



Tuvalu

PROVIDENT FUND ORDINANCE 1984

5 of 1984



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PROVIDENT FUND ORDINANCE 1984

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Tuvalu

PROVIDENT FUND ORDINANCE 1984

5 of 1984

AN ORDINANCE TO ESTABLISH A NATIONAL PROVIDENT FUND AND FOR PURPOSES ANCILLARY THERETO

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [Date]

PART I - PRELIMINARY

1 Short title and commencement

This Ordinance may be cited as the Provident Fund Ordinance 1984.

2 Purpose of this Ordinance

- (1) The Tuvalu Provident Fund Ordinance 1981 was based on legislation originally written for the scheme operating in Kiribati and, although the scheme to operate in Tuvalu is similar in concept, that legislation is now considered to be out of date and not readily understandable in the context of Tuvalu.
- (2) In addition the later, 1983, Ordinance contains certain inaccuracies, anomalies and omissions which would make the administration of it impossible without taking some action *ultra vires*.
- (3) The purpose of this Ordinance is —

- (a) to replace the Tuvalu Provident Fund Ordinance 1983 to enable the Fund to operate as intended with the minimum of administrative difficulty; and
- (b) to set the framework for a national provident fund which will cover potentially every person of working age, without discrimination on any grounds of nationality, race or colour, for the contingencies in respect of which benefit is payable in return for compulsory, earnings related contributions or voluntary contributions.

3 Interpretation

In this Ordinance unless the context otherwise requires —

“**appointed day**” means such a day as the Minister may appoint for the coming into force of the provisions of this Ordinance, and the Minister may appoint different days for different purposes of this Ordinance;

“**benefit**” means any benefit provided under this Ordinance;

“**Board**” means the Tuvalu Provident Fund Board appointed under section 6;

“**contribution**” means a contribution to the Fund liable to be paid, or which there is eligibility to pay voluntarily, under section 12;

“**deduction**” means a deduction from a member’s account under section 19 for the purpose of financing special death benefit;

“**employed person**” means a person who is gainfully employed whether - under contract of service, as a director of a limited company, a holder of an office, the Governor General, Members of Parliament, ministers of religion, and includes any person who, though not bound by a formal contract of service, is subject to the control of another person, group of persons or body corporate as to the manner in which he carries out his duties, and the words “**employed**” and “**employment**” shall be construed accordingly;

“**employer**” means any person, group of persons or body corporate having another person or persons in their employ;

“**financial year**” means the period from the 1st day of January to the 31st day of December each year;

“**Fund**” means the Tuvalu Provident Fund established under section 4;

“**investment adviser**” means the investment adviser appointed under section 9(2);

“**Manager**” means the manager of the Fund appointed under section 9(3);

“**maximum amount**” means the maximum amount of special death benefit payable under section 23;

“**Medical Board**” means the medical board appointed under section 27;

“**member**” means any person, registered under section 14, who has paid contributions or in respect of whom contributions have been payable at any time;

“**nominated person**” means a person nominated under section 25 to receive death benefit payable under section 20(f);

“**permanently retired**” means retired from regular employment and presumes that occupational activity has ceased or largely ceased;

“**proper time**” means the time prescribed in regulations for the payment of contributions;

“**Special Fund**” means the Special Death Benefit Fund established under section 5;

“**this Ordinance**” includes regulations made thereunder; and

“**voluntary member**” means any person eligible to pay contributions voluntarily under section 12 and who becomes registered under section 14.

PART II - ADMINISTRATION AND FINANCE

4 Establishment of the Fund

- (1) There is hereby established a fund, to be called the Tuvalu Provident Fund, into which shall be paid —
 - (a) all contributions;
 - (b) all rents, interest on investments, or other income derived from the assets of the Fund;
 - (c) all sums properly accruing to the Fund under this Ordinance including any repayment of benefit (excluding special death benefit payable under section 20(g));
 - (d) all sums received under this Ordinance as fees, surcharges, penalties or costs; and
 - (e) any other sums provided by the Government for the purposes of this Ordinance or received and accepted by the Manager on behalf of the Fund.
- (2) There shall be paid out of the Fund —

- (a) all benefits with the exception of special death benefit payable under section 20(g);
- (b) all refunds of contributions;
- (c) all expenses properly incurred in the administration of this Ordinance; and
- (d) all deductions from members' accounts required to be made under section 19.

