

Examined and Certified *Hala*

Clerk of the Legislative Assembly

The Head of State Assents this *25th* day of

NATIONAL PROVIDENT FUND AMENDMENT ACT

July 19 *93*

Malieta Tamumafili
HEAD OF STATE

Western Samoa

Arrangement of Provisions

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1993/1994, No. 7

AN ACT to amend the National Provident Fund Act 1972.

BE IT ENACTED by the Legislative Assembly of Western Samoa in Parliament assembled as follows:-

1. Short title and commencement - (1) This Act may be cited as the National Provident Fund Amendment Act 1993/1994 and shall be read together with and deemed part of the National Provident Fund Act 1972 (hereinafter referred to as the principal Act).

(2) This Act shall be deemed to have come into force on the 30th day of June 1993.

2. Interpretation - Section 2 of the principal Act is amended by inserting in their proper alphabetical positions the following new definitions:-

"Former GSF Contributor" means an employee who ceased to be a member of the Government Superannuation Fund in accordance with the provisions of section 21 of the Government Superannuation Act 1972 (as inserted by the Government Superannuation Amendment Act 1993/1994).

"Former GSF Pension" means a pension which ceased to be payable from the Government Superannuation Fund in accordance with the provisions of section 19 of the Government Superannuation Act 1972 (as inserted by the Government Superannuation Amendment Act 1993/1994).

"GSF Transfer Balance" in respect of a former GSF contributor means the amount determined in accordance with the provisions of section 18 of the Government Superannuation Act 1972." (as inserted by the Government Superannuation Amendment Act 1993/1994).

3. **Payment of Contributions** - Section 16 of the principal Act is amended by omitting the proviso to subsection (1) and substituting the following:-

"Provided that -

- (a) In respect of an employee engaged in any prescribed employment, the Board notwithstanding any other provisions of this Act may direct the manner in which such contributions shall be calculated and

paid, and the Board may further direct that payment shall be made by some other person on behalf of and to the exclusion of the employer as defined in section 2 of this Act, whereupon such other person shall be deemed to be the employer for the purposes of the next succeeding subsection; and

(b) In respect of a former GSF contributor for whom a higher rate of contribution was payable under the provisions of subsection (1) of section 5 of the Government Superannuation Act 1972, the employee may elect, in a form approved by the Board, to have the contribution payable in respect of him to be determined as though subsection (1) of section 5 of the Government Superannuation Act 1972 as at 30 June 1993 would have otherwise remained applicable to him, until he -

(i) Ceases to be an employee of the Government of Western Samoa or any other employer to whom the provisions of subsection (3) of section 3 of the Government Superannuation Act 1972 applied at the 30th day of June 1993; or

(ii) Receives a benefit under section 35 of the Act -
"whichever is the earlier".

4. Amount standing to credit of member - Section 23 of the principal Act is repealed and the following new section is substituted:-

"23. Amount standing to credit of member - The amount standing to the credit of a member of the Fund for the purposes of sections 35 and 36 of this Act shall be a sum equal to -

- (a) The aggregate of all contributions made in respect of that member excluding where the member is a former GSF contributor any contributions made under the provisions of section 5 of the Government Superannuation Act 1972;
- (b) In respect of a member who is a former GSF contributor, his GSF transfer balance; and
- (c) Subject to subsection (2) of section 25 of this Act, such interest as may have been credited thereon to such member under the provisions of the said subsection."

5. General Reserve Account - Section 26 of the principal Act is amended by omitting paragraph (b) of subsection (3) and substituting the following:-

"(b) Secondly in payment of such amounts to the Pension Reserve Account as may be determined by the Board under the provisions of section 27 of this Act."

6. Residual balances in accounts of former pensioners - Section 27 of the principal Act is repealed and the following new section is substituted:-

"27. Pension Reserve Account -(1) With effect from the 1st day of July 1993 the Board shall establish an account

known as the Pension Reserve Account which shall form part of the Fund and to which shall be credited as at that date -

- (a) The amount transferred from the Government Superannuation Fund in respect of former GSF pensions under the provisions of subsection (3) of section 20 of the Government Superannuation Act 1972;
- (b) The sum of any amounts standing to the credit of the account of each person receiving a pension under the provisions of section 35 of this Act as at that date; and
- (c) An additional amount determined by the Board, after considering the results of the actuarial investigation of the Pension Reserve Account carried out under the provisions of subsection (4) of this section as at the 1st day of July 1993, which would in its opinion enable the Pension Reserve Account to meet its liabilities in respect of pensions payable at that date and such amount shall be transferred from the General Reserve Account under the provisions of subsection (3) of section 26 of this Act.

