

REPUBLIC OF VANUATU

THE VANUATU NATIONAL PROVIDENT FUND (REGISTRATION AND CONTRIBUTION)
(REGULATIONS) ORDER NO. 5 OF 1987

To provide regulations for the better carrying out of the provisions of the Vanuatu National Provident Fund Act No. 1 of 1986.

IN EXERCISE of the power contained in section 63 of the Vanuatu National Provident Fund Act No. 1 of 1986, I hereby make the following Order:

PART 1 - PRELIMINARY

INTERPRETATION

1. In this Order, unless the context otherwise requires:

"Act" means the Vanuatu National Provident Fund Act No. 1 of 1986;

"Board" means the Vanuatu National Provident Fund Board established under section 2(1) of the Act;

"Fund" means the Vanuatu National Provident Fund established under section 14 of the Act.

PART 2 - REGISTRATION OF EMPLOYERS AND EMPLOYEES

APPLICATION FOR REGISTRATION OF AN EMPLOYER

2. (1) Every employer who expects to have in his employ at the date appointed for the commencement of Part 5 of the Act any employee for whom liability to pay contributions will arise under the Act or for whom such liability would arise if the employee were not exempted under the provisions of section 34(6)(a) of the Act shall, not less than six weeks prior to that date, apply to the Board for registration on the form supplied by the Board.

(2) Every employer who first becomes an employer within the meaning of the Act after the date appointed for the commencement of Part 5 of the Act shall, within seven days of becoming such an employer, apply to the Board for registration on the appropriate form supplied by the Board.

UNDERTAKING CONSISTING OF MORE THAN ONE BRANCH

3. Where an undertaking consists of more than one branch and any such branch will act independently of the other branches in respect of the payment of contributions under the Act, the employer shall apply to the Board for registration of that branch as if it were a separate employer.

EMPLOYER'S REGISTRATION NUMBER

4. The Board shall allot a registration number and issue a certificate of registration to each registered employer and to each branch which is separately registered under regulation 3.

CHANGE OF NAME, ADDRESS OR NATURE OF BUSINESS

5. An employer registered with the Board shall immediately advise the Board of any change in the name or address of the undertaking or of the nature of the business conducted.

CESSATION OF LIABILITY

6. Where a registered employer ceases to be liable for contributions under the Act he shall inform the Board and shall certify in writing that he has discharged his liabilities under the Act unless the cessation of liability is temporary due to seasonal or other variations in the employer's business.

APPLICATION FOR REGISTRATION OF AN EMPLOYEE

7. (1) Every employee who is employed by an employer registered in accordance with regulation 2 shall apply to the Board, not less than four weeks prior to the date appointed for the commencement of Part 5 of the Act, for registration as a member of the Fund on the form supplied by the Board.
- (2) Every person who first becomes an employee after the date appointed for the commencement of Part 5 of the Act shall apply to the Board within fourteen days of becoming such an employee for registration as a member of the Fund on the form supplied by the Board.

SIGNATURE OF EMPLOYEE REQUIRED

8. (1) Every employee shall supply on the application form either his written signature or a clear impression of his left thumb made in the presence of the employer or his representative or of an officer of the Board, who shall certify the correctness of the particulars given on the form so far as they are within his knowledge.
- (2) Where an employee who is unable to sign the form and supply an impression of his left thumb in accordance with paragraph 1, he may supply an impression of his right thumb or make such other identification as may be acceptable to the Board in the circumstances and the application form shall be annotated accordingly.

DUTY OF EMPLOYER TO ENSURE COMPLIANCE

9. An employer shall ensure that every employee in his employ who is required to register under regulation 7 is duly registered and shall give every assistance to such employee in making his application for registration.

MEMBERSHIP NUMBER AND CERTIFICATE OF MEMBERSHIP

10. (1) The Board shall allot to every employee who is registered as a member of the Fund a membership number which shall identify him in all his dealings with the Board and shall supply to each such member a certificate of membership on which his membership number shall be recorded.

- (2) An employee who takes up employment with another employer shall present his certificate of membership to his new employer and that employer shall quote the number shown on the certificate in all his dealings with the Board in respect of that employee.
- (3) Where an employee does not produce a certificate of registration the employer shall require him to complete an application for membership and shall send it to the Board with such information as to the employee's previous employment as may be relevant.

