

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Finance at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

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THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund Act.

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THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund Act.

Being an Act to provide for the institution and management of a National Provident Fund for employees in establishments and for related purposes.

PART I. — PRELIMINARY.

1. Compliance with Constitutional requirements.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the Constitution, namely—

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and
- (b) the freedom of assembly or association conferred by Section 47 of the Constitution; and
- (c) the freedom of employment conferred by Section 48 of the Constitution; and
- (d) the right to privacy conferred by Section 49 of the Constitution,

is a law that is made for that purpose.

(2) The purpose of this Act is a public purpose.

(3) For the purposes of Section 29 of the Organic Law on Provincial Government, it is declared that this law relates to a matter of national interest.

2. Interpretation.

(1) In this Act, unless the contrary intention appears—

“affected establishment” means an establishment to which,—

- (a) in terms of Section 3; or
- (b) as a result of a decision under Section 4,

this Act applies;

“Board” means the National Provident Fund Board of Trustees established under Section 5;

“the commencement date” means—

- (a) in relation to so much of the *National Provident Fund Act* as allowed the appointment of the National Provident Fund Board of Trustees and the making of Rules and administrative arrangements to facilitate the operation of the National Provident Fund—25 September 1980; and
- (b) in relation to the remainder of the Act—26 March 1981;

“contribution” means a contribution payable in respect of a member under this Act;

“Director” means the Director of the National Provident Fund appointed under Section 15;

“employee” means any person who—

- (a) is employed for wages in any kind of work, manual or otherwise, in or in connexion with the work of an establishment; and
- (b) receives his wages directly or indirectly from the employer,

and includes any person employed by or through a contractor or agent in or in connexion with the work of the establishment;

“employer” means—

- (a) in relation to an establishment which is a factory—the owner or occupier of the factory, including the agent of the owner or occupier, or the legal representative of a deceased owner or occupier; and

(b) in relation to any other establishment—

- (i) the person who, or the authority which, has the ultimate control over the affairs of the establishment; and
- (ii) where the affairs are entrusted to a manager, managing director or managing agent—the manager, managing director or managing agent;

“establishment” means an organization which employs persons between whom and the establishment, the relationship of employer and employee exists;

“exempted employee” means an employee exempted under Section 42;

“exempted establishment” means an establishment in respect of which an exemption has been granted under Section 42 from the operation of all or any of the provisions of this Act (other than Part VII.), whether such exemption has been granted to the establishment as such or to any person or class of persons employed in the establishment;

“Fund” means the National Provident Fund established under Section 25;

“Inspector” means a person appointed to be an Inspector under Section 22;

“member” means a member of the Fund;

“pay” means all emoluments which are—

- (a) earned by an employee while on duty or on leave with pay in accordance with the terms of contract of employment; and
- (b) paid or payable in cash to him; and
- (c) gross wages, remuneration and commission,

but does not include overtime pay, allowances and bonuses and compensation receivable in relation to employment of service of an employee or any presents made by an employer;

“Premiers’ Council” means the Premiers’ Council established by Section 82 of the *Organic Law on Provincial Government*;

“this Act” includes the Rules;

“Trustee” means a Trustee of the National Provident Fund Board of Trustees.

(2) Where an establishment consists of different departments or has branches, whether situated in the same place or in different places, all the departments and branches shall be treated as one establishment.

3. Application.

(1) Subject to this section this Act applies to—

(a) every establishment in which 25 or more persons are employed except—

(i) an establishment which is covered under the Public Officers Superannuation Fund established under the *Public Officers Superannuation Act*; or

(ii) an establishment to which the *Defence Force Retirement Benefits Act* applies; or

(iii) an exempted establishment to the extent of such exemption; and

(b) every employer in relation to an affected establishment; and

(c) every employee who—

(i) is a citizen; and

(ii) is, and has been for the prescribed period, an employee of an affected establishment; and

(iii) is not an exempted employee; and

(d) every employee who—

(i) is a non-citizen; and

(ii) is, and has been for the prescribed period, an employee of an affected establishment; and

(iii) has opted in the prescribed manner to be a member of the Fund.

(2) The Minister may, after giving two months' notice in the National Gazette, apply this Act to all or any establishments employing such number of persons less than 25 as is specified in the notice.

(3) Where the employer and the majority of the employees of an establishment have—

(a) agreed that the provisions of this Act should apply to the establishment; and

(b) made application to the Minister accordingly,

the Minister may, by notice in the National Gazette, apply this Act to the establishment.

(4) An affected establishment shall continue to be subject to this Act notwithstanding that the number of persons employed in it at any time falls below 25 for any reason.

(5) Where immediately before this Act becomes applicable to an establishment, there is in existence a provident fund which is common to the employees of that establishment and the employees in any other establishment, the Minister may, by notice in the National Gazette, apply this Act to the other establishment.

(6) Where the Minister is of the opinion that, having regard to the financial position of any class of establishment or other circumstances, it is necessary or expedient to do so, he may, by notice in the National Gazette, and subject to such conditions as may be specified in the notice, exempt that class of establishment from the operations of this Act for such period as is specified in the notice.

4. Director to decide whether Act applies, etc.

(1) The Director, or any officer authorized by him, shall investigate and decide any question as to—

(a) whether the Act applies in the case of an establishment where this is disputed; or

(b) the amount due by an employer under this Act where this is disputed, and his decision is final.