5 Special Death Benefit Fund

- (1) There shall be established a special fund, to be called the Special death Benefit Fund, into which shall be paid —
 - (a) all deductions from members' accounts required to be made under section 19;
 - (b) all rents, interest on investments, or other income derived from the assets of the Special Fund;
 - (c) any repayment of special death benefit; and
 - (d) any other sums provided by the Government or the Fund for the purpose of floating or maintaining the Special Fund.
- (2) There shall be paid out of the Special Fund all payment of special death benefit.

6 Provident Fund Board

- (1) There is hereby established a board of management to be called the Tuvalu Provident Fund Board, which shall consist of six members appointed by the Minister under subsection (2).
- (2) The Minister shall appoint —
 - (a) from nominations by the groups and interests concerned two members each from —
 - (i) the public service,
 - (ii) representatives of employers, and
 - (iii) representatives of employed persons; and
 - (b) a chairman from among the members appointed under paragraph (a).

7 Terms of appointment of Board members

- (1) Each member of the Board shall hold office for no longer than two years.

- (2) Members of the Board shall be eligible for appointment for further periods provided that no member shall hold office for a consecutive period in excess of six years.
- (3) The Minister may, on the recommendation of the Board, dismiss from office any member who —
 - (a) fails to attend without legitimate excuse three or more consecutive ordinary meetings of the Board;
 - (b) loses his status as a public servant, employer or employed person, as the case may be, by virtue of which he was appointed to the Board;
 - (c) is convicted of a felony; or
 - (d) is declared bankrupt.
- (4) For the purposes only of the Penal Code every member of the Board and every person appointed to hold office for the purposes of this Ordinance shall be deemed to be a person employed in the public service.

8 Meetings of the Board

- (1) The Chairman of the Board shall call meetings once a month or more frequently if the efficient administration of the Fund so requires.
- (2) A Quorum shall consist of two-thirds of the members of the Board provided that if the Chairman is not present, an acting Chairman may be elected at that meeting from among the members present.
- (3) Resolutions shall be adopted on a simple majority of members present.

9 Functions of the Board

- (1) The Board shall, subject to this Ordinance and any direction by the Minister, be responsible for —
 - (a) the collection of contributions;
 - (b) the payment of benefit and of the expenditure necessary for the administration of the Fund;
 - (c) subject to subsection (2), investments; and
 - (d) accounting for all money collected, paid or invested under this Ordinance.
- (2) The Board shall, with the approval of the Minister, appoint an investment adviser to the Fund on terms from time to time to be agreed between the Board and the investment adviser, and shall have the authority to seek

investment advice from and give investment instructions to the investment adviser as the Board thinks fit.

- (3) The Board shall, with the approval of the Minister, appoint a Manager who shall, subject to any directions of the Board, have day-to-day control over the Fund and all its officers and staff.
- (4) The Board shall, subject to this Ordinance, be responsible for advising the Minister on all matters concerning the operation of the Fund and in particular for
 - (a) reviewing this Ordinance and recommending amendment where necessary;
 - (b) reviewing, with the assistance of an actuary, levels of contributions and benefits and recommending to the Minister any changes that may become necessary; and
 - (c) advising the Minister of the financial position of the Fund and Special Fund as it affects the level of any transfer of funds under section II.
- (5) The Board shall cause to be kept proper books of account which shall be audited annually and other books and records in relation thereto, in which shall be recorded all financial transactions of the Fund.
- (6) The Chairman of the Board shall, as soon as practicable after the end of each financial year, submit a report on the Fund's operations during the year, together with a copy of its annual accounts to the Minister who shall lay them before Parliament.
- (7) The Board shall publish the report and accounts submitted under subsection (6).

