such expenses of administration as are to be met from the Central Administration Account in accordance with Section 34; and
- (c) it is reported by him to the Board at the next meeting of the Board.

(3) The Director shall place before the Board a supplementary budget for a financial year, giving detailed estimates of, and reasons for, inescapable expenditures which are likely to be incurred during the year for which no provision has been made in the sanctioned budget and which cannot be covered by Subsection (2), and the supplementary budget as approved by the Board shall be submitted to the Minister for information within one month of its being placed before the Board.

(4) Any expenditure incurred by the Director over and above the sanctioned budget of a financial year and not covered by Subsections (2) and (3) shall be reported to the Board at the earliest practicable moment after the excess is established, for its consideration and approval and for reporting to the Minister.

### **39. MEMBERS ACCOUNTS.**

(1) An account shall be opened in the office of the Fund in the name of each member in which shall be credited—

- (a) his contributions; and
- (b) the contributions made by the employer in respect of him; and
- (c) interest as provided by Section 40.

(2) On receipt of the contribution schedules of a member from his employer or employers at the end of the period of currency of the contribution schedule, the Director shall cause the member's individual accounts to be credited with the amounts shown in them.

#### **40. INTEREST.**

(1) The Director shall credit to the account of each member interest at such rate as may be determined by the Board.

(2) Interest for the period of currency of the schedule shall be allowed on the balance standing to the credit of the member on 1 January falling within the period of currency.

(3) Subject to Subsection (4), in case of a claim for a refund under Section 53 or 54 of the Act, interest shall be payable up to the end of the month preceding the date on which the final payment is authorized, irrespective of the date of receipt of the claim from the claimant concerned.

(4) The rate of interest to be allowed on claims for refund for the broken currency period shall be the rate fixed for the financial year in which the refund is authorized.

(5) The aggregate amount of interest credited to the accounts of the members shall be debited to the Interest Suspense Account.

(6) In determining the rate of interest, the Board shall satisfy itself that there is no overdrawal on the Interest Suspense Account as a result of the debit to it of the interest credited to the accounts of members.

#### **PART VIII. – NOMINATIONS, PAYMENTS AND WITHDRAWALS FROM THE FUND.**

#### **41. NOMINATION.**

(1) Each member shall make in his declaration in Form SF2, a nomination for the purposes of Section 54 of the Act.

(2) A nomination made under Subsection (1) may at any time be modified by a member after giving a written notice of his intention of doing so in Form SF10.

(3) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Director.

#### **42. ADVANCE FROM THE FUND FOR THE PURCHASE OF A DWELLING HOUSE, ETC.**

(1) For the purposes of this section—

- (a) a dwelling site or a dwelling house mortgaged to the Government, Provincial Government, a co-operative society, institution, trust, local body, National Housing Corporation, Housing Finance Corporation or scheduled bank solely for obtaining funds for the construction of the house under any housing scheme formulated by the Government or Provincial Government, shall not be deemed to be an encumbered property; and
- (b) an advance may be granted to a member for acquiring a flat in a building owned jointly with others, if other conditions in this section are satisfied; and
- (c) land acquired on perpetual lease or on lease for a period not less than 40 years for constructing a dwelling house or a house built on such leased land, shall also not be deemed to be an encumbered property.

(2) Subject to this section, the Director may, on an application from a member, sanction from the amount standing to the credit of the member in the Fund an advance of an amount not exceeding his 24 months' pay or his own total contributions with interest, whichever is less, for purchasing—

- (a) a dwelling house outright, or on hire-purchase basis from the Government or a co-operative society, institution, trust, local body, National Housing Corporation, Housing Finance Corporation; or
- (b) a dwelling site for the construction of a dwelling house.

(3) Where the advance is sanctioned for the purchase of a dwelling site in a non-urban area, the amount initially paid towards the advance shall not exceed 12 months' pay of the member or half of his own total contributions with interest, whichever is less, and the balance which shall not exceed 12 months' pay of the member or his own total contributions with interest then standing to his credit, whichever is less, and be paid to the member at his request at the time of the construction of a dwelling house on the dwelling site.

(4) Where the advance is in respect of the construction of a dwelling house it may be sanctioned in such number of instalments as the Director thinks fit.