(2) For the purposes of carrying out an investigation under Subsection (1), the Director, or any officer authorized by him, shall have the same powers as a court for obtaining evidence, enforcing the attendance of persons to give evidence and requiring the discovery and production of documents.

PART II.—NATIONAL PROVIDENT FUND BOARD.

5. National Provident Fund Board.

(1) The National Provident Fund Board of Trustees is hereby established.

(2) The Board—

- (a) is a corporation with perpetual succession; and
- (b) shall have a seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

6. Constitution of the Board.

(1) The Board shall consist of the following Trustees—

- (a) the Secretary for Finance, who shall be the Chairman; and
- (b) the Director, who shall be the Secretary; and
- (c) not more than two persons who shall be officers of the Public Service, appointed by the Minister; and
- (d) three persons representing employees of affected establishments, appointed by the Minister from a list of names submitted to him from such organizations of employees as in the opinion of the Minister represent the employees; and
- (e) three persons representing employers of affected establishments, appointed by the Minister from a list of names submitted to him from such organizations of employers as in the opinion of the Minister represent the employers.

(2) Appointments under Subsection (1)(c), (d) and (e) shall be notified in the National Gazette.

(3) Subject to this Act, the terms and conditions of the Trustees appointed under Subsection (1) (d) and (e) are as determined by the Prime Minister from time to time.

(4) The Trustees appointed under Subsection (1) (d) and (e) shall be appointed for a period of three years and are eligible for re-appointment.

7. Deputy Chairman.

(1) The Trustees shall elect a Deputy Chairman from amongst their number.

(2) Where for any reason the Chairman is unable to act the Deputy Chairman may—

- (a) exercise all of the powers; and
- (b) perform all or any of the functions,

of the Chairman.

8. Leave of absence of Trustees.

The Chairman may grant leave of absence to a Trustee on such terms and conditions as he determines.

9. Declaration of Office.

(1) Before entering on the duties of his office, a Trustee shall make the Declaration of Office provided by the Constitution.

(2) The Declaration of Office shall be made by a Trustee before the Minister or a person appointed by the Minister for the purpose.

10. Vacation of office of Trustee.

(1) If a Trustee—

(a) dies; or

(b) becomes permanently incapable of performing his duties; or

(c) resigns his office by writing under his hand addressed to the Minister; or

(d) absents himself from three consecutive meetings of the Board without the written consent of the Chairman; or

(e) becomes of unsound mind as that expression is used in the *Public Health Act*; or

(f) is guilty of moral turpitude,

the Minister shall terminate his appointment.

(2) The Minister may, at any time, terminate the appointment of a Trustee for inability, inefficiency, incapacity or misbehaviour.

(3) Where the appointment of a Trustee is terminated under this section, the Minister shall, by notice in the National Gazette, declare his office vacant.

(4) Where an office is declared vacant under Subsection (3), the vacancy shall be filled in accordance with Section 6.

11. Vacancy not to affect powers or functions.

The exercise or performance of a power or function of the Board is not invalidated by reason only of a vacancy in the membership of the Board.

12. Meetings of the Board.

(1) Subject to Subsection (3), the Board shall meet as the Chairman determines, provided that the Board meets at least three times in each year.

(2) Subject to Subsection (3), the Secretary shall, if requested to do so by not less than one third of the Trustees, call a meeting of the Board as soon as practicable after receiving the request.

(3) The Secretary shall give to all Trustees at least 15 days' notice of a meeting of the Board.

(4) At a meeting of the Board—

(a) a quorum is the Chairman and at least four other Trustees of whom—

(i) one shall be from those appointed under Section 6(1)(d); and

(ii) one shall be from those appointed under Section 6(1)(e); and

(b) the Chairman or Deputy Chairman shall preside; and

- (c) matters arising shall be decided by a majority of the votes of the Trustees present and voting; and
 - (d) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.
- (5) The Board shall cause minutes of its meetings to be recorded and kept.
- (6) Subject to this Act, the procedures of the Board are as determined by it.

13. Indemnity of Trustees.

A Trustee is not personally liable for any act of the Board or of a Trustee acting as such, done in good faith.

14. Functions of the Board.

The Board shall administer the Fund in such manner as is provided under this Act and shall perform such other functions as are required under this Act.

PART III. — THE SERVICE OF THE BOARD.

15. Appointment, etc., of Director of the National Provident Fund.

- (1) There shall be a Director of the National Provident Fund who shall—
- (a) be appointed by the Board by notice in the National Gazette after prior consultation with the Public Services Commission; and
 - (b) be appointed for such period as the Board determines; and
 - (c) be the Chief Executive of the Board; and
 - (d) be the head of the staff of the Board.

(2) The salary and other terms and conditions of employment of the Director are as determined by the Minister from time to time, acting with the advice of the Board.

16. Vacation of office of Director, etc.

- (1) If the Director—
- (a) becomes permanently incapable of performing his duties; or
 - (b) resigns his office by writing under his hand to the Board; or
 - (c) engages, without the consent of the Board, in any paid employment outside the duties of his office; or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors for remuneration for their benefit; or
 - (e) is guilty of moral turpitude,

the Board shall terminate his appointment.

(2) The Board may, at any time, with the approval of the Minister, terminate the appointment of the Director for inability, inefficiency, incapacity or misbehaviour.