10 Rate of interest on accounts

- (1) At the end of each financial year the Board shall, having considered the recommendation of the Manager, declare a rate of interest for the purpose of section 18 for that financial year.
- (2) No rate of interest exceeding 4 per cent per annum shall be declared under subsection (1) if any sum advanced by the Government under section II has not been repaid.

11 Advances by the Government

- (1) Where at any time the Fund or Special Fund is unable to pay any sum which is required to be paid under this Ordinance, the Government shall

advance to the Fund or Special Fund an amount sufficient to allow the payment of the said sum.

- (2) The amount advanced under subsection (1) shall be —
 - (a) advanced on such terms as the Government shall determine;
 - (b) a charge on the Consolidated Fund; and
 - (c) repaid from the Fund as soon as practicable.

PART III - CONTRIBUTIONS AND PERSONS COVERED

12 Persons covered

- (1) Subject to this Ordinance every person who is employed under a contract of service in Tuvalu shall be covered by this Ordinance and shall be liable to pay contributions.
- (2) For the purposes of establishing liability for the payment of contributions there shall be the following groups of contributor —
 - Group 1 - employed persons,
 - Group 2 - employers, and, subject to subsection (3),
 - Group 3 - voluntary members.
- (3) Regulations may provide for the terms and conditions under which a person may be eligible to become a voluntary member and pay contributions on his own behalf.
- (4) Contributions to the Fund shall be payable at the rate prescribed by the Minister in regulations.

13 Exceptions from liability

- (1) Regulations may provide for exceptions from liability to pay contributions under section 12 in respect of persons or categories of persons including those who are —
 - (a) below a certain age when the liability arises;
 - (b) over a certain age when liability arises;
 - (c) employed as domestic servants;
 - (d) recruited from any overseas territory under any aid, volunteer or other similar scheme agreed with the government of the overseas territory, whether or not any part of the person's emoluments is paid by, or on behalf of the Government of Tuvalu; or

- (e) employed persons whose normal monthly earnings amount to less than \$20.00.
- (2) Regulations may provide for exceptions from, or variations in, the liability to pay contributions in respect of persons or categories of persons who are covered by an international convention or a reciprocal agreement made between the Governments of Tuvalu and any other country.

14 Registration of employers and members and other contribution matters

Regulations may provide for —

- (a) the registration of employed persons, employers and voluntary members covered under section 12;
- (b) the payment and collection of contributions, including surcharges on contributions not paid by the proper time;
- (c) the maintenance by employers of records of payment of wages, payment of contributions and any other matter as may be considered necessary to ensure the compliance with and discharge of liabilities under this Ordinance;
- (d) the refund of contributions paid in error; and
- (e) any other matter incidental to the payment and collection of contributions.

15 Appointment of inspectors and powers of inspectors

- (1) The Minister may appoint any officer of the Fund to be an inspector.
- (2) Every inspector shall be furnished with a certificate of his appointment signed under the authority of the Minister, and, if so required on applying for admission to any premises or exercising any power vested in him by this Ordinance, shall produce the certificate for inspection.
- (3) An inspector appointed under this section shall for the purposes of this Ordinance have the power to —
 - (a) enter at all reasonable times any premises or place where he has reason to believe that any person is employed;
 - (b) ascertain by examination and enquiry whether the provisions of this Ordinance are being complied with;
 - (c) Question any employer, employed person or any other person on any matter concerning the application of or compliance with any of the provisions of this Ordinance;

- (d) require on written application the production, at any reasonable time and place, of any document or records as he may require to examine under paragraph (b);
- (e) seize and detain any document or thing which may be of evidential value in a prosecution for an offence against this Ordinance; and
- (f) exercise other powers which may be provided for in regulations.

16 Waiver of liability

The Minister or, a person authorized by him may, where he is satisfied that the payment of a contribution or any surcharge would cause hardship, waive the liability or part thereof as he may consider appropriate.