(5) A member desiring to take an advance for purchasing a dwelling house on a hire-purchase basis, may authorize the Director in writing, in such form as may be prescribed by the Director, to make withdrawals from his Fund account for the purpose of paying the amount of hire-purchase instalments every year direct to the Government or, as the case may be, to the co-operative society, institution, trust, local body, the National Housing Corporation established by the [National Housing Corporation Act 1990](#), or Housing Finance Corporation and in any such case the total amount of such instalments shall not exceed 24 months' pay of the member or his own total contributions with interest, whichever is less.

(6) Where a dwelling site is to be acquired or houses are to be constructed by a co-operative society on behalf of its members with the view to their allotment to its members, the Director may, on an application from any member of the co-operative society, who is also a member of the Fund, sanction an advance subject to the limitations prescribed in this section and pay the amount direct to the society to the account of the member.

(7) An advance under this section shall not be sanctioned unless a member has completed five years membership of the Fund and unless his own total contributions, with interest, in the amount standing to his credit in the Fund is K1,500.00 or more.

(8) Subject to Subsection (9), where an advance is sanctioned for the construction of a dwelling house, the construction shall commence within six months of the withdrawal of the first instalment and shall be completed within 12 months of the withdrawal of the final instalment and in the case of purchase of a dwelling house or a dwelling site, the purchase shall be completed within six months of the withdrawal of the amount.

(9) Subsection (8) is not applicable in the case of purchase of a dwelling house on a hire-purchase basis and in cases under Subsection (6).

(10) Except in the cases specified in Subsection (11), a member shall be entitled to one advance only and no further advance shall be made to a member under this section.

(11) An additional advance up to his six months' pay may be granted once and in one instalment only for additions, substantial alterations or improvements necessary to the dwelling house owned by the member, provided that the advance shall be made only after a period of five years from the date of completion of the dwelling house.

(12) An advance under this section shall not be granted—

(a) unless the dwelling site of the dwelling house under construction is free from encumbrances; and

(b) for purchasing a share in a joint property or building a house owned jointly, except where land is owned—

(i) by a spouse of the member; or

(ii) jointly by the member and his spouse.

#### **43. TITLE DEEDS TO BE DEPOSITED.**

Where a member has been granted an advance under Section 42, he shall, unless the property is already mortgaged to one of the institutions specified in Section 42(1)(a), produce the title deed in respect of the property, so secured out of the advance granted from the Fund, for deposit with the Director and, provided those institutions undertake not to permit sale or disposal or mortgage of the property until the outstanding amount advanced with interest is refunded to the Director, the property shall stand mortgaged in favour of the Board, until such time as the member ceases to be a member or until he refunds the amount of the advance with interest, whichever is earlier.

#### **44. EXCESS ADVANCE TO BE REFUNDED.**

Where the advance granted under Section 42 exceeds the amount actually spent for the purpose for which it was sanctioned, the excess amount shall be refunded by the member to the Fund within 30 days of the finalization of the purchase of, or completion of the construction of, or necessary additions to, a dwelling house, as the case may be.

#### **45. MISUSE OF ADVANCE.**

(1) Where the Director is satisfied—

- (a) that the advance granted under Section 42 has been utilized for a purpose other than that for which it was granted; or
- (b) that the conditions of the advance have not been fulfilled; or
- (c) that there is a reasonable apprehension that they will not be fulfilled wholly or partly; or
- (d) that any excess amount will not be refunded in terms of Section 44,

he shall immediately take steps to recover the amount due with interest, at the rate which would be 2% above the rate of interest determined by the Board under Section 40, from the pay of the member in such number of instalments as the Director determines.

(2) For the purpose of recovery under Subsection (1), the Director may direct the employer to deduct each such instalment from the pay of the member and on the receipt of the direction the employer shall make the deduction.

(3) The amount deducted under Subsection (2) shall be remitted by the employer to the Director within such time and in such manner as may be specified by the Director, to be credited to the member's account.

(4) That portion of the interest which might have been credited to a member's account by the way of interest had he not taken an advance, shall be credited to the member's account and the excess shall be credited to the Interest Suspense Account.

(5) Where any advance granted under this section has been misused, no further advance shall be granted to the member under these Rules.

#### **46. ADVANCE FROM THE FUND TO BE NON-REFUNDABLE.**

(1) Subject to Sections 44 and 45 and to Subsection (2), advances under Section 42 shall be non-refundable.

(2) Where the member so desires he shall refund the amount in such number of instalments not exceeding 36 monthly instalments, as fixed by the Director.