(2) There shall be credited to the Pension Reserve Account -

- (a) On the date of a member commencing to receive a pension under the provisions of subsection (1) of section 35 of this Act or a dependent spouse of a

member commencing to receive a pension under the provisions of paragraph (c) of subsection (1) of section 35 of this Act, the amount standing to the credit of such member in respect of which the pension is to be paid;

- (b) Any amount determined by the Board, after considering the results of an actuarial investigation of the Pension Reserve Account carried out under the provisions of subsection (4) of this section, which would in its opinion enable the Pension Reserve Account to meet its liabilities and such amount shall be transferred from the General Reserve Account under the provisions of subsection (3) of section 26 of this Act; and
- (c) Interest at such rate and in such manner on the balance in the Pension Reserve Account as the Board may determine.

(3) There shall be debited to the Pension Reserve

Account -

- (a) All pensions payable under the provisions of this Act;
- (b) Any amount determined by the Board, after considering the results of an actuarial investigation of the Pension Reserve Account carried out under the provisions of subsection (4) of this section, which in its opinion are not necessary to enable the Pension

Reserve Account to meet its liabilities and such amount shall be transferred to the General Reserve Account;

(c) On the death of a pensioner any amounts due to be paid under the provisions of section 35A or paragraphs (b) and (c) of subsection (5) of section 35 of this Act.

(4) As at the 1st day of July 1993 and at intervals not exceeding three years thereafter the Board shall appoint an actuary to carry out an investigation into the financial condition of the Pension Reserve Account and to report to the Board on the results of such investigation."

7. **Former GSF Pensions** - The Principal Act is further amended by inserting immediately after section 35 the following new section:-

"35A. **Former GSF Pensions** - Each former GSF pension shall be payable under the same terms and conditions as applied under the provisions of section 10 of the Government Superannuation Act 1972 as at the 30th day of June 1993, provided that the Board in its sole discretion may increase any pension payable under this section or introduce additional benefits in respect of a pension payable under this section for a pensioner or his dependants."

8. **GSF members' existing loans** - Section 38 of the principal Act is amended by inserting in subsection (2) immediately after the words "from any source" the words "including the

Government Superannuation Fund" and in the same subsection immediately after the words "to any member" the words "including any member of the Government Superannuation Fund."

**TEUTEUGA O LE TULAFONO O LE FAAPUTUGA-TUPE
MO LE LUMANAI MANUIA O TAGATA**

SAMOA I SISIFO

Faatulagaina o Aiaiga

- | | |
|---|--|
| 1. Igoa
Igoa puupuu ma le
amataga | 6. Paleni o lo o totoe i teuga-
tupe a tagata penisione
muamua |
| 2. Faamatalaina o uiga o Upu | 7. Penisione muamua a le
Supeaneueta |
| 3. Totogiina o saofaga tau
tupe | 8. Faaunegatupe o lo o i ai le
taimi nei a sui o le
Supeaneueta. |
| 4. Aofaiga o tupe o lo o i ai
mo le lelei o le sui | |
| 5. Teuga-tupe Faaagaaga
Aoa | |

1993/1994, Nu. 7

O SE TULAFONO e teuteu ai le Tulafono o le Faaputuga-
tupe mo le Lumanai Manuia o Tagata 1972.

UA FAIA e le Fono Aoa o Faitulafono o Samoa i Sisifo i
totonu o le Palemene ua potopoto e faapea:

1. Igoa puupuu ma le amataga- (1) E mafai ona taua
lenei Tulafono o Teutuga o le Tulafono o le Faaputuga-tupe
mo le Lumanai Manuia o Tagata 1993/1994 ma e tatau ona
faitauina faatasi ma avea ai o se vaega o le Tulafono o le
Faaputuga-tupe mo le Lumanai Manuia o Tagata 1972 (e pei
ona faasinomia mulimuli ane iinei o le Tulafono atu).