17 Treating unpaid contributions as paid

- (1) Notwithstanding that any contribution or part of a contribution has not been paid in respect of any employed person, the Board may, if it is satisfied that —
 - (a) the contribution was liable to be paid;
 - (b) the failure to pay was not due to the consent or connivance of the employed person concerned; and
 - (c) that there is no prospect of recovering the amount unpaid —
 - (i) by the time the amount of interest to be credited to the member's account is due for calculation, or
 - (ii) by the time entitlement to benefit is due to be determined;credit the employed person's account with the amount of the contributions which should have been paid in respect of him and shall charge the amount so credited to the Fund.
- (2) Nothing in this section shall prejudice the right of the Board to recover the amount of any unpaid contribution, together with any penalty due under section 14, from the employer.

18 Contributions and interest to be credited to member's accounts

- (1) The account of each member shall be credited with the amount of the contributions paid during each financial year by or in respect of that member.
- (2) Upon the declaration by the Board of a rate of interest for that year under section 10, interest at that rate shall be added to the amount standing to his

credit at the end of that year in such a manner as may be prescribed in regulations.

19 Deductions for special death benefit

- (1) Immediately after interest under section 18 has been added to each member's account, the amount as prescribed in subsection (2) shall be deducted from each account and credited to the Special Fund.
- (2) Until such time as regulations may otherwise provide, the amount to be deducted from each member's account shall be the sum of \$5.00.
- (3) Where the amount in a member's account is less than \$5.00 the whole amount standing to his credit shall be deducted.

PART IV - BENEFITS

DIVISION I - BENEFIT COVERAGE

20 Description of benefits

The benefits payable under this Ordinance shall be of the following descriptions, namely —

- (a) retirement benefit, that is to say a lump sum payment to a member who has attained the age of 45 years and has permanently retired from employment;
- (b) age benefit, that is to say a lump sum payable to a member, subject to section 23(1), who has attained the age of 55 years whether or not he has permanently retired from employment;
- (c) incapacity benefit, that is to say a lump sum payment in respect of a member who is physically or mentally incapable of engaging in any further employment;
- (d) emigration benefit, that is to say a lump sum payable to a member who is about to leave or has already left Tuvalu with no intention of returning thereto;
- (e) woman's home benefit, that is to say a lump sum payable to a member being a woman who has permanently left employment for the purpose of caring for her husband or children;
- (f) death benefit, that is to say a lump sum payable in respect of a member who has died;

- (g) special death benefit, that is to say a lump sum payable to the dependant of a deceased member in respect of whom entitlement under subsections (a), (b), (c), (d), and (e) has not arisen.

21 Appointed days

Regulations may provide for the appointed day appropriate to any or all of the benefits described in section 20 to be different from the appointed day appropriate for the general entry into force of this Ordinance.

DIVISION 2 - ENTITLEMENT TO BENEFITS

22 Manner of claiming benefit and evidence to be produced

- (1) Regulations may provide that entitlement to benefit shall be conditional upon —
 - (a) a claim for benefit being made within a prescribed time - (provided that any such regulation shall provide also for extending the time limit within which the claim is to be made where good cause is shown for the delay); and
 - (b) a certificate by the claimant concerning his intention permanently to retire or cease employment; or
 - (c) a certificate by the claimant concerning his intention permanently to leave Tuvalu; or
 - (d) production, where appropriate, of medical evidence of the condition of the incapacity of a member; and
 - (e) production by the claimant of a certificate of birth, marriage, or death, as the case may require; and
 - (f) production of proof of membership of the person concerned.
- (2) Regulations may provide that —
 - (a) the claim for the benefit in Question;
 - (b) the certificate of intention to retire, leave employment or emigrate;
 - (c) the medical evidence of incapacity;
 - (d) certificate of birth, marriage or death; or
 - (e) proof of membership;shall be accepted by the Board in connection with a claim only when in the form or obtained in the manner prescribed.
- (3) Regulations may provide, for the purpose of controlling claims for benefit, that the Board may —

- (a) require a person claimed to be physically or mentally incapable of further employment to attend a medical examination by, or appear before, a medical board; or
- (b) make or cause to be made enquiries necessary to prevent abuse or fraud or to safeguard the Fund.

