



Tuvalu

**PROVIDENT FUND (BENEFIT)
REGULATIONS**

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Tuvalu

PROVIDENT FUND (BENEFIT) REGULATIONS¹

MADE UNDER SECTION 22 OF THE PROVIDENT FUND ACT

1 Citation and interpretation

(1) These Regulations may be cited as the Provident Fund (Benefit) Regulations.

(2) In these Regulations, unless the context otherwise requires —

“**approved form**” means a form approved by the Board for the purpose of these Regulations; and

“**incapacity**” means total incapacity for work as a result of a specific disease or bodily or mental disability which is likely to remain permanent.

2 Manner of claiming benefit

A claim for benefit shall be made in writing to the Manager on an approved form or in such a manner as the Manager may accept in the circumstances of a particular case or category of cases.

3 Claim forms

Claim forms shall be supplied on request by the Fund without charge.

4 Acceptance of other forms and claims in the alternative

(1) Where a claim for benefit has been made on an approved form other than the form appropriate to the benefit claimed, the claim may be treated as if it had been made on the appropriate form:

Provided that the Manager may require the claimant to complete an appropriate form.

- (2) Where it appears that a person who has made a claim for benefit may be entitled to some other benefit, the claim may be treated by the Manager as a claim in the alternative for that other benefit.

5 Supporting evidence and information

- (1) A person claiming benefit shall furnish any certificate, information or evidence as the Manager may require for the purpose of determining entitlement to the benefit and, if reasonably so required, shall for that purpose attend the offices of the Fund or at any other place that the Manager may direct.
- (2) A person claiming benefit shall, in particular and where required by the Manager, furnish the following information concerning himself or in respect of any person named in the claim —
 - (a) his full name;
 - (b) his usual place of residence;
 - (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 so 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 so 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) of the Act, 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, retires from employment and does not elect to take a retirement pension in lieu of the whole of the retirement benefit.²
- (2) For the purpose of subregulation (1) a claimant for retirement benefit shall furnish —
 - (a) evidence of his age;
 - (b) a certificate on an approved form of his intention to retire; and
 - (c) his membership identity card.
- (3) Subject to these regulations, retirement benefit shall be payable to a member on attaining the age of 65, whether or not retirement has taken place, if the member does not elect to take a retirement pension in lieu of the whole of the retirement benefit.³
- (4) For the purpose of subregulation (3) a claimant for retirement benefit shall furnish —
 - (a) evidence of age; and
 - (b) his membership identity card.⁴

9 Retirement Pension Conditions⁵

- (1) Subject to these Regulations, retirement pension shall be payable to a member who, being not less than the age of 45 years, retires from employment and elects to take a retirement pension in lieu of part or all of the retirement benefit.
- (2) Subject to these Regulations, retirement pension shall be payable to a member on attaining the age of 65, whether or not retirement has taken place, who elects to take a retirement pension in lieu of part or all of the retirement benefit.
- (3) An election to take a retirement pension will not be recognised unless —
 - (a) it is made on an approved form within one calendar month of the date of retirement, or within such longer period, not exceeding three months, as the Manager may in special circumstances allow;

- (b) evidence of the member's age in the form of a birth certificate is produced; and
 - (c) the pension is not less than \$30 per month.
- (4) A member may elect to take —
- (a) a pension payable only for the lifetime of the member; or
 - (b) a pension as described in Schedule II which may continue after the member's death until the death of the spouse to whom the member was married at retirement.
- (5) Evidence of marriage is required before an election to take a pension which may continue to a spouse can be recognised.
- (6) The rates of pension payable in lieu of each \$1,000 retirement benefit are shown in Schedule II.
- (7) Pensions are payable on the last day of each month, the first payment being on the last day of the month in which the member retires and the final payment being on the last day of the month in which the member or the spouse dies.