(2) O lenei Tulafono o le a tatau ona amata faamamalu-
ina i le aso 30 o Iuni 1993.

2. Faamatalaina o uiga o Upu- Fuaiupu 2 o le Tulafono
autu ua teuteuina i le faaofiina i o latou tulaga talafeagai
i le faasologa o mataitusi le faamatalaga fou e faapea:

"Aufai-saofaga a le Supeaneueta muamua" o lona uiga o se tagata faigaluega o ia lea ua faamutaina le toe avefa ma sui o le faaputuga-tupe o le Supeaneueta a le Malo e tusa ai ma aiaiga o le fuaiupu 21 o le Tulafono o le Supeaneueta a le Malo 1972 (e pei ona faaofiina e le Tulafono o Teuteuga o le Tulafono o le Supeaneueta a le Malo 1993/1994).

"Penisione Muamua a le Supeaneueta" o lona uiga o se penisione ua faamutaina lona totogiina mai i le Faaputuga-tupe a le Supeaneueta a le Malo e tusa ai ma aiaiga o le fuaiupu 19 o le Tulafono o Supeaneueta a le Malo 1972 (e pei ona faaofiina e le Tulafono o Teuteuga o le Supeaneueta a le Malo 1993/1994).

"Paleni Faaliliuina mai le Supeaneueta" e tusa ai ma se tagata fai-saofaga muamua o le Supeaneueta o lona uiga o le aofaiga o tupe ua fuafuaina e tusa ai ma aiaiga o le fuaiupu 18 o le Tulafono o le Supeaneueta a le Malo 1972." (e pei ona faaofiina e le Tulafono o Teuteuga o le Supeaneueta a le Malo 1993/1994).

3. Totogiina o Saofaga tau tupe- Fuaiupu 16 o le Tulafono autu ua teuteuina i le aveeseina o le aiaiga i le faafuaiupu (1) ma suia e faapea:

" Ae vagana ai e faapea -

(a) E tusa ai ma le itu i se tagata faigaluega sa faafeagai ma so o se galuega na fuafuaina, e mafai e le Komiti Faatino e ui lava i so o se tasi tuutunga o

lenei Tulafono, ona faatonuina le faiga o le a tatau ona fuafuaina ma totogiina ai ni saofaga tau tupe faapena, ma e mafai e le Komiti Faatino ona toe faatonuina e faapea o totogi o le a faia e se isi tagata e avea ai ma sui o, ma i le tuueseina o le tagata e ona le galuega e pei ona faamaninoina i totonu o le fuaiupu 2 o lenei Tulafono, le taimi la lena o le a faatatauina ai le isi lea tagata e avea o le tagata e ona le galuega mo aano moni o le faafuaiupu e sosoo ai o lo o lumanai; ma

- (b) E tusa ai ma se fai-saofaga muamua a le Supeaneueta o ia lea sa totogiina ana saofaga i se fua faatatau maualuga e tusa ai ma aiaiga o le faafuaiupu (1) o le fuaiupu 5 o le Tulafono o le Supeaneueta a le Malo 1972, e mafai e le tagata faigaluega ona ia filifilia, i totonu o se pepa ua faamaonia e le Komiti Faatino, e totogiina atu lana saofaga e pei ona fuafuaina e ia e avea ai faapei o le faafuaiupu (1) o le fuaiupu 5 o le Tulafono o le Supeaneueta 1972 e pei ona i ai i le aso 30 o Iuni 1993 o lo o tumau pea ona faasinomia ia te ia, seia oo ina ua ia -

- (i) Faamutaina lona avea o se tagata faigaluega a le Malo o Samoa i Sisifo po o so o se isi tagata e ona le galuega o ia lea o lo o faasinomia i ai aiaiga o le faafuaiupu (3) o le fuaiupu 3 o le Tulafono o le Supeaneueta a le Malo 1972 i le aso 30 o Iuni 1993, po o

(ii) Mauaina se faamanuiaga e tusa ai ma le fuaiupu 35 o le Tulafono -

"po o fea lava le tulaga e ono muamua tulai mai".