LOSS OF CERTIFICATE

11. Where a member reports to the Board that his certificate of membership is lost the Board shall issue a replacement certificate free of charge.

CHANGE OF NAME

12. A member whose name changes shall inform the Board immediately through his employer if he is in employment or directly and shall surrender his certificate of membership to the Board for amendment or replacement.

NOMINATION OF BENEFICIARIES

13. (1) In applying for membership of the Fund an applicant shall nominate a person or persons to receive the amount payable from the Fund in the event of his death on a nomination form which shall be provided for that purpose by the Board.
- (2) A member who wishes to vary his nomination may do so on the appropriate form provided for that purpose by the Board.
- (3) A member shall not nominate his employer as a beneficiary unless he is a member of the nominator's family.
- (4) A nomination which appears to have been made under duress or undue influence or which has the effect of assigning part or all of the member's credit as a security or guarantee by whatever name called shall be invalid.
- (5) A nominee shall not act as witness to the member's signature on the nomination form.
- (6) A member shall not nominate more than four persons to share the credit and no share shall be less than one eighth of the total sum payable.

DEFACEMENT OF CERTIFICATE

14. No person shall amend the name or membership number displayed on a certificate of membership of the Fund.

APPLICANT TO STATE DATE OF BIRTH ON APPLICATION

15. (1) Every person applying for registration as a member of the Fund shall state his date of birth.

(2) In the event that a person is unable to provide the information required in paragraph (1) the Board shall provide its own rules on the manner in which the entitlement of such an applicant to withdrawal of his credit from the Fund under section 38 of the Act shall be determined.

PART 3 - CALCULATION AND PAYMENT OF CONTRIBUTIONS TO THE FUND

DISREGARD OF FRACTIONS

16. In calculating the amount of the employer's or the employee's share of a contribution or the amount of any surcharge or of any interest credited to a member's account any fraction of one Vatu shall be disregarded.

MANNER OF PAYMENT

17. (1) All contributions payable to the Fund by an employer may be paid -

- (a) by postal order, money order or cheque drawn on a bank in Vanuatu and delivered or sent by post to the office of the Board in Port Vila; or
- (b) in cash, money order or cheque drawn in a bank in Vanuatu at the office of the Board in Port Vila; or
- (c) in either manner at the office of an agent appointed by the Board and authorised by the Board to make such payments.

- (2) All contributions payable to the Board by a voluntary contributor may be delivered or sent by post to the office of the Board in Port Vila and each payment of such contributions shall be accompanied by a statement showing the particulars of the contributor and the period covered by the payment.

SURCHARGES

18. Subject to section 26 of the Act the period which shall be given to an employer in which time he shall pay the surcharge imposed shall be 21 days from the date of the notification of the surcharge to such employer.

CONTRIBUTION SCHEDULES

19. (1) Each payment of contributions by an employer shall be accompanied by a schedule in a form authorised by the Board showing the month in respect of which the contributions are paid, the name and membership number of each employee in respect of whom contributions are included in the payment, the total amount of remuneration paid in the month to each employee and the total amount of contributions paid in respect of each.
- (2) Where the names and membership numbers of employees have been entered in advance by the Board on a schedule supplied by the Board the employer shall make such amendments to the schedule as are necessary by deleting the particulars of any employee who has left his employment and for whom all contributions due in respect of the employment has been paid and entering particulars of any employee not included on the schedule showing as appropriate the date of leaving or commencing employment.
- (3) The employer shall certify the accuracy of the information given to the Board on a schedule and shall retain a copy of the schedule for his records.
- (4) The Board may authorise an employer to supply the information provided for on a contribution schedule by an alternative method approved by the Board including the use of automatic data transmission by magnetic tape or other means.

RECEIPTS

20. In respect of each payment of contributions the Board shall issue an official receipt.

EMPLOYER'S RECORDS

21. (1) Every employer shall maintain written records of each of his employees showing -

- (a) full names, sex and date of birth or stated age;
 - (b) membership number in the Fund;
 - (c) the date on which the employment commenced and ended; and
 - (d) the amount of each payment of remuneration, the date of each payment and either the amount of the contribution paid to the Board in respect of that remuneration or the amount deducted from it in respect of the employee's share of the contribution payable.
- (2) The employer shall retain the records mentioned in paragraph (1) for a period of ten years after the date on which the employment ended.
 - (3) The copy of the contribution schedule referred to in regulation 18 shall be retained by the employer for a period of three years unless it forms a record required to be kept under paragraph (1), in which case it shall be retained for the period specified in paragraph (2).
 - (4) If an employer ceases to carry on his business he shall notify the Board of the arrangements made to preserve the records referred to in paragraph (1) and, in the absence of any other arrangements, shall deposit them with the Board.