23 Manner of payment of benefit

- (1) Entitlement to benefit under section 20(a), (b), (d) and (e) shall be discharged by the issue to the claimant of a non-negotiable cheque or order for the amount standing to the credit of the member concerned.

Provided that a person who qualifies for benefit under section 20(b) and continues to, or returns to, work shall not be entitled to receive benefit subsequently under that provision until he finally retires.

- (2) Entitlement to benefit under section 20(c) and (f) shall be discharged by the issue to the claimant or claimants of a non-negotiable cheque or order for the proportion of the amount standing to the credit of the member concerned to which title has been proved.
- (3) Entitlement to benefit under section 20(g) shall be discharged by the issue of a non-negotiable cheque or order for the amount provided under subsection (5) and to which title has been proved.
- (4) Regulations may provide, for the purpose of this section, for the manner in which —
- (a) the final amount standing to the credit of the person concerned is calculated;
 - (b) title to any proportion is proved; and
 - (c) the amount of any proportion payable is calculated.
- (5) Until such time as regulations may otherwise provide, the maximum amount of special death benefit payable under this Part shall be equal to 100 times the amount of the deduction made under section 19(2).
- (6) Notwithstanding anything in any other law a person resident in another country who would be entitled to receive benefit payable under this Ordinance if he were living in Tuvalu shall be entitled to receive that benefit in the other country.
- (7) Entitlement to benefit under this Ordinance shall be inalienable.

24 Circumstances in which lump-sum payments can be spread over a period

- (1) Where a large number of claims for benefit is made the Board may, notwithstanding section 23, with the approval of the Minister pay benefit by instalments.
- (2) On application by a claimant entitled to a lump sum, the Board may, notwithstanding section 23, with the approval of the Minister pay benefit as an annuity.

25 Provision for nominating beneficiaries

- (1) A member may by a memorandum executed in the form prescribed in regulations, nominate a person or persons to receive the amount, or portion of the amount, payable under section 20(f) in the event of his death as the memorandum shall indicate.
- (2) Regulations may provide that the Board may require a member who does not nominate a person or persons under this section to declare in writing that he does not desire so to do.
- (3) The subsequent marriage of a nominator shall render any nomination null and void.
- (4) Where a nominated person is under the age of 18 years at the time entitlement arises, the board may direct that benefit shall be paid to an adult who shall use it to maintain, or to the advantage of, the nominated person until he reaches the age of 18 years.

PART V - ADJUDICATION AND LEGAL PROCEEDINGS**DIVISION I - DETERMINATION OF CLAIMS AND QUESTIONS****26 Decisions and appeals**

- (1) Regulations may provide for determination by the Manager, by the Board, by the Medical Board or by the Minister of any question arising under or in connection with this Ordinance including any claim for benefit, and that the decision in accordance therewith shall be final.
- (2) Regulations in terms of subsection (1) may include provision for —
 - (a) the procedure, the form of any document, the evidence required and the circumstances in which any official record or certificate is sufficient or conclusive evidence;

- (b) the time allowed for making a claim or appeal, questioning any decision, or for producing any evidence;
 - (c) summoning persons to attend and give evidence or produce documents and authorizing the administration of oaths to witnesses; and
 - (d) the representation of one person by another person.
- (3) Regulations in terms of subsection (1) may provide for —
- (a) the reference to the senior magistrate of any question of law arising in connection with the determination of any question under the regulations; and
 - (b) appeal to the High Court from the decision of the senior magistrate under paragraph (a).

27 The appointment of a medical board

- (1) There shall be established a Medical Board appointed by the Minister responsible for health matters, consisting of two or more medical practitioners, of whom one shall be appointed chairman.
- (2) The Medical Board shall consider or decide on all medical matters connected with the entitlement to or payment of benefit and in particular the incapacity of a member under section 20(c) and any regulations made under section 22.