4. Aofaiga o tupe o lo o i ai mo le lelei o le sui- Fuaiupu 23 o le Tulafono autu ua soloia ma ua suia i le fuaiupu fou e faapea:

"23. Aofaiga o tupe o lo o i ai mo le lelei o le sui-

O le aofaiga o tupe o lo o i ai mo le lelei o se sui i le Faaputuga-tupe mo aano moni o fuaiupu 35 ma le 36 o lenei Tulafono o le a tatau ona faapea o se vaega-tupe e tutusa ma le -

(a) tuufaatasiga o saofaga uma ua faia e tusa ai ma lena sui e le aofia ai pe a fai o le sui o se tagata fai-saofaga muamua o le Supeaneueta so o se saofaga ua faia e tusa ai ma aiaiga o le fuaiupu 5 o le Tulafono o le Supeaneueta a le Malo 1972;

(b) E tusa ai ma se sui o ia lea o se tagata fai-saofaga muamua o le Supeaneueta, tupe paleni o le fesui-aiga o lana Supeaneueta; ma

(c) I le noatia ma le fai fuafua i le faafuaiupu (2) o le fuaiupu 25 o lenei Tulafono, ni tupe tului e pei ona o le a tuuina i ai i saofaga a sea sui e tusa ai ma aiaiga o le faafuaiupu e pei ona taua."

5. Teuga-tupe Faaagaaga Aono- Fuaiupu 26 o le Tulafono autu ua teuteuina i le aveeseina o le parakalafa (b) o le faafuaiupu (3) ma suia e faapea:

"(b) O lona lua, i le tologiina o se aofaiga tupe i le Teuga-tupe Faaagaaga o Penisione e pei ona o le a fuafuaina e le Komiti Faatino e tusa ai ma aiaiga o le fuaiupu 27 o lenei Tulafono."

6. Paleni o lo o totoe i Teuga-tupe a tagata penisione muamua- Fuaiupu 27 o le Tulafono autu ua soloia ma ua suia i le fuaiupu fou e faapea:

"27. Teuga-tupe Faaagaaga o Penisione: (1) I le amata faamamaluina mai le aso 1 o Iulai 1993 e tatau i le Komiti Faatino ona faavaeina se teuga-tupe e taua o le Teuga-tupe Faaagaaga o Penisione o le a avea ma vaega o le Faaputuga-tupe ma o lea teuga-tupe e tatau ona tuuina i ai ia tupe mo lona lelei i lona lava aso -

(a) O le aofaiga-tupe ua faaliliuina mai le Faaputuga-tupe a le Supeaneueta a le Malo e tusa ai ma penisione muamua a le Supeaneueta e tusa ai ma aiaiga o le faafuaiupu (3) o le fuaiupu 20 o le Tulafono o le Supeaneueta a le Malo 1972;

(b) O le vaega-tupe o so o se aofaiga o tupe o lo o i ai mo le lelei o teuga-tupe a tagata taitoatasi o lo o mauaina penisione e tusa ai ma aiaiga o le fuaiupu 35 o lenei Tulafono e pei ona i ai i lona aso; ma

(c) O se aofaiga o tupe faapoopo ua fuafuaina e le Komiti Faatino, ina ua maea ona iloiloina taunuuga o suesuega a tagata poto faapitoa i mea tau tupe a le Teuga-tupe Faaagaaga o Penisione e pei ona tauaveina e tusa ai ma aiaiga o le

faafuaiupu (4) o lenei fuaiupu i le aso 1 o Iulai 1993, e pei ona ua ia manatu ua mafai ai e le Teuga-tupe Faaagaaga o Penisione ona faafetaiai ai ona noataga e tusa ai ma penisione totogiina atu i lena aso ma o sea aofaiga-tupe e tatau ona faaliliuina mai le Teuga-tupe Faaagaaga Aoa e tusa ai ma aiaiga o le faafuaiupu (3) o le fuaiupu 26 o lenei Tulafono.