#### **47. COMPUTATION OF PERIOD OF MEMBERSHIP.**

(1) In computing the period of membership of the Fund of a member under this Part his total service, exclusive of the period of breaks under the same employer or establishment before he became a member, as well as the periods of his membership, whether of the Fund or of private provident funds of exempted establishments or provident funds exempted under the Act, immediately preceding the current membership of the Fund, shall be included.

(2) Where the member has severed his membership by withdrawal from a provident fund, his period of membership prior to his withdrawal shall not count towards a computation under Subsection (1).

**48. CIRCUMSTANCES IN WHICH ACCUMULATIONS IN THE FUND ARE PAYABLE TO A MEMBER.**

A member may withdraw the full amount standing to his credit in the Fund in the circumstances specified in Section 52 of the Act.

**49. SPECIAL CIRCUMSTANCES OF RETRENCHMENT.**

(1) Subject to this Section, where there is mass or individual retrenchment the payment will be made only after a period of six months, if the member has not yet secured employment in the meantime in another establishment to which the Act applies.

(2) Where the retrenched member secures employment in any establishment to which the Act applies, the amount shall be retained in his account.

(3) Where the retrenched member secures employment in an establishment not covered by the Act the accumulations due to him shall be paid in cash to him after the expiration of six months or be transferred under Section 47 of the Act to the credit of the account of the member in the provident fund of the establishment in which he is re-employed, provided that this is done only if the member so desires and the transfer is permissible under the rules of that provident fund.

**50. OTHER SPECIAL CIRCUMSTANCES IN WHICH ACCUMULATIONS MAY BE PAID.**

A member may also withdraw the full amount standing to his credit in the Fund, but only where the actual payment is made after completing a continuous period of not less than six months immediately preceding the date on which the member makes the application for withdrawal where—

(a) an establishment is closed but certain employees, who are not retrenched, are transferred by the employer to another establishment not covered under the Act; or

(b) a member is transferred from an establishment to which the Act applies to another establishment not covered under the Act, but is under the same employer.

**51. SPECIAL CONDITIONS RELATING TO BODILY OR MENTAL INFIRMITY.**

(1) Where a member retires on account of bodily or mental infirmity and produces a medical certificate from any of the doctors specified in the certificate, the Director may demand from the member a fresh certificate from the superintendent of a Government hospital or any doctor acting on his behalf, where the original certificate produced by him gives rise to suspicion regarding its genuineness.

(2) The fee of the superintendent or doctor incurred by a demand under Subsection (1)—

(a) shall be paid from the Fund where the findings of the superintendent or any doctor acting on his behalf agree with the original certificate; and

(b) where the findings do not agree with the original certificate—half of the fee shall be paid from the Fund and the remaining half debited to the member's account.

(3) A member suffering from tuberculosis or leprosy or cancer, even if contracted after leaving the service of an establishment on grounds of illness but before payment has been authorized, shall be deemed to have been permanently and totally incapacitated for work.

## **52. OTHER GENERAL CIRCUMSTANCES IN WHICH ACCUMULATIONS MAY BE PAID.**

(1) Subject to Subsection (2), in cases other than those specified in Section 52 of the Act, the Board, or where so authorized by the Board, the Director or any officer subordinate to him, may permit the member to withdraw, subject to Section 53, the amount standing to his credit in the Fund, where he has not been employed in any establishment to which the Act applies for a continuous period of not less than six months immediately preceding the date on which he makes the application for withdrawal.

(2) The Director or any other officer authorized by him for the purpose may, in cases of hardship reduce, subject to such rules as may be made in this regard by the Director with the previous approval of the Board, the period of six months to the extent that he considers necessary.

## **53. CONDITIONS RELATING TO WITHDRAWAL UNDER SECTION 52.**

(1) When a member withdraws any amount under Section 52, the following provisions apply:—

(a) 75% of the employer's contribution and interest on it shall be forfeited to the Fund, where the period of his membership is less than five years; or

(b) 50% of the employer's contribution and interest on it shall be forfeited to the Fund, where the period of his membership is five years or more but less than eight years; or

(c) 25% of the employer's contribution and interest on it shall be forfeited to the Fund, where the period of membership is eight years or more but less than 12 years; or

(d) 15% of the employer's contribution and interest on it shall be forfeited to the Fund, where the period of the membership is 12 years or more but less than 15 years.

(2) Any sum forfeited to the Fund under Subsection (1) shall not be returned to the employer but shall be credited to the Forfeiture Account of the Fund.