17. Public Service rights of Director to continue.

Notwithstanding anything in the *Public Service Act*, where an officer or employee of the Public Service is appointed to be the Director, his service as Director shall be counted as

service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

18. Functions of the Director.

(1) The Director shall manage the staff and administration of the Fund for the Board and shall act in accordance with the policy and directions of the Board.

(2) The Director shall advise the Board on any matter relating to the staff or administration referred to him by the Board.

(3) The Director has such other functions as the Board from time to time determines.

19. Appointment of officers.

(1) The Board may, on the recommendation of the Director, appoint to be officers of the Board such persons as it thinks fit and necessary for the purposes of the administration of its functions.

(2) The Director and officers constitute the staff of the Board.

(3) Subject to this Part and to the Rules, officers hold office on such terms and conditions as the Board determines.

(4) Notwithstanding anything in the *Public Service Act*, where an officer appointed under this section was, immediately before his appointment an officer or employee of the Public Service, his service as an officer of the Board shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

20. Rules for the staff of the Board.

The Rules may make provision in relation to the staff of the Board and, in particular, may prescribe the terms and conditions of employment.

21. Other employees.

(1) The Director may, with the approval of the Board, appoint such other employees as he thinks necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Board determines.

22. Inspectors.

The Minister may, by notice in the National Gazette, appoint officers of the Board to be Inspectors for the purposes of this Act.

23. Powers of Inspector.

For the purposes of—

- (a) inquiring into the correctness of any information furnished in connexion with this Act; or

- (b) ascertaining whether the provisions of this Act are being or have been complied with; or
- (c) ascertaining whether the provisions of this Act are applicable to any person or establishment,

an Inspector may —

- (d) require an employer to furnish such information as he considers necessary; and
- (e) enter on the premises of an establishment for the purposes of examining any accounts, books, registers, records or other documents relating to the employment of persons or the payment of persons in the establishment; and
- (f) examine, with respect to any matter relevant to the employment of persons and the payment of persons in the establishment, the employer, his agent or servant or any person found in charge of the establishment or the premises, or who the Inspector has reasonable cause to believe is or has been an employee in the establishment; and
- (g) make copies of, or take extracts from, any accounts, books, registers, records or other documents that he may consider relevant.

24. Obstruction of Inspector.

A person who—

- (a) hinders or obstructs an Inspector in the execution of his duty under this Act; or
- (b) fails to comply with a lawful requirement made by an Inspector under this Act; or
- (c) refuses an Inspector entry to premises which the Inspector may, under this Act, lawfully enter; or
- (d) impersonates an Inspector,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

PART IV. — NATIONAL PROVIDENT FUND.

25. National Provident Fund.

(1) A fund to be called the National Provident Fund is hereby established.

(2) All contributions required to be made under this Act shall be paid into the Fund and all payments authorized to be made under this Act shall be met by the Fund.

(3) Income derived from the investment of the Fund is part of the Fund.

(4) The Fund is a provident fund for the purposes of Section 28 of the *Income Tax Act* 1959 (Adopted).

26. Board to be Trustee of Fund.

(1) The Board shall be the Trustee of the Fund and all moneys belonging to the Fund shall be—

- (a) deposited in a bank or banks as prescribed in accounts as prescribed; or
- (b) invested by the Board in accordance with investment guidelines issued under Subsection (2).

(2) The Minister may from time to time issue guidelines as to the manner in which moneys held by the Board shall be invested.

27. Expenses.

All expenses incurred by the Board in connexion with the performance of its functions under this Act shall be met from the Fund.

(Replaced by No. 27 of 1982, s. 1.)

28. Accounts and records to be kept.

The Board shall—

- (a) keep or cause to be kept proper accounts and records of its transactions and affairs; and
- (b) do all things necessary to ensure that—
 - (i) all payments out of its moneys are properly made and properly authorized; and
 - (ii) adequate control is maintained over its assets or assets in its custody, and over the incurring of liabilities by it.

29. Audit.

(1) For the purposes of this section, "subsidiary company", in relation to the Board, shall have the meaning given to a subsidiary company in relation to a public body under Section 1A of the *Public Bodies (Financial Administration) Act*.

(2) Subject to this section, the Auditor-General shall—

- (a) inspect and audit the accounts and records of financial transactions of the Board and of any subsidiary company and records relating to its assets or assets in its custody; and
- (b) promptly draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

(3) The Auditor-General may, in his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection (2).

(4) The Auditor-General shall, at least once in each year, report to the Minister the result of the inspection and audit of any accounts referred to in Subsection (2).

(5) The Auditor-General may, at his discretion, for the purpose of assisting him in an audit and inspection under Subsection (2), employ a registered company auditor who shall act under the direction of the Auditor-General and on the terms and conditions determined by the Auditor-General.

(6) The Auditor-General, or a person carrying out, or assisting in carrying out an inspection or audit under this section—

- (a) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board and of any subsidiary company relating directly or indirectly to the receipt or payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it; and
- (b) may make copies of, or take extracts from, any such accounts, records, documents or papers; and

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(c) may require any person to furnish him with such information in his possession or to which he has access as the Auditor-General or the person carrying out or assisting in carrying out the inspection or audit, thinks necessary for the purposes of the functions of the Auditor-General under the Constitution and this Act.