28 Payments to Board members and expenses of witnesses

The Minister may approve to be paid out of the Fund —

- (a) to a person appointed to the Board or the Medical Board, a fee or other remuneration; and
- (b) to a person to whom paragraph (a) applies or a person required to appear before the Board or Medical Board, any expenses in connection with his work, loss of earnings or travel incurred because of his appearance as is shown to be reasonable.

DIVISION 2 - LEGAL PROCEEDINGS

29 Offences and penalties

- (1) Any person who —
 - (a) for any purpose connected with this Ordinance —
 - (i) knowingly makes any false statement or false representation,

- (ii) produces or furnishes or causes or knowingly allows to be produced or furnished, any document which he knows to be false in a material particular,
- (iii) knowingly misrepresents or fails to disclose any material fact;
- (b) without lawful excuse fails to register when required to do so by regulations made under section 14;
- (c) fails to pay by the proper time any contribution, surcharge or payment which he is liable under this Ordinance to pay;
- (d) fails to furnish within the prescribed time any particulars, returns or other information required by this Ordinance;
- (e) obstructs any inspector or officer of the Fund in the discharge of his functions under this Ordinance;
- (f) knowingly and with dishonest intent makes any deduction from any wages, or having made such deduction, fails to pay to the Fund any amount so deducted, otherwise than is provided under regulations in terms of section 14; or
- (g) contravenes any provision of this Ordinance in such a manner or to such an extent that as a result of such contravention there is a loss to the Fund;

shall be guilty of an offence and liable to a fine of \$1000.00 and to imprisonment for 2 years and in the case of a continuing offence, to a fine of \$100.00 for each day for which the offence continues.

- (2) Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Where, on conviction for an offence of failure to pay a contribution —
 - (a) evidence in the form of a certificate signed by the Manager is given of the failure by the defendant to pay other contributions; and
 - (b) notice of intention to give such evidence has been served on the defendant;

the court shall order him to pay to the Fund a sum equal to the total of all the contributions which he has failed to pay, together with any surcharge for which he may be liable and any sum so ordered to be paid to the Fund shall be recoverable in the same way as a fine.

- (4) Where an employer is convicted of an offence of failure to pay a contribution in respect of an employed person the provisions of subsection

(3) shall also apply to any contribution he has failed to pay in respect of any other employed person.

- (5) Where an employer being a body corporate has been ordered to pay contributions to the Fund under this section, any sum or part thereof which remains unpaid shall be recoverable as a debt to the Fund jointly and severally from any directors of the body corporate who knew or could reasonably be expected to have known of the failure to pay the contributions in Question.

30 Civil proceedings

- (1) All sums due to the Fund shall be recoverable as a civil debt without prejudice to any other remedy.
- (2) Proceedings for the recovery of all sums due may, notwithstanding anything in any other law, be brought at any time within 6 years from the date when they became due.

31 Authority for and conduct of proceedings

- (1) Subject to the powers of the Attorney General under the Constitution, criminal and civil proceedings under this Ordinance may be instituted by the Board or any officer authorized in writing on their behalf.
- (2) The Manager or any officer authorized by him may conduct any proceedings in a magistrate's court.
- (3) In any criminal or civil proceedings under this Ordinance a copy of any entry in the records or accounts of the Fund or any extract therefrom duly certified by the Manager shall be prima facie evidence of the entry having been made and of the truth of the contents thereof and a certificate by the Manager that there is no entry shall be prima facie evidence that no entry has been made.