## **54. MEMBER WHO WITHDRAWS AND OBTAINS RE-EMPLOYMENT IN AN ESTABLISHMENT TO WHICH ACT APPLIES.**

A member who withdraws the amount due to him under Section 52 shall, on obtaining re-employment in an establishment to which the Act applies, be treated as a new member.

## **55. ACCUMULATIONS OF A DECEASED MEMBER.**

(1) On the death of a member before the amount standing to his credit—

(a) has become payable; or

(b) has become payable but has not been paid,

where—

(c) a nomination made by the member in accordance with Section 54 of the Act subsists, the amount standing to his credit in the Fund or that part of it to which the nomination relates, shall become payable to his nominee or nominees in accordance with the nomination; or

(d) no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part of it to which the nomination does not relate, as the case may be, shall, subject to Subsection (2), become payable to the members of his family in equal shares.

(2) A share under Subsection (1)(d) shall not be payable to—

(a) a son who has attained majority; or

(b) a son of a deceased son who has attained majority; or

(c) married daughters whose husbands are alive; or

(d) married daughters of a deceased son whose husbands are alive,

where there is any member of the family other than those specified in this subsection.

(3) The widow or widows and the child or children of a deceased son shall receive between them, in equal parts, only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

(4) Where Subsections (1)(c) and (d), (2) and (3) do not apply, the whole amount shall be payable to the person legally entitled to it.

## **56. PAYMENT OUT OF FUND.**

(1) When the amount standing to the credit of a member, or the balance after any deduction under Section 53 becomes payable, it is the duty of the Director to make prompt payment and where there is—

(a) no nominee; or

(b) no person entitled to receive the amount under Section 55,

the Director may—

(c) if the amount to the credit of the Fund does not exceed K10,000.00; and

(d) if satisfied after enquiry about the title of the claimant,

pay such amount to the claimant.

(2) Where any portion of the amount, which has become payable, is in dispute or doubt, the Director shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon as possible.

## **57. PAYMENT TO MINOR.**

Where the person to whom any amount is to be paid under the Act is a minor, the payment shall be made—

(a) where a guardian has been appointed under any other law—to the guardian; or

(b) where no guardian has been appointed under any other law—

(i) to the natural guardian; or

(ii) where there is no natural guardian—to such person as—

(A) where the amount does not exceed K10,000.00—the Director; or

(B) where the amount exceeds K10,000.00—the Chairman,

considers to be the proper person representing the minor and the receipt of that person for the amount paid shall be a sufficient discharge.

#### **58. PAYMENT TO PERSON OF UNSOUND MIND.**

Where a person to whom any amount is to be paid is of unsound mind as that expression is used in the [Public Health Act 1973](#), the payment shall be made—

(a) where a person has been appointed to manage the estate—to that person; or

(b) where no person has been appointed to manage the estate—

(i) to the natural guardian; or

(ii) where there is no natural guardian—to such person as—

(A) where the payment does not exceed K10,000.00—the Director; or

(B) where the payment exceeds K10,000.00—the Chairman,

considers to be the proper person to whom payment should be made.

#### **59. POSTHUMOUS CHILD.**

(1) Where it is brought to the notice of the Director that a posthumous child is to be born to the deceased member he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance.

(2) Where subsequently no child is born or the child is still-born, the amount retained shall be distributed in accordance with these Rules.

#### **60. METHOD OF MAKING CLAIM.**

(1) Subject to Subsection (2), any person who desires to claim payment under these Rules shall send a written application on the form provided for the purpose to the Director through the employer who, after necessary attestation, shall forward it to the Director within 10 days of receipt of the application.

(2) Where a person is unable to send the application through the employer for any reason, he may submit it to the Director and the Director may forward the application to the employer, for verification if considered necessary.

(3) Where a claim has been submitted to him under this section, an employer shall forward, or return, to the Director, every application received by him, within 15 days of his having received it, after compliance with any instructions of the Director.

#### **61. METHOD OF PAYMENT.**

(1) The Director may at the option of the person to whom payment is to be made, make the payment—

- (a) subject to Subsection (2), by postal order at the cost of the payee; or
- (b) by crossed cheque sent through the post; or
- (c) by deposit in the payee's savings bank account; or
- (d) through the employer.

(2) Where the Fund money is remitted by postal order, the balance (if any) remaining after such remittance shall be credited to the Forfeiture Account and in the case of a claim for the balance, the amount shall be paid by debiting the Forfeiture Account.