(7) A person who contravenes Subsection (6)(c) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(Replaced by No. 27 of 1982, s. 2., amended by No. 8 of 1983, s. 6.)

30. Reports and financial statements.

(1) The Board shall, as soon as practicable after 31 December in each year prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister approves.

(2) Before furnishing financial statements to the Minister, the Board shall submit them to the auditor who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records; and
- (b) whether the statements are in agreement with the accounts and records; and
- (c) whether the receipt and expenditure and the investment of moneys, and the acquisition and disposal of assets, by the Board during the year are in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Minister.

(3) The Minister shall cause the report and financial statements, together with the report from the auditor, to be laid before the Parliament at its first meeting after their receipt by the Minister.

(4) When the report or financial statements of the Board are reproduced for publication or for other purposes, the report of the auditor shall be included in the reproduction.

(5) The first report and financial statements of the Board under this section shall be furnished as soon as practicable after 1 January following the commencement date.

PART V.—CONTRIBUTIONS.

31. Contributions by employer.

Subject to Section 33, every employer to whom this Act applies shall pay to the Fund, in respect of each of his employees to whom this Act applies, a contribution at the rate of 7% of the pay actually drawn during the whole month, whether paid on a daily, weekly, fortnightly or monthly basis.

32. Contributions by employee.

(1) Subject to Subsection (2) and to Section 33, every employee to whom this Act applies shall pay to the Fund a contribution at the rate of 5% of the pay actually drawn during the whole month, whether paid on a daily, weekly, fortnightly or monthly basis.

(2) An employee to whom this Act applies may, with the permission of the Director, pay to the Fund a further contribution in addition to that payable under Subsection (1) but the total contribution paid shall not be at a greater rate than 10% of the pay actually drawn during the whole month, whether paid on a daily, weekly, fortnightly or monthly basis.

33. Calculation of contributions.

Each contribution payable under Sections 31 and 32 shall be calculated to the nearest toea, a half toea or more being counted at the next highest toea.

34. Payment of contributions.

Every employer to whom this Act applies shall pay to the Board in the prescribed manner—

- (a) the contributions payable by himself under Section 31; and
- (b) on behalf of his employees—the contributions payable by his employees under Section 32.

35. Contributions to be paid into Fund.

(1) All contributions paid under this Part shall be paid into the Fund in the prescribed manner.

(2) The Board shall cause to be credited to each member of the Fund the amount of every contribution paid on his behalf.

36. Employer not to reduce wages, etc.

An employer shall not, by reason of his liability to pay contributions under this Part, reduce, directly or indirectly, the wages or salary or other benefits or emoluments to which an employee is entitled under his contract of employment or any other law.

37. Power to recover penal interest on default.

(1) Where an employer defaults in making any payment due by him to the Fund, the Director may, by written notice, require the employer to give reasons why he should not make the payment due together with penal interest at the prescribed rate from the date on which payment was due until the date of payment.

(2) On receipt of a written notice under Subsection (1), an employer may make representations to the Director as to why penal interest should not be charged and, if the Director is satisfied that the reasons for late payment were unavoidable or acceptable, he may limit the rate of penal interest to an amount not less than the actual loss incurred by the Fund.

(3) Where an employer is aggrieved by a decision of the Director under Subsection (2) he may appeal in writing to the Chairman of the Board, whose decision is final.

PART VI.—PROTECTION OF CONTRIBUTIONS AND PAYMENTS.

38. Protection against attachment.

The amount standing to the credit of any member in the Fund or of any exempted employee in a provident fund shall not—

- (a) in any way be capable of being assigned or charged; and
- (b) be liable to attachment under any decree or order of any court,

in respect of any debt or liability incurred by the member or the exempted employee.

39. No claim under Insolvency Act.

The official trustee under the *Insolvency Act* shall not be entitled to any claim on the amount standing to the credit of any member in the Fund or of any exempted employee in a provident fund.

40. Amount to be paid from Fund on death of member to be free from debt, etc.

Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the

terms of the provident fund or this Act, shall, subject to any deduction authorized by this Act, vest in the nominee free from debt or any other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee.

41. Priority of payment of contributions over other debts.

Where an employer is adjudged insolvent, or being a company, is the subject of a winding-up order, the amount due—

- (a) by an employer in relation to an affected establishment—by way of contributions, penal interest, accumulations or other charges under this Act; or
- (b) by an employer in relation to an exempted establishment—by way of contributions to the provident fund of that exempted establishment or penal interest or other charges under this Act,

which has become due prior to the date of adjudication of insolvency or of the winding-up order, shall be deemed to be included among those debts which are to be paid in priority to other debts.

PART VII.—EXEMPTIONS.

42. Director may exempt.

(1) The Director may, by notice in the National Gazette, exempt from the operation of all or any of the provisions of this Act (other than this Part), subject to such conditions as may be specified in the notice—

- (a) any establishment to which this Act applies that, in the opinion of the Minister—
 - (i) has a provident fund the rates of contribution to which, and the benefits from which, are no less favourable than those under the Fund; or
 - (ii) has a pension or gratuity or other scheme, the benefits of which are no less favourable to the employees than those under the Fund; or
- (b) subject to Subsection (2), any person (or class of persons) employed in an establishment to which this Act applies who is entitled to benefits in the nature of a provident fund, gratuity or pension which are on the whole no less favourable than those under the Fund.