10 Incapacity benefit conditions

- (1) Subject to these Regulations incapacity benefit shall be payable to —
- (a) a member who is physically or mentally incapable of engaging in further employment; or
 - (b) a person authorised to act on that member's behalf.
- (2) For the purpose of subregulation (1) the member concerned shall be examined by the Medical Board who shall certify on an approved form that —
- (a) the member is; or
 - (b) the member is not,
- incapable of further employment.
- (3) Evidence of membership of the person concerned shall be furnished by the member or the person claiming on his behalf.

11 Emigration benefit conditions⁶

- (1) Subject to these Regulations an emigration benefit shall be payable to a member who leaves Tuvalu with no intention of returning.
- (2) For the purpose of subregulation (1) a claim for an emigration benefit shall be conditional upon —
- (a) a certificate by the claimant made on a prescribed form confirming therein the intention to permanently leave Tuvalu;

- (b) a certificate of sponsorship or certificate of residence from a person or authority permanently resident in the country of emigration;
 - (c) evidence of cash balance of over \$1000 in his/her personal account with the fund; and
 - (d) evidence of membership identity.
- (3) An initial withdrawal for any claim concerning emigration benefit shall not exceed 50% of the total cash balance under the claimant's personal account with the fund.
- (4) Notwithstanding the provisions of these Regulations any claimant may apply to withdraw the remaining 50% of his/her cash balance with the Fund after 12 months of absence from Tuvalu.
- (5) Any claimant who has gained citizenship or permanent residence of another country shall be entitled to withdraw 100% of the total cash balance in his/her personal account with the Fund.
- (6) Any claimant who for any purpose connected with these Regulations —
- (a) knowingly makes any false statement or misrepresentation; or
 - (b) receives emigration benefit under these Regulations and does not travel within a period of 3 months,
- shall be guilty of an offence and liable to a fine not exceeding \$1000 or imprisonment for a period of 6 months.

12 Woman's home benefit conditions

- (1) Subject to these Regulations woman's home benefit shall be payable to a female member who leaves employment for the purpose of caring for her husband or children.⁷
- (2) For the purpose of subregulation (1) a claimant for woman's home benefit shall furnish —
- (a) a certificate on an approved form of her intention to leave employment;
 - (b) her marriage certificate and/or the birth certificates of her child or children; and
 - (c) her membership identity card.⁸

13 Death benefit conditions

- (1) Subject to these Regulations death benefit shall be payable to a person nominated by a deceased member under the Provident Fund (Nominations) Regulations.
- (2) For the purpose of subregulation (1) the nominated person shall furnish evidence of his identity.

- (3) A claimant to a death benefit may elect to take a pension in lieu of part or all of the death benefit.⁹
- (4) An election to take a pension under sub-regulation (3) will not be recognised unless —
 - (a) the claimant has attained the age of 45 years;
 - (b) the election is made on an approved form within one calendar month of the date of death of the member or within such longer period, not exceeding three months, as the Manager in special circumstances may allow;
 - (c) evidence of a claimant's age in the form of a birth certificate is produced; and
 - (d) the pension is not less than \$30 per month.¹⁰
- (5) The rates of pension payable in lieu of each \$1,000 of death benefit are shown in columns (1) and (3) of Schedule II.¹¹
- (6) The pension shall be payable on the last day of each calendar month for the lifetime of the claimant, the first payment being made on the last day of the month in which the member died and the final payment being made on the last day of the month in which the claimant dies.¹²

14 Special death benefit provisions

- (1) Subject to these Regulations special death benefit shall be payable to the dependant of a deceased member.
- (2) For the purpose of subregulation (1) a claimant for special death benefit shall furnish —
 - (a) marriage and/or birth certificates; and, where appropriate,
 - (b) evidence of adoption,in a form the Manager may from time to time accept as reasonable in the circumstances of the case.