PART VI - MISCELLANEOUS PROVISIONS AND REPEALS

32 Amendment to income tax law

The Income Tax Ordinance 1982 is amended by —

- (a) inserting after section 3 the following —

“3A. Notwithstanding the provisions of this section, all income of the Tuvalu Provident Fund, all interest credited to members of that Fund, and all sums withdrawn from, or paid out of

that Fund except for fees, salaries or allowances paid to members of boards established under the Provident Fund Ordinance 1984, officers and staff employed by that Fund, and witnesses or other persons required to attend any place for the purposes of the Provident Fund Ordinance 1984 shall be exempted from income tax.”; and

- (b) inserting in section 12(1)(e) after the word “employer” the words “or employee”.

33 Transitional provision

Notwithstanding the provisions of this Ordinance, arrangement under the law in force immediately prior to the commencement of this Ordinance, including —

- (a) the registration of employers and employed persons;
- (b) the payment and collection of contributions;
- (c) the appointment of the Board, the Manager or any other officers or staff; and
- (d) any regulations made thereto;

shall be deemed to have been made for the purposes of this Ordinance and shall continue in force as if made as a consequence of this Ordinance.

34 Repeal of Pensions Ordinance

- (1) The Pensions Ordinance (Cap 10, 1952 Edn.) is hereby repealed.
- (2) Circular Memorandum, No 57 of 1958, is hereby revoked.

35 Amendment to public service law

The Public Service Ordinance 1979 is amended by —

- (a) deleting the definition
 - (i) “pensionable post”,
 - (ii) “pensionable age”, and
 - (iii) “superannuable”,in Section 2;
- (b) deleting section 4(3); and
- (c) deleting the words “pensions or superannuation rights and” in section 14.

36 Termination, preservation or transfer of existing pension, gratuity or provident fund rights

- (1) Where immediately before the commencement of this Ordinance a person was in a pensionable post within the meaning of —
- (a) the Pensions Ordinance; or
 - (b) Circular Memorandum No.57 of 1958;
- then an amount, calculated as in Schedule I, in respect of his service to the 31st day of March 1984 shall be paid into the Fund and credited to his account as if it were a contribution.
- (2) Where immediately before the commencement of this Ordinance a person was in receipt of a pension from the Government —
- (a) under the Pensions Ordinance; or
 - (b) under Circular Memorandum No.57 of 1958;
- and would but for this Ordinance have continued to receive that pension then he shall, subject to subsection~ (3), be paid such sums out of the Fund as he would have received from the Government had this Ordinance not been enacted.
- (3) A person who is entitled to receive payment from the Fund under subsection (2) may elect to receive from the Fund a lump sum in lieu of that payment.
- (4) For the purposes of subsections (2) and (3), the Government shall pay into the Fund the sums specified in Schedule I.
- (5) From the date of commencement of this Ordinance any other provident fund operating in Tuvalu shall be terminated and the amount standing to the credit of any member of that fund shall be transferred to the Fund and credited to his account as if it were a contribution.
- (6) From the date of commencement of this Ordinance any gratuity arrangement operating in Tuvalu shall cease and any accrued right to a gratuity shall be discharged by
- (a) an adjustment of wages;
 - (b) payment to the person concerned of the amount of his accrued right; or
 - (c) transfer of his accrued right to the Fund to be credited to his account as if it were a contribution;
- whichever shall be agreed between the employer and the employed person or group of employed person concerned.

37 Repeal of Tuvalu Provident Fund Ordinance

The Tuvalu Provident Fund Ordinance 1983 is hereby repealed.

SCHEDULE I

PAYMENTS INTO THE FUND OF ACQUIRED RIGHTS

1. The Government shall pay into the Fund in respect of a person —
 - (a) to whom section 36(1)(a) applies, a sum calculated as in paragraph 2(a) of this Schedule;
 - (b) to whom section 36(1)(b) applies, a sum calculated as in paragraph 2(b) of this Schedule; and
 - (c) to whom section 36(2) or (3) applies a sum calculated as in paragraph 2(c) of this Schedule.