(2) Exemption under Subsection (1) shall not be granted unless the Director is satisfied that the person (or the majority of that class of persons) wishes that the exemption be granted.

43. Inspection, etc. of accounts.

Where a notice of exemption has been granted under Section 42 in respect of an establishment or a person or class of persons, the employer shall, in relation to the provident fund, pension or gratuity giving rise to the exemption—

- (a) maintain such accounts; and
- (b) submit such returns; and
- (c) make such investments; and
- (d) provide such facilities for inspection; and
- (e) pay such inspection charges,

as the Director, or any person authorized by the Director, may direct.

44. Benefits not to be reduced without consent.

The employer in relation to an exempted establishment shall not, without the prior written consent of the Director, reduce the total amount of benefits in the nature of a provident fund, pension or gratuity giving rise to the exemption.

45. Transfer of credits.

Where an employee in an exempted establishment leaves his employment and immediately obtains employment in an affected establishment or another exempted establishment, the employer of the exempted establishment shall, within the prescribed period, transfer the amount of accumulations to the credit of that employee in the provident fund of that exempted establishment to—

- (a) the Fund, or
- (b) where the employee transfers to an exempted establishment—the provident fund of that establishment.

46. Cancellation of exemption.

(1) The Director may, by notice in the National Gazette, cancel an exemption granted under Section 42 where an employer fails to comply with—

- (a) any conditions which were specified in the exemption; or
- (b) any of the provisions of this Act relating to exempted establishments.

(2) Where an exemption is cancelled under Subsection (1), the employer shall transfer to the Fund in the prescribed time and manner the amount of accumulations to the credit of each employee to which the exemption applied in the provident fund of the exempted establishment and the amount shall be placed to the credit of that employee in the Fund.

PART VIII.—TRANSFER OF ACCOUNTS.

47. Transfer from affected establishment to establishment to which Act does not apply.

The amount of accumulations to the credit in the Fund of an employee in an affected establishment who leaves his employment and obtains re-employment in an establishment to which this Act does not apply shall—

- (a) where the employee so desires; and
- (b) where the rules of the provident fund of the establishment in which he is re-employed so permit,

be transferred in the prescribed time and manner to that provident fund.

48. Transfer from establishment to which Act does not apply to affected establishment.

The amount of accumulations to the credit in a provident fund of an employee in an establishment to which this Act does not apply who leaves his employment and obtains re-employment in an affected establishment shall—

- (a) where the employee so desires; and
- (b) where the rules of the provident fund so permit,

be transferred to the credit of his account in the Fund.

PART IX.—WITHDRAWALS AND PAYMENTS FROM THE FUND.

49. Advance from the Fund for the purchase of a dwelling house, etc.

(1) In this section—

“approved builder” means a builder approved by the Director;

“approved vendor” means a vendor approved by the Director;

(2) The Director may, on the application of a member, permit the payment to the member from the Fund of an amount not exceeding—

(a) 24 times the member's monthly pay; or

(b) the total amount of the contributions standing to the credit of the member's account,

whichever is the lesser amount, for the purpose of—

(c) purchasing from an approved vendor a dwelling house or site for a dwelling house, either outright or on a deposit and instalment basis; or

(d) payment of the construction by an approved builder of a dwelling house, either outright or on a deposit and instalment basis.

(3) A payment made under Subsection (2) is made subject to any conditions which the Director thinks fit and to the rules governing payments of this nature.

50. Recovery of payment.

Where a payment has been made under Section 49 and the Director is satisfied that—

(a) the payment has been utilized for a purpose other than that for which it was made; or

(b) the conditions of the payment or the rules governing the payment have been contravened; or

(c) there is a reasonable apprehension that the conditions of the payment or the rules governing the payment will be contravened,

he may immediately take steps to recover the payment made, with interest at the rate of 2% above the rate of interest as determined from time to time by the Board, from the pay of the member in such instalments as the Director thinks fit.

51. Payment under Section 49 non-refundable.

(1) Subject to Subsection (2), a payment made under Section 49 is not refundable.

(2) Where a member so desires, he may refund a payment made to him under Section 49 by such number of instalments not exceeding 36 as the Director fixes.

52. Circumstances in which accumulations in the Fund are payable to a member.

(1) A member may withdraw the full amount standing to his credit in the Fund (or such other amount as is prescribed)—

(a) on retiring from his employment after attaining the age of 55 years; or

(b) on attaining the age of 55 years having previously retired from his employment; or

(c) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity duly certified as prescribed; or

(d) immediately before emigrating from Papua New Guinea for permanent settlement abroad; or

- (e) not being a citizen, on his leaving Papua New Guinea for a period of at least two years; or
- (f) on termination of employment in the case of retrenchment; or
- (g) in such other circumstances as may be prescribed.

(2) The form of application for payment, the requirements for evidence in support of the application and the manner of payment shall be as prescribed.

53. Withdrawal by nominee.

(1) The Board shall after the death of a member and on application by a person nominated under Section 54 pay to the applicant such part of the amount standing to the credit of the member as is stipulated in the nomination.

(2) An application under Subsection (1) shall be in the prescribed form and shall be accompanied by such evidence in support as is prescribed.