14A Conditions for Drawing Housing Benefit¹³

Subject to these conditions housing benefit shall be payable to a member who is eligible under the following conditions —

- (1) The benefit withdrawn shall be specifically for the purpose of constructing or renovating of a members own private house;
- (2) Only members whose personal account cash balance exceed \$20,000 are eligible;
- (3) Up to a maximum of 50% of a member's cash balance may be drawn, provided the member's cash balance does not exceed \$40,000;

- (4) A minimum \$10,000 and a maximum \$20,000 housing benefit can be paid to any one member;
- (5) The housing benefit shall be made payable only once during a member's working life;
- (6) Only members who have attained the age of 45 years, are eligible for housing benefit;
- (7) A house plan or construction plan must be supplied;
- (8) Production of membership identity card.

14B Benefit as security

The benefit standing to the credit of a member may be used as security for a loan by the National Bank of Tuvalu or the Development Bank of Tuvalu.¹⁴

15 Evidence of membership in the case of death

The Manager may require evidence to be produced that the deceased in respect of whom death benefit or special death benefit is claimed was a member.

16 Evidence of death

Where death benefit or special death benefit is claimed the Manager shall require evidence of death to be produced in such a form as he may consider to be reasonable in the circumstances of the case.

17 Further provisions for death benefit

For the purposes of claiming death benefit, when information regarding death of a member is received by the Fund, the Manager shall notify the persons nominated by the deceased and invite a claim for benefit.

18 Calculation of proportions payable

- (1) A person claiming death benefit shall receive the percentage of the total sum payable indicated by the member concerned in the memorandum executed under the Provident Fund (Nominations) Regulations.
- (2) Where a nominated person has died prior to the death of the member concerned his portion shall be divided among the surviving persons nominated in the proportion that their share bears to the shares of the other surviving persons nominated.
- (3) Where there is no surviving nominated person any other person claiming to be related to or dependent upon the deceased may seek to have a claim for death

benefit decided under the Provident Fund (Determination of Claims and Questions) Regulations.

- (4) Where no successful claim for death benefit is made within 6 years of the date of death of a member, the amount standing to his credit shall be taken into the general revenue of the Fund.
- (5) Special death benefit shall be payable to the surviving dependant relatives of a deceased member in the following proportions of the maximum amount —
 - (a) 50% to the spouse; and
 - (b) 10% for each child under school leaving age (subject to a maximum of 5).

19 Calculation of benefit payable

For the purposes of these Regulations and subsection 23(4)(a), the final amount standing to the credit of a member shall be calculated under the Provident Fund (Crediting Accounts) Regulations.

20 Pensions generally¹⁵

- (1) A pension once entered into may not be commuted for a lump sum.
- (2) The Manager may from time to time require a certificate in an approved form concerning the survival of the pensioner. If a satisfactory certificate is not submitted within one month, payment of the pension may be discontinued and only resumed if a certificate containing satisfactory evidence of survival is received.
- (3) If as a result of seeking a certificate of survival or otherwise, it is discovered that the pensioner has died and that a person other than the pensioner has been receiving pension payments since the death of the pensioner, the Manager may take action at law to recover the payments made since the death of the pensioner together with interest at the rate last declared in accordance with section 10 of the Tuvalu National Provident Fund Act.
- (4) The Board may recommend to the Minister that the rates of pension shown in Schedule II be amended or that pensions in the course of payment be allowed a bonus or increased (in addition to any increases in accordance with regulation 21) provided that no such bonus or increase shall be approved by the Minister unless it has the prior approval of an actuary.

21 Indexation of Pensions¹⁶

- (1) Subject to subregulations (2) and (3), pensions in course of payment shall be increased with effect from the first day of January in each calendar year by a percentage (P) calculated according to the following formula:

$$P = 100 \times (0.4 \times A/B + 0.6 \times C/D) - 100$$

Where —

A = the All Items Index according to the Funafuti Consumer Price Index for the previous August;

B = the All Items Index according to the Funafuti Consumer Price Index for the August one year earlier;

C = the All Items Index according to the Australian Consumer Price Index (Seven Capital Cities) for the previous September; and

D = the All Items Index according to the Australian Consumer Price Index (Seven Capital Cities) for the September one year earlier,

and P is calculated to the nearest first decimal place:

