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INDEPENDENT STATE OF PAPUA NEW GUINEA

**A BILL
for
AN ACT
entitled**

Life Insurance and Superannuation Amendment Act 2003.

ARRANGEMENT OF SECTIONS

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A BILL
for
AN ACT
entitled
Life Insurance and Superannuation Amendment Act 2003,

Being an Act to amend the ***Life Insurance Act 2000*** and the ***Superannuation (General Provisions) Act 2000***.

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with the advice of the Minister.

PART 1.—AMENDMENT OF THE *LIFE INSURANCE ACT 2000*.

1. INTERPRETATION.

In this Part—

“the Act” means the ***Life Insurance Act 2000***.

2. LIFE POLICY. (AMENDMENT OF SECTION 4.)

(1) Subsection 4 (3) of the Act is repealed and the following substituted—

“(3) A continuous disability policy is a contract of insurance for a minimum cover period of ~~105~~104 weeks and under which a benefit is payable in the event of—

- (a) the death, by accident or by some other cause stated in the contract, of the person whose life is insured; or
- (b) injury to, or disability of, the insured as a result of accident or sickness; or
- (c) the insured being found to have a stated condition or disease.”.

(2) Subsection 4 (4) of the Act is amended by omitting “not more than three years” and substituting “104 weeks or less”.

3. NEW SECTION 31A.

The Act is amended by inserting after section 31 but in Part IV—

“31A. POWER TO GIVE DIRECTIONS TO NON-LICENSED LIFE INSURANCE COMPANIES.

Sections 29, 30 and 31 also apply in respect of a life insurance company that is not a licence holder, modified as follows:

- (a) a reference in those sections to a licence holder is a reference to the life insurance company;

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- (b) the purposes for which a notice or direction may be issued include the purposes of ensuring the following:
 - (i) the prudent management of the life insurance company;
 - (ii) that the interests of policyholders and prospective policyholders are properly protected;and related purposes.”.

PART 2.—AMENDMENTS OF THE SUPERANNUATION (GENERAL PROVISIONS) ACT 2000.

4. INTERPRETATION.

In this Part—

“the Act” means the *Superannuation (General Provisions) Act 2000*.

5. AMENDMENT OF SUBSECTION 3 (1). (INTERPRETATION.)

Subsection 3 (1) of the Act is amended:

- (a) by omitting “accumulated fund” from subsection (1) and substituting “accumulation fund”; and
- (b) by omitting “and” from paragraph (c) of the definition of “employee”; and
- (c) by omitting paragraph (d) of the definition of “employee”.

6. NEW SECTION 3A.

The Act is amended by inserting after section 3—

“3A. EXEMPTIONS FOR CERTAIN WORKERS IN PRIMARY INDUSTRIES.

“(1) The regulations may declare that a class of workers specified in the regulations who are employed by an employer whose business is substantially in a primary industry are not employees for the purposes of this Act.

“(2) An employer or an association of employers in a primary industry may apply in writing to the Treasurer for an declaration under subsection (1).

“(3) In considering an application under subsection (2), the Treasurer may consult the Rural Industries Council and any other body he thinks fit.

“(4) An declaration under subsection (1) does not affect:

- (a) an obligation of an employer otherwise than under this Act to make superannuation contributions in respect of its employees; or
- (b) the right of an employer to make voluntary superannuation contributions in respect of its employees.”.

7. AMENDMENT OF SECTION 11. (APPLICATIONS FOR LICENCES.)

(1) Section 11 of the Act is amended by inserting after subsection (4)—

“(4A) The regulations may prescribe a fee by reference to the cost of supervising and regulating the superannuation industry, or on some other basis specified in the regulations.”.

(2) The amendment made by subsection (1) is taken to have effect from 1 November 2002.

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8. NEW SECTION 26A.

The Act is amended by inserting after section 26 but in Part IV—

“26A. POWER TO GIVE DIRECTIONS TO NON-LICENSED SUPERANNUATION FUNDS.

Sections 24, 25 and 26 also apply in respect of a superannuation fund that is not an ASF, modified as follows:

- (a) a reference in those sections to an ASF is a reference to the superannuation fund;
- (b) a reference in those sections to the licensed trustee of an ASF is a reference to the trustee of the superannuation fund, or a person exercising control of a similar kind in relation to the superannuation fund;
- (c) the purposes for which a notice or direction may be issued include the purposes of:
 - (i) ensuring the prudent management of the superannuation fund; and
 - (ii) ensuring that the interests of members of the superannuation fund are properly protected; and
 - (iii) related purposes.”.