54. Nomination.

(1) For the purposes of this section—

“children” includes adopted children where the Director is satisfied that the adoption is in accordance with the custom of the member;

“family” means—

(a) in the case of a man—his wife (except where, in accordance with any law or the custom of the community to which the spouses belong, the wife is no longer entitled to maintenance), his children (whether married or unmarried), his dependant parents and his deceased son's widow and children; and

(b) in the case of a woman—her husband and his dependant parents (except where the member by written notice to the Director excludes her husband from the family), her children (whether married or unmarried), her dependant parents and her deceased son's widow and children.

(2) Each member shall, in the prescribed manner, nominate a person or persons to receive in his or their own right such portions of the amount payable on the death of the member as are specified by the member.

(3) Where, at the time of making a nomination, a member has a family, the nomination shall be in favour of a member or members of his family, and a nomination in favour of any other person shall be null and void.

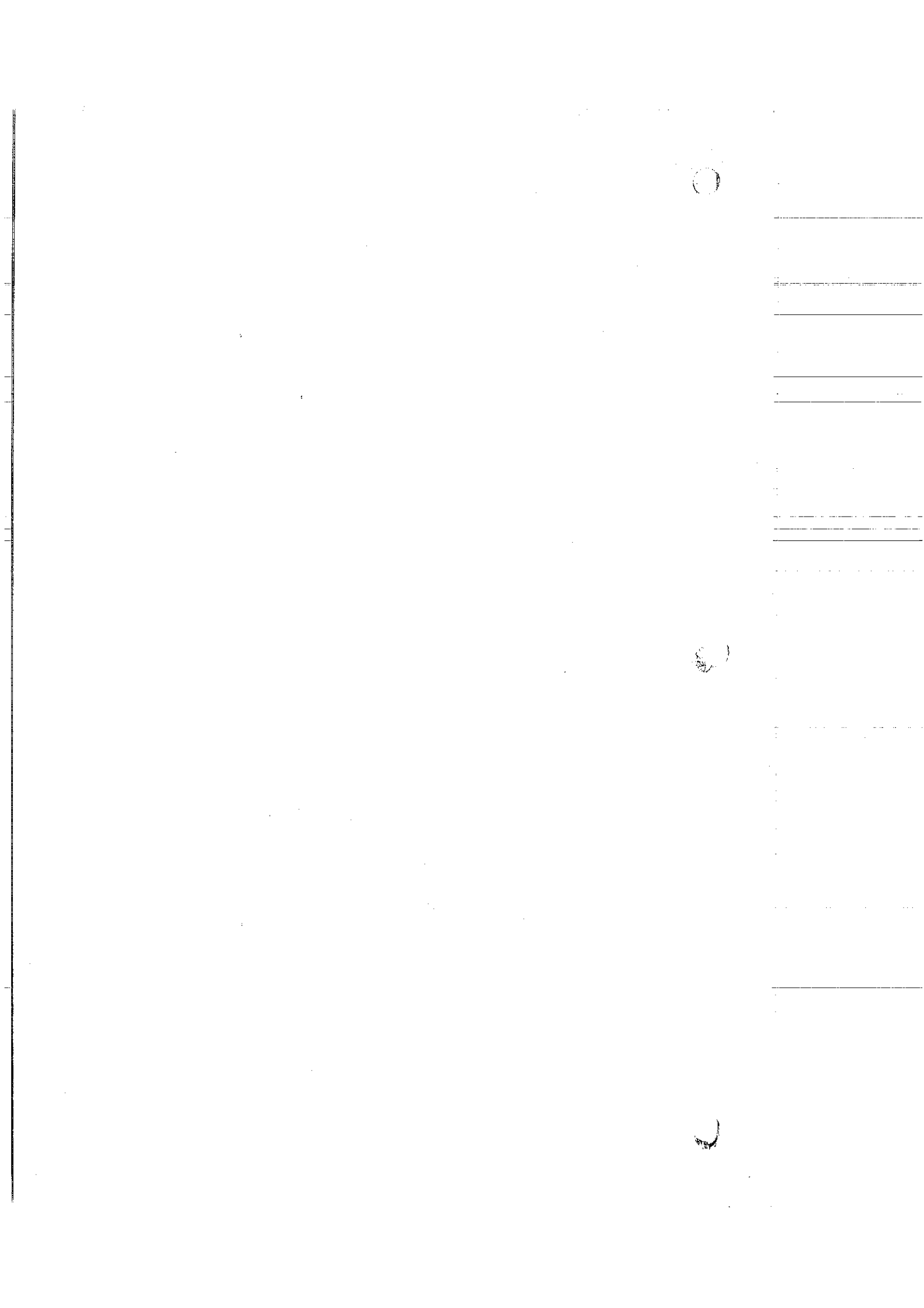
(4) Where, at the time of making a nomination, a member has no family but subsequently acquires family, his original nomination shall be deemed null and void and he shall immediately make a fresh nomination in favour of a member or members of his family.

(5) A nomination under this section in favour of a child who is a minor may appoint a person of full age in his family to be guardian.

(6) A nomination under this section may be amended at any time by a member after giving written notice in the prescribed form.

55. Procedure where no nominee.

Where, at the time of the death of the member, no valid nomination has been made or no nominee is still alive, the amount standing to the credit of the member's account in the Fund shall be paid to persons prescribed in the manner prescribed.



PART X.—MISCELLANEOUS.