Provided that —

- (i) if the percentage is negative or positive but less than 1.0, no change shall be made in pensions until the following year when "one year" in the definitions of B and D above shall be replaced by "two years;" and
 - (ii) if the calculated percentage (P) is greater than 10.0, a percentage of 10.0 shall be applied.
- (2) Subject to subregulation (3), where a pension has commenced due to retirement since 1 January in the previous year the percentage shall be reduced by the ratio which the number of months pension actually paid bears to twelve, except that where the adjusted percentage is less than 1.0 no change shall be made.
- (3) Where no change to pensions was made in the previous year because the percentage was then negative or positive but less than 1.0, and where a pension has commenced due to retirement since 1 January one year before the previous year, the percentage shall be reduced by the ratio which the number of months pension actually paid bears to 24, except that where the adjusted percentage is less than 1.0 no change shall be made.

SCHEDULE I**APPOINTED DAYS FOR THE PAYMENT OF BENEFITS**

The benefits listed in Column 1 shall become payable from the appointed day listed in Column 2

Column 1	Column 2
Retirement benefit	1 April 1984
Age benefit	1 April 1984
Incapacity benefit	1 April 1984
Emigration benefit	1 April 1984
Woman's home benefit	1 April 1984
Death benefit	1 April 1984
Special death benefit	1 January 1985

SCHEDULE II¹⁷

MONTHLY PENSION PER \$1,000 RETIREMENT OR DEATH BENEFIT

The amounts shown in the table below are the initial pensions per month in lieu of each \$1000 of retirement or death benefit where the pension is payable.

- (a) in the case of column (1) and (3), for the lifetime of the member or claimant; and
- (b) in the case of columns (2) and (4) (which do not apply to a death benefit), for the lifetime of a member and subsequently for the lifetime of the surviving spouse to whom the member was married at the time of retirement at the rate for 50% of the pension which had been paid to the member.

Age at Retirement	Male Members		Female Members	
	(1)	(2)	(3)	(4)
	\$	\$	\$	\$
45	6.32	5.92	6.08	5.90
46	6.38	5.96	6.13	5.94
47	6.44	6.00	6.18	5.99
48	6.51	6.04	6.24	6.03
49	6.58	6.09	6.30	6.08
50	6.65	6.14	6.36	6.14
51	6.73	6.19	6.42	6.20
52	6.82	6.25	6.49	6.26
53	6.91	6.31	6.57	6.33
54	7.01	6.37	6.65	6.40
55	7.11	6.44	6.74	6.47
56	7.23	6.52	6.83	6.55
57	7.35	6.60	6.93	6.64
58	7.48	6.68	7.03	6.73
59	7.62	6.79	7.15	6.83
60	7.76	6.87	7.27	6.94
61	7.92	6.97	7.40	7.06
62	7.08	7.08	7.55	7.19
63	7.26	7.19	7.71	7.33
64	7.45	7.32	7.88	7.48
65	8.65	7.45	8.07	7.64

ENDNOTES

¹ LN – reference not found

Amended by LN 9/1999, commencement 1 April 2000 by LN 17/1999

Amended by LN 8/2002, commencement 3 July 2002 vide Act 4 of 2009

Amended by Act 4 of 2009

² Amended by LN 9/1999

³ Inserted by LN 9/1999

⁴ Inserted by LN 9/1999

⁵ Substituted by LN 9/1999

⁶ Substituted by LN 8/2002

⁷ Amended by LN 9/1999

⁸ Amended by LN 9/1999

⁹ Inserted by LN 9/1999

¹⁰ Inserted by LN 9/1999

¹¹ Inserted by LN 9/1999

¹² Inserted by LN 9/1999

¹³ Inserted by LN 9/1999

¹⁴ Inserted by LN 9/1999 and replaced by Act 4 of 2009

¹⁵ Inserted by LN 9/1999

¹⁶ Inserted by LN 9/1999

¹⁷ Inserted by LN 9/1999