

N A U R U I S L A N D

No. 2 of 1938

A N O R D I N A N C E

To provide for the Establishment of a Provident Fund for Officers employed in the Public Service of Nauru.

BE it ordained by the Administrator of the Island of Nauru in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between His Majesty's Government in London, His Majesty's Government of the Commonwealth of Australia and His Majesty's Government of the Dominion of New Zealand, as follows :

1. This Ordinance may be cited as the Provident Fund Ordinance 1938.

2. In this Ordinance, unless the contrary intention appears -  
"Account" means an account kept in the books of the Administration, in pursuance of section six of this Ordinance;  
"Contribution" means a contribution to the Fund;  
"Fund" means the Provident Fund established under the provisions of this Ordinance;  
"Member" means a member of the Fund;  
"Membership" means membership of the Fund;  
"Officer" means any European person appointed to the Public Service by the Administrator;  
"Public Service Ordinance" means the Public Service Ordinance 1924 as amended from time to time and includes any Ordinance substituted for that Ordinance;  
"Salary" means salary or wages but does not include any allowances, fees allowed as emoluments of office, bonuses, or overtime payments;  
"Service" means continuous service as an officer of the Public Service under the Public Service Ordinance;

and words including the masculine gender shall include females.

3. -(1.) There shall be a Provident Fund for officers.

(2.) The Fund shall be deemed to have been established on the first day of July, One thousand nine hundred and thirty-seven.

4. -(1.) An Officer shall become a member of the Fund upon acceptance in writing by the Administrator of his application for membership and shall cease to be a member upon ceasing to be an officer.

(2.) An Officer making application for membership before completing twelve months' service may elect either to commence membership from the date of his appointment to the Public Service or from the first day of the month next following the receipt of his application by the Administrator.

5. -(1.) Contributions shall be made by each member and by the Administration on the basis of a percentage on the salary of each member as follows:-

Period of service commencing on or after the 1st July, 1937.	Members' Contribution	Administration Contribution
Up to, but not exceeding six years .. .. .	5%	5%
Exceeding six years but not exceeding twelve years.	5%	6½%
Exceeding twelve years but not exceeding eighteen years.	5%	8%
Exceeding eighteen years.	5%	10%

(2.) The amount of salary to be taken into account for the purposes of the last preceding sub-section shall not exceed such amount as the Administrator from time to time determines.

6. -(1.) Contributions shall be payable in the manner prescribed by the Ordinance and on the due dates, which, except where otherwise prescribed by this Ordinance, shall be the thirtieth day of June and the thirty-first day of December in each year.

(2.) Each member's contributions shall, as they become payable, be debited to his current account and shall be credited to a personal account to be kept in the member's name and to be known as "A" account.

(3.) Where the amount of credit in a member's current account on any due date for payment of a contribution is less than the amount so payable, the Administrator shall, by notice in writing addressed to the member, require the member to pay, within thirty-one days after the date of the notice, the amount of the deficiency into his current account.

(4.) Contributions by, and in respect of, a member who fails to comply with a requirement of the Administrator under the last preceding sub-section shall thereupon cease to be payable and the contribution made by the Administration on the date in respect of which the member made default shall be cancelled.

(5.) For the purposes of the accounts at the credit of the member to whom the last preceding sub-section applies the Fund shall be deemed to have been closed to contributions in pursuance of section eighteen of this Ordinance.

(6.) The contributions of the Administration in respect of each member shall be credited to a personal account to be kept in the member's name and to be known as "B" account.

7. -(1.) If an officer who was an officer of the Public Service on the first day of July, One thousand nine hundred and thirty-seven desires to have the whole or any portion of his service prior to that date taken into account for purposes of the Fund, he may, within six months after the commencement of this Ordinance, by notice in writing to the Administrator, elect to contribute, in accordance with this section, an amount equal to five per centum of the total salary received by him during the period of service so to be taken into account:

Provided that where an officer elects to contribute in respect of portion only of his prior service, that portion shall be the period immediately preceding the first day of July, One thousand nine hundred and thirty-seven.

(2.) A member's contribution under the last preceding sub-section may be paid, at the option of the member, in one sum on the date of election under this section or by not more than twelve equal half-yearly instalments, the first of such instalments being payable on the date of election under this section and the last before the retirement of the member from the service.