56. Offences.

A person who—

- (a) for any purpose connected with this Act—
 - (i) knowingly makes a false statement; or
 - (ii) produces or furnishes or causes to be produced or furnished any document which he knows to be false in a material particular; or
- (b) fails to pay to the Fund within such period as may be prescribed any amount which he is liable to pay under this Act in respect of or on behalf of any employee in any month; or
- (c) obstructs any officer or servant of the Board in the discharge of his functions as such; or
- (d) fails to comply with any rules made under this Act; or
- (e) fails to transfer to the Fund any sum which he is required to transfer to it by virtue of Section 45 or 48 within such time as he is required by that section to transfer it; or
- (f) fails to comply with any other requirements of this Act,

is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K1 000.00 or imprisonment for a term exceeding one year.

For a second or subsequent offence—a fine not exceeding K2 000.00 or imprisonment for a term not exceeding two years.

Default penalty: A fine not exceeding K100.00.

57. Offence by corporation.

Where a corporation does any act or makes any omission that is an offence under this Act, every person who at the time of the act or omission was a director or member of the governing body of the corporation or was concerned in the management of the corporation, and who authorized or knowingly permitted the act or omission, shall, for the purposes of this Act be deemed to have committed the offence.

58. Power of court to make orders.

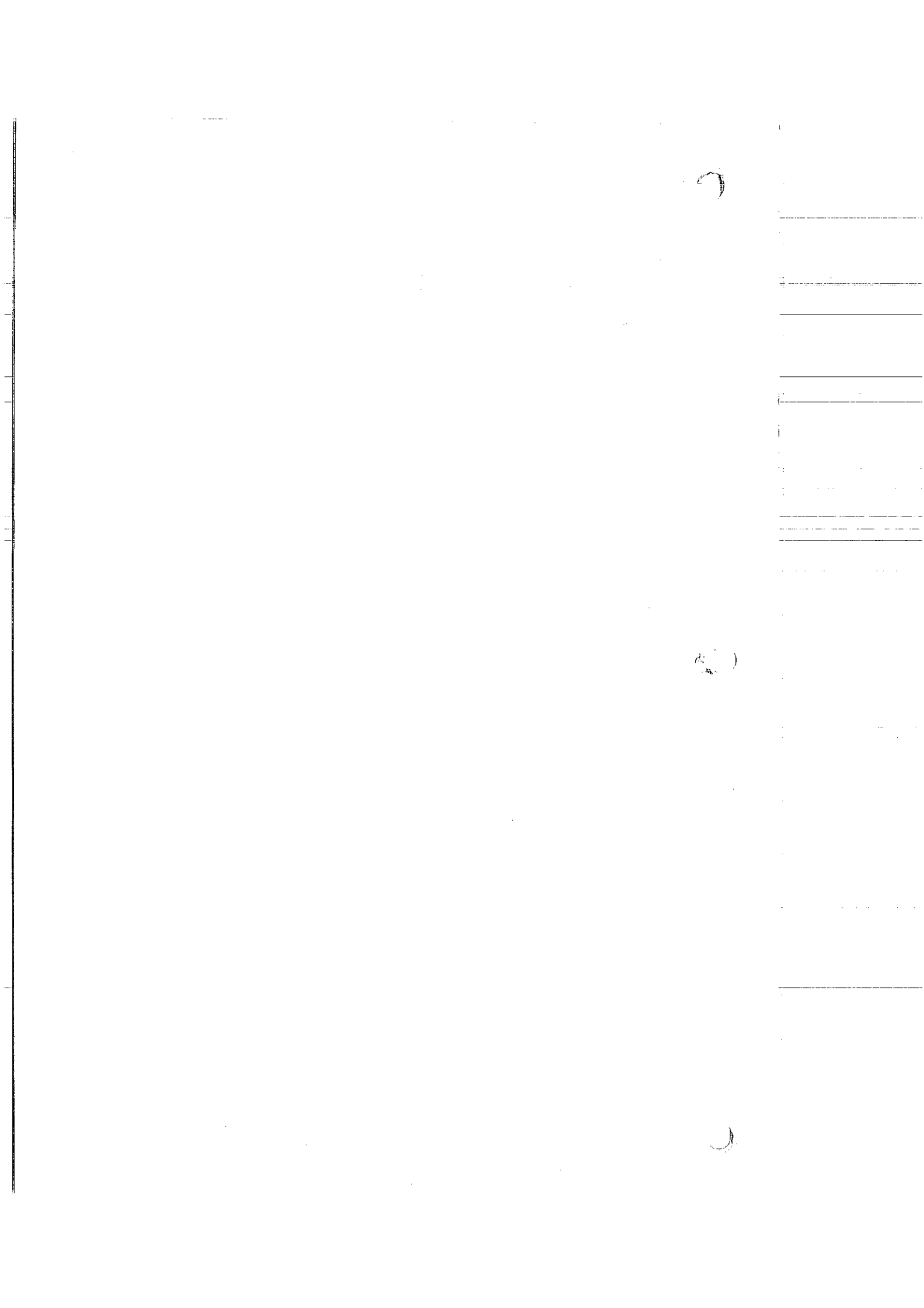
Where a person is convicted of an offence under Section 56(b) the court may, in addition to any sentence of fine or imprisonment, order him to pay to the Fund the amount in respect of the non-payment of which he was convicted.