2. The sums that shall be paid into the Fund under paragraph 1 shall be calculated using the following formulae —
 - (a) **$S \times N \times A 1;$**
600
 - (b) **$S \times N \times A2;$** or
840
 - (c) **$P \times A3;$**
 as the case may require where —
 - (i) S is the gross yearly salary of the person concerned,
 - (ii) N is the number of complete months of pensionable service or continuous service, as the case may be,
 - (iii) AI, A2 and A3 are the actuarial factors appropriate to the person concerned according to the tables in paragraph 3 of this Schedule, and
 - (iv) P is the annual amount of the pension in payment immediately prior to the commencement of this Ordinance.

Age	Table A1	Table A2	Table A3
Under 20	6.0	5.4	-
20	6.1	5.5	-
21	6.2	5.6	-
22	6.3	5.7	-
23	6.4	5.8	-
24	6.5	5.9	-
25	6.6	6.0	-
26	6.7	6.1	-
27	6.8	6.2	-
28	6.9	6.3	-
29	7.0	6.4	-
30	7.1	6.5	-
31	7.2	6.6	-
32	7.3	6.7	-
33	7.4	6.8	-
34	7.5	6.9	-
35	7.7	7.1	-
36	7.9	7.3	-
37	8.1	7.5	-
38	8.3	7.7	-
39	8.5	7.9	-
40	8.7	8.1	8.76
41	8.9	8.3	8.70
42	9.1	8.5	8.64
43	9.3	8.7	8.57

Age	Table A1	Table A2	Table A3
44	9.5	8.9	8.50
45	9.7	8.9	8.43
46	9.7	8.9	8.35
47	9.7	8.9	8.26
48	9.7	8.9	8.17
49	9.7	8.9	8.08
50	9.7	8.9	7.98
51	9.7	8.9	7.88
52	9.7	8.9	7.77
53	9.7	8.9	7.65
54	9.7	8.9	7.53
55	9.7	8.9	7.40
56	9.7	8.9	7.27
57	9.7	8.9	7.14
58	9.7	8.9	6.99
59	9.7	8.9	6.85
60	9.7	8.9	6.69
61	9.7	8.9	6.54
62	9.7	8.9	6.37
63	9.7	8.9	6.21
64	9.7	8.9	6.04

- (c) his date of birth;
 - (d) his membership identity number;
 - (e) his relationship to the member or to any person named in the claim; and
 - (f) the name and address of his employer.
6. Date of claim
- (1) For the purposes of determining a claim for benefit, the day of receipt of the claim by the Fund shall be deemed to be the date of the claim.
 - (2) Where a claim is defective at the date of its receipt by the Fund, the Manager may refer the claim to the claimant and, if the form is returned to the Fund within one month from the date on which it is~ 50 referred, the claim may be treated as if it had been properly made in the first instance.
 - (3) A person who makes a claim for benefit may amend his claim at any time before a decision has been given thereon, by notice in writing delivered or sent to the office of the Fund, and any claim 50 amended may be treated as if it had been properly made in the first instance.
- 7 Time limit for claims
- (1) Except as otherwise provided the time limit for claiming benefit shall be not later than 12 calendar months after the date of the event on which the claim for benefit is based - provided that this time limit shall be extended where the claimant can show good cause for the delay in making the claim.
 - (2) For the purpose of elections under section 36(3) to receive a lump sum in lieu of a pension, the Minister may direct that invitations be issued stipulating a time limit by which date any election must be made.
8. Retirement benefit conditions
- (1) Subject to these Regulations retirement benefit shall be payable to a member who, having attained the age of 45 years, permanently retires from employment.
 - (2) For the purpose of sub-regulation (1) a claimant for retirement benefit shall furnish —
 - (a) evidence of his age;
 - (b) a certificate on an approved form of his intention permanently to retire; and
 - (c) his membership identity card.
9. Age benefit conditions

- (1) Subject to these Regulations age benefit shall be payable to a member who has attained the age of 55 years.
- (2) For the purpose of sub-regulation (1) a claimant for age benefit shall furnish —
 - (a) evidence of his age; and
 - (b) his membership identity card.
10. Incapacity benefit conditions
 - (1) Subject to these Regulations incapacity benefit shall be payable to –

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References