(3.) In the case of an election under this section the Administrator shall -

(a) if the period of service to be taken into account is six years or less - contribute to the Fund in respect of that member, an amount equal to the amount elected to be contributed by that member;

(b) if the period of service to be taken into account exceeds six years - contribute to the fund in respect of that member -

(i) an amount equal to five per centum of the total salary received by the member during the six years immediately preceding the first day of July, One thousand nine hundred and thirty-seven; and

(ii) an amount equal to six and one half per centum of the total salary received by the member for the period of service taken into account less the amount of salary specified in the last preceding sub-section;

(c) if the member pays his contribution in one sum - make the Administration's contribution in one sum on the date of payment by the member; and

(d) if the member pays his contribution by instalments - make the Administration's contribution by instalments on the dates of payment by the member.

(4.) Any officer who has made an election under sub-section (1.) of this section and has completed payment of the amount elected to be contributed in respect of his service prior to the first day of July, One thousand nine hundred and thirty-seven, shall be entitled to have that period of service added to the period of service to be taken into account for the purposes of this Ordinance.

8. -(1.) Interest shall be paid on contributions to "A" and "B" accounts from the dates upon which the contributions paid under sections six and seven of this Ordinance are credited to the respective accounts and shall be at such rates, not less than the respective rates that would be obtainable by the Administration on money placed at fixed deposit for twelve months with the Commonwealth Bank of Australia on those dates as the Administrator from time to time determines.

(2.) Interest shall be credited to the accounts in respect of which it is paid.

9. The Administrator may close the account of any member whenever his total credit balances in the Fund reach an amount equal to five times the amount of salary received by the member during the preceding five years of service.

10. As soon as practicable after the thirtieth day of June and the thirty-first day of December in each year, the Administrator shall submit to each member a statement showing the position of his "A" and "B" accounts.

11. -(1.) A member may not resign from membership or withdraw the whole or any portion of the amounts at credit in his "A" and "B" accounts.

(2.) If, prior to completing six years service, a member is discharged from, or leaves, the service for any reason other than ill health, the amount at credit in the member's "A" account shall be payable, but all rights to payment of the amount at credit in the member's "B" account shall be forfeited.

(3.) The amount at credit in any "B" account to which the last preceding sub-section applies shall be transferred to the revenue account in the books of the Administration.

(4.) A member who is discharged or leaves the service after completing six years' service shall be entitled to receive all amounts at credit in his "A" and "B" accounts.

(5.) For the purposes of this section a reference to service with the Administration means service subsequent to the first day of July, One thousand nine hundred and thirty-seven.

12. -(1.) In the case of the death of a member, the balances at credit in the member's "A" and "B" accounts shall be paid to the member's dependants, or, if he leaves no dependants, those balances shall become part of the estate of the deceased.

(2.) Where a member dies and leaves dependants and the balances at credit in the member's "A" and "B" accounts amount to less than twelve months' salary calculated at the rate last being received by the member, the Administration shall provide the amount necessary to make up the balances to an amount equal to twelve months' salary so calculated or to five hundred pounds, whichever sum is the lesser, and the balance so made up shall be payable as provided in sub-section (1.) of this section.

13. All moneys at credit in a member's "A" and "B" accounts shall be the property of the Administration, and, when payable in pursuance of the provisions of this Ordinance to a member, his dependants or otherwise, shall be subject to a lien by the Administration in respect of any debts due by the member to the Administration.

14. In the event of a member becoming of unsound mind and ceasing to be an officer, the balances at credit in the member's "A" and "B" accounts shall become payable to the member's dependants or, if the member has no dependants, shall become part of the member's estate.

15. Where any sum is payable under this Ordinance to a member's dependants and there is more than one dependant, the sum shall be distributed among the dependants in such proportions as the Administrator determines.

16. The interest of a member in the Fund shall not, except as provided in this Ordinance, be assigned, transferred or passed by operation of law to any person other than the member or be liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim whatever.

17. The amounts at credit of a member's "A" and "B" accounts shall, as far as practicable, be invested by the Administration -

- (a) in securities of the Commonwealth of Australia; or
- (b) in such manner as the Minister directs.

18. -(1.) The Administrator may, with the approval of the Minister and after six months previous notice in writing to each of the members, modify the Fund, in whole or in part, or may close the Fund to further contributions.

(2.) Upon the modification of the Fund or the closure of the Fund to further contributions the amounts standing to the credit of any member shall continue to bear interest and shall remain in the Fund until those amounts (together with the interest thereon) become payable to the member, his dependants, or otherwise, under the preceding provisions of this Ordinance.

GIVEN under my hand at the Administration Headquarters, Nauru,  
Central Pacific, this Twentieth day of April, One thousand  
nine hundred and thirty-eight.

Rupert C. Garsia

Administrator of the Island of Nauru.

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