**CONTRIBUTIONS PAID OR OMITTED TO BE PAID IN ERROR AND
REFUND OF CONTRIBUTIONS PAID IN ERROR**

22. (1) Where any amount has been paid to the Board in the mistaken belief that the amount was payable by way of contributions in respect of an employee the Board may, on the application of the person making the payment and subject to the provisions of this regulation, repay that amount to the person concerned.
- (2) Application for the return of an amount paid in error shall be made on the form supplied by the Board within two years of the date of the payment.
 - (3) When the amount paid in error includes an amount deducted from the remuneration of an employee the amount so deducted shall be returned to the employee and shall not be included in the amount paid to the employer unless the employee consents in writing and the employer undertakes to pay to the employee the amount of the repayment to which he is entitled.
 - (4) The Board may deduct from the employer's share of the repayment the amount of any other contributions due to the Board from the employer, whether in respect of the employee concerned or any other employee.
 - (5) The Board may deduct from the employee's share of the repayment the employee's share of any contributions which have not been paid due to erroneous belief that they were not payable but may not make any other deduction on account of unpaid contributions.

CONTRIBUTIONS NOT PAID DUE TO ERROR

23. (1) Where an employer fails to pay any contributions which are due to be paid and the failure to pay is due, in the opinion of the Board, to erroneous belief that the contributions were not payable the employer shall pay the contributions to the Board as soon as the error is detected and for the purpose of any surcharge under section 26(1) of the Act the contributions shall be treated as due to be paid by the end of the month following that in which the error is detected.
- (2) Where the failure to pay the contributions is shown to be due to misdirection by the Board as to liability the Board may waive the liability of the employer to pay the employee's share of the contributions and in such a case the employee may pay such share voluntarily.
- (3) No contributions shall be recoverable under this regulation in respect of any period of more than three years prior to the date on which the error is detected.

OVER AND UNDER PAYMENTS OF CONTRIBUTIONS DUE TO ARITHMETICAL ERROR

24. (1) Where the amount paid by an employer does not tally with the total of the individual amounts shown on a contribution schedule due to arithmetical error the Board may authorise the employer to adjust the error without penalty in his next payment to the Board.
- (2) In exercising its authority under paragraph (1) the Board shall not be required to take any action where the amount of an overpayment does not exceed 500 Vatu or where the amount of an underpayment does not exceed 100 Vatu and any such over or under payment shall be credited or debited to the General revenue of the Fund.

PART 4 - VOLUNTARY CONTRIBUTIONS

VOLUNTARY CONTRIBUTIONS

25. (1) Subject to section 28 of the Act any person desirous of being a voluntary contributor to the Fund shall apply to the Board by completing the form supplied for that purpose by the Board.
- (2) An applicant shall state in his application the monthly rate of contribution he wishes to pay, which shall be not less than 1,000 Vatu nor more than 10,000 Vatu and the month from which he wishes to pay contributions, which shall not be earlier than the month in which the application is made.
- (3) The applicant shall undertake to contribute regularly at the stipulated rate and the Board may reject any payment which is outside the monthly limits stated in paragraph (2) or which is received by the Board more than two months after the end of the financial year to which it applies.

PART 5 - APPROVAL OF EXISTING SCHEMES

APPROVAL OF EXISTING SCHEMES

26. (1) Subject to section 34 of the Act application for approval of an existing scheme shall be in writing and submitted to the Board together with a copy of a resolution of the managing body stating that such scheme shall apply for approval and a copy of the rules of the scheme.
- (2) Approval shall be given in writing by the Board and may contain conditions to which approval is subject.

PART 6 - FAILURE TO COMPLY WITH REGULATION

FAILURE TO COMPLY WITH REGULATION

27. Any person who fails to comply with or contravenes any provision of these regulations commits an offence and shall on conviction be liable to a fine not exceeding 50,000 Vatu or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

COMMENCEMENT

28. This Order shall come into force on the day of its publication in the Gazette.

MADE at Port Vila this 26th day of *January* 1987.


S.J. REGENVANU
Minister of Home Affairs