59. Liability in case of transfer of establishment.

Where an employer, in relation to an establishment, transfers that establishment, in whole or in part, by sale, gift, lease or in any other manner, the employer and the person to whom the establishment is transferred shall jointly and severally be liable to pay any contributions and other sums due from the employer under this Act in respect of the period up to the date of the transfer.

60. Protection for acts done in good faith.

A suit or other legal proceedings shall not lie against an Inspector or other person in respect of anything which is, in good faith, done or intended to be done under this Act.



61. Rules.

- (1) The Board may make rules not inconsistent with this Act to provide for—
- (a) all matters that are referred to in this Act as being prescribed; and
 - (b) all aspects of the administration of the Fund; and
 - (c) the employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution; and
 - (d) the time and manner in which contributions shall be made to the Fund by an employer and by, or on behalf of, employees (whether employed by him directly or by or through a contractor), the contributions which an employee may, if he so desires, make under Section 32, and the manner in which such contributions may be recovered; and
 - (e) the constitution of any committee for assisting the Board; and
 - (f) the opening of offices of the Fund under the Board; and
 - (g) the manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the National Government, the preparation of the budget, the audit of accounts and the submission of reports to the National Government or to any specified authority; and
 - (h) the conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture; and
 - (i) the fixation by the Board of the rate of interest payable to members; and
 - (j) the form in which an employee shall furnish particulars about himself and his family whenever required; and
 - (k) the nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination; and
 - (l) the registers and records to be maintained with respect to employees and the returns to be furnished by employers; and
 - (m) the form or design of any identity card, token or disc for the purpose of identifying any employee, and for its issue, custody and replacement; and
 - (n) the fees to be levied for any of the purposes specified in the rules; and
 - (o) the further powers (if any) which may be exercised by Inspectors; and
 - (p) the manner in which accumulations in any existing provident fund shall be transferred to the Fund under Part VIII., and the mode of valuation of any assets which may be transferred by the employers for that purpose.
- (2) Rules made under Subsection (1) shall not have effect until they have been approved by the Head of State acting on advice, and notified in the National Gazette.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund Rules.

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"the commencement date".

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3. Matter of importance.
4. Minutes.

PART III.—DIRECTOR AND OTHER STAFF.

5. Offices.
6. Duties of staff.
7. Notification of appointments.
8. Delegation by Board.
9. Delegation by Director.

PART IV.—MEMBERSHIP OF THE FUND.

10. Classes of employees entitled and required to join the Fund.
11. Retention of membership.
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14. Exemption of class of employees.
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THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund Rules.

MADE under the *National Provident Fund Act.*

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 connexion 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 connexion 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 connexion 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 SF1¹ 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.

¹Forms were not published with these Rules.

(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 SF2¹, 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.

¹Forms were not published with these Rules.

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 SF2¹ 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 SF5¹ 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 SF5A¹—
 - (i) of the employees who became members for the first time during the preceeding month; and
 - (ii) the declarations in Form SF2¹ furnished by qualifying employees; and
- (b) in Form SF6¹—of the employees leaving the service of the employer during the preceeding 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 preceeding 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.

¹Forms were not published in these Rules.

(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 SF3¹, 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 SF7¹ 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.

¹Forms were not published with these Rules.

- (6) The Director shall provide to employers—
- (a) Employees Contribution Form SF7¹; and
 - (b) six-monthly pre-printed schedules of all members registered with that employer in Form SF8¹; 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, SF7¹, 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 SF8¹; 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.

¹Forms were not published with these Rules.

(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' and 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 connexion 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 connexion 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.

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 expenditure 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 preceeding 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 overdrawl 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 SF2¹, 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 SF10¹.

(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, Housing Commission, 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, Housing Commission, 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

¹Forms were not published with these Rules.

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 Housing Commission established by the *Housing Commission Act*, 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 month's 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-refundable¹.

(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

¹See, also Section 51 of the Act.

funds exempted under the Act, immediately preceeding 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 preceeding 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 preceeding 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*, 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 a 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.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 377.

National Provident Fund Act.

APPENDIX 1.

SOURCE OF THE NATIONAL PROVIDENT FUND ACT.

Part A.—Previous Legislation.

National Provident Fund Act 1980 (No.18 of 1980)

as amended by—

National Provident Fund (Amendment) Act 1982 (No. 27 of 1982)

Public Bodies (Subsidiary Companies) Act 1983 (No. 8 of 1983).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	1	31	31
2	2	32	32
3	3	33	33
4	4	34	34
5	5	35	35
6	6	36	36
7	7	37	37
8	8	38	38
9	9	39	39
10	10 (in part)	40	40
11	11	41	41
12	10 (in part)	42	42
13	13	43	43
14	14	44	44
15	15	45	45
16	16	46	46
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27	27	57	57
28	28	58	58
29	29	59	59
30	30	60	60

¹Unless otherwise indicated, references are to the Act set out in Part A.

APPENDIX 2.

SOURCE OF THE NATIONAL PROVIDENT FUND RULES.

Part A.—Previous Legislation.

National Provident Fund Rules (Statutory Instrument No.17 of 1981).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	1	36	36
2	2	37	37
3	3	38	38
4	4	39	39
5	5	40	40
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32	32	67	67
33	33	68	68
34	34	69	69
35	35	70	70

¹Unless otherwise indicated, references are to the Rules set out in Part A.