(2) O le a tatau ona tuuina atu mo le lelei o le Teuga-tupe Faaagaaga o Penisione-

(a) I le aso ua amata ai e se sui ona mauaina se

penisione e tusa ai ma aiaiga o le faafuaiupu (1) o le fuaiupu 35 o lenei Tulafono po o se toalua o se sui o lo o faalagolago lona tausiga i ai ua amata ona ia mauaina se penisione e tusa ai ma aiaiga o le parakalafa (c) o le faafuaiupu (1) o le fuaiupu 35 o lenei Tulafono, o le aofaiga-tupe o lo o i ai mo le lelei o se sui ma oa ia tupe o le a totogiina ai lea penisione:

(b) So o se aofaiga-tupe ua fuafuaina e le Komiti

Faatino, ina ua maea ona ia iloilo ina taunuuga o se suesuega a tagata poto faapitoa i mea tau tupe i le Teuga-tupe Faaagaaga o Penisione e pei ona sa tauaveina e tusa ai ma aiaiga o le faafuaiupu (4) o lenei fuaiupu, e pei ona ua ia manatu ua mafai ai e le Teuga-tupe Faaagaaga o Penisione ona faafetaiai ana noataga ma o sea aofaiga-tupe o le a tatau ona faaliliuina mai le Teuga-tupe

Faaagaaga Aoao i lalo o aiaiga o le faafuaiupu

(3) o le fuaiupu 26 o lenei Tulafono; ma

- (c) tupe tului i ni fua faatatau ma i ni faiga i luga o paleni o tupe o lo o i totonu o le Teuga-tupe Faaagaaga o Penisione e pei ona o le a fuafuaina e le Komiti Faatino.

(3) O le a tatau ona toesea mai i Teuga-tupe Faaagaaga o Penisione -

- (a) Tupe uma e totogiina atu i penisione e tusa ai ma aiaiga o lenei Tulafono;
- (b) So o se aofaiga-tupe ua fuafuaina e le Komiti Faatino, ina ua maea ona ia iloilo ina taunuuga o se suesuega a ni tagata poto faapitoa i mea tau tupe na tauaveina e tusa ai ma aiaiga o le faafuaiupu (4) o lenei fuaiupu, e pei ona ia manatu e le talafeagai ina ia mafai ai e le Teuga-tupe Faaagaaga o Penisione ona faafetaiai ona noataga ma o sea aofaiga-tupe o le a tatau ona faaliliuina mai le Teuga-tupe Faaagaaga Aoao;
- (c) A fai o se tagata penisione ua maluu so o se aofaiga-tupe ua tatau ona totogiina atu i ai e tusa ai ma aiaiga o le fuaiupu 35A po o parakalafa (b) ma le (c) o le faafuaiupu (5) o le fuaiupu 35 o lenei Tulafono.

(4) I le aso 1 o Iulai 1993 ma i ni vaitaimi e le sili atu i le tolu tausaga mulimuli mai ai o le a tatau i le Komiti Faatino ona tofia se tagata poto faapitoa i mea tau tupe e faia se suesuega i tulaga tau tupe a le Teuga-tupe

Faaagaaga o Penisione ma lipoti atu i le Komiti Faatino taunuuga o sea suesuega."

7. Penisione muamua a le Supeaneueta- O le Tulafono autu ua toe teuteuina i le faaofiina i ai ina ua tuanai le fuaiupu 35 le fuaiupu fou e faapea:

"35A. Penisione Muamua a le Supeaneueta- O penisione muamua taitasi a le Supeaneueta e tatau ona tologiina atu e tusa ai ma tuutuuga ma aiaiga tutusa e pei ona faaaogaina e tusa ai ma aiaiga o le fuaiupu 10 o le Tulafono o le Supeaneueta a le Malo 1972 i le aso 30 o Iuni 1993, ae vagana ai e faapea o le Komiti Faatino i luga o lana faitalia e mafai ona ia faaopoopo so o se penisione e tologiina atu e tusa ai ma leni fuaiupu po o le faaofiina i ai o nisi faamanuiaga faaopoopo e tusa ai ma se penisione e tologiina atu i lalo o leni fuaiupu mo se tagata penisione po o i ni tagata o lo o faalagolago lo latou tuasiga i sea tagata."

8. Faanegatupe o lo o i ai i le taimi nei a sui o le Supeaneueta- Fuaiupu 38 o le Tulafono autu ua teuteuina i le faaofiina i ai i totonu o le faafuaiupu (2) ina ua tuanai ia upu "mai i so o se ala-tupe" ia upu "e aofia ai le Faaputuga-tupe a le Supeaneueta a le Malo" ma i lea lava faafuaiupu ina ua tuanai ia upu "i so o se sui" ia upu "e aofia ai so o se sui o le Faaputuga-tupe o le Supeaneueta a le Malo."