#### **62. UNCLAIMED DEPOSITS ACCOUNT.**

(1) Any amount—

- (a) becoming due to a member as a result of supplementary contribution from the employer in respect of leave pay or arrears of pay or instalment of arrears contribution, received in respect of a member whose claim has been settled on account but which could not be remitted for want of latest address; or
- (b) being accumulation in respect of any member who has either ceased to be employed, or died, but no claim has been preferred within a period of three years from the date it becomes payable; or
- (c) having been remitted to a person, is received back undelivered, and is not claimed again within a period of three years from the date it became payable,

shall be transferred to an account to be called the "Unclaimed Deposits Account".

(2) In the case of a valid claim for the payment of any unclaimed amount, the amount shall be paid by debiting the Unclaimed Deposits Account.

#### **63. ANNUAL STATEMENT OF MEMBER'S ACCOUNT.**

(1) As soon as possible after the end of each year the Director shall send to each member through the employer of the establishment in which he was last employed a statement of his account in the Fund showing—

- (a) the opening balance at the beginning of the period; and
- (b) the amount contributed during the year; and

- (c) the total amount of interest credited at the end of the period or debited in the period; and
- (d) the closing balance at the end of the period.

(2) It is the responsibility of members to satisfy themselves as to the correctness of the annual statement and any error may be brought to the notice of the Director within three months of the receipt of the statement.

#### **PART IX.** – MISCELLANEOUS.

##### **64. ANNUAL REPORT.**

The Board shall approve before 15 July, and submit to the Government before 30 August in each year a report on the working of the Fund during the previous financial year.

##### **65. ISSUE OF COPIES OF MEMBERS' ACCOUNTS, ANNUAL REPORT, ETC.**

The Director shall furnish copies of the members' accounts and of the Annual Reports of the Fund to any employer or member on written application and on payment of such fees and subject to such conditions as may be specified by the Board.

##### **66. PUNISHMENT FOR FAILURE TO PAY CONTRIBUTION, ETC.**

A person who—

- (a) deducts or attempts to deduct from the pay or other remuneration of a member the whole or any part of the employer's contribution; or
- (b) fails or refuses to submit any return, statement or other documents required by the Act or submits a false return, statement or other document, or makes false declaration; or
- (c) obstructs any Inspector or other official appointed under the Act in the discharge of his duties or fails to produce any record for inspection by the Inspector or other official; or
- (d) contravenes or does not comply with any other requirement of the Act or these Rules,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months, or both.

##### **67. CONDUCT OF BUSINESS OF THE BOARD.**

(1) All orders and other instruments shall be made and executed in the name of the Board and shall be authenticated by such person and in such manner as the Board specifies.

(2) All contracts and assurances of property shall be expressed to be made to the Board and shall be executed on behalf of the Board by the Director.

##### **68. POWER TO ISSUE DIRECTIONS.**

(1) The Director may, subject to the Act, from time to time, issue such directions to the establishments covered under the Act as he may consider necessary for the proper

implementation of the Act or in respect of various statements and records to be maintained and to be submitted by the employers or any other connected matters.

(2) The Government may, from time to time, issue such directions to the Provincial Governments, the Board or any other authority under the Act as it considers necessary for the proper implementation of the Act or for the purpose of removing any difficulty which may arise in the administration of the Act including difficulties in the matter of payment of accumulations in the Fund to members after they cease to be members.

#### **69. APPLICATION FOR EXEMPTED ESTABLISHMENTS.**

Notwithstanding anything in these Rules, the Director may, in relation to an establishment in respect of which an application for exemption under Section 41 of the Act has been received, relax, pending the disposal of the application, the provisions of these Rules in such manner as he may direct.

#### **70. PENAL INTEREST.**

When an employer makes default—

- (a) in the payment of any contributions to the Fund; or
- (b) in the transfer of accumulations required to be transferred by him under Section 46 of the Act; or
- (c) in the payment of any amount payable under any other provisions of the Act or Rules or under any of the conditions specified under Section 42,

the Director or such other officers as may be authorized by the Government, by notification in the National Gazette for this purpose may recover from the employer such penal interest, not exceeding 25%, as he thinks fit to impose.

Office of Legislative Counsel, PNG

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<sup>11</sup> Section 37A inserted by *National Provident Fund (Amendment) Rules 1992* (No. 13 of 1992).