9. AMENDMENT OF SECTION 56. (DISCLOSURE OF INFORMATION TO MEMBERS.)

Section 56 of the Act is amended by omitting subsection (2) and substituting—

“(2) ~~Member~~A member’s statements issued under subsection (1) must be in the form prescribed by regulation or prudential standards, and must contain—

- (a) information concerning the expenses of operating the fund and the management expense ratio for the fund, each consistent with guidelines issued by the Central Bank; and
- (b) any other information required by regulation or prudential standards.”.

10. AMENDMENT OF SECTION 71. (THE COVENANTS.)

Section 71 of the Act is amended—

- (a) by omitting from paragraph (2) (f) “investment stately” and substituting “investment strategy”; and
- (b) by omitting subparagraph (2) (f) (iv) and substituting—
 - “(iv) the ability of the trustee to discharge the ASF’s existing and prospective liabilities; and”;
- (c) by omitting paragraph (2) (g) and substituting—
 - “(g) to maintain an account for each member—

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- (i) to which the contributions (including voluntary contributions) paid in respect of the member are to be credited; and
 - (ii) at least once each year—to which the amount that the trustee determines is the member’s proportion of the increase or decrease in the value of the assets of the ASF is to be credited or debited (as the case requires); and
 - (iii) from which the amount that the trustee determines is the member’s proportion of expenses of operating the ASF, and of the fees payable to the trustee in respect of the ASF, are to be debited at least once each year; and
 - (iv) from which periodic withdrawals (see subsection 90(2A)) are to be deducted as they are made; and
 - (v) from which any amount the licensed trustee is required to deduct, withhold or pay as income tax or salary or wages tax are to be deducted; and
- (ga) if the ASF maintains reserves—to formulate and to give effect to a strategy for their prudential management, consistent with the ASF’s investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and”.

11. NEW SECTION 71A.

The Act is amended by inserting after section 71—

“71A. RESERVING.

“(1) The trustee of an ASF may maintain reserves of the ASF unless the governing rules of the ASF prohibit it.

“(2) On and from the Change Date as defined in Part XVIII in respect of the ASF, the amount standing to the credit of the reserve at any time must not be more than 2% of the total value of the assets of the ASF at that time.

“(3) The Central Bank may by written notice to the licensed trustee of an ASF fix a higher percentage for the purposes of subsection (2) for the ASF.

“(4) The licensed trustee of an ASF must ensure that, if the amount standing to the credit of the reserve of the ASF at any time is more than 2% of the total value of the assets of the ASF at that time, the strategy for the purposes of the covenant in paragraph 71 (2) (ga) has been approved in writing by the Central Bank.

“(5) The Central Bank may not give approval under subsection (4) unless it is satisfied that the ASF’s strategy for the purposes of the covenant in paragraph 71 (2) (ga) takes proper account of the higher percentage, and makes provision satisfactory to the Central Bank for reducing the percentage of reserves to 2%.”.

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12. AMENDMENT OF SECTION 76 (1). (MINIMUM CONTRIBUTIONS BY AN EMPLOYER.)

Section 76 of the Act is amended by omitting subsection (1) and substituting—

“(1) An employer referred to in paragraph 4 (1) (a) shall, in respect of each of its employees continuously employed for 3 months or more, make a contribution to an ASF of an amount equal to the percentage of the employee’s pay prescribed, and computed from the date prescribed, by regulation.”.

13. AMENDMENT OF SECTION 77 (1). (CONTRIBUTIONS BY EMPLOYEE.)

Section 77 of the Act is amended by omitting subsection (1) and substituting—

“(1) Every employee referred to in paragraph 4 (1) (b) continuously employed for 3 months or more shall make a contribution to an ASF of an amount equal to the percentage of the employee’s pay prescribed, and computed from the date prescribed, by regulation.”.

14. AMENDMENT OF SECTION 88. (PROHIBITED TRANSFERS BY EMPLOYEES.)

Section 88 of Act is amended by omitting “Subject to Sections 90(1)(g) and (h)” and substituting “Subject to section 89A and to paragraphs 90 (1) (g) and (h)”.

15. NEW SECTION 89A.

The Act is amended by inserting after section 89 but in Part XV—

“89A. TRANSFER OF ENTITLEMENTS BY MEMBERS.

“(1) Where an amount is or is about to become payable from an ASF (the ‘first ASF’) in respect of a member under subsection 90 (1), the member or, if the member has died, the member’s nominee, may direct the licensed trustee of the ASF to transfer some or all of the amount to another ASF (the ‘second ASF’).

“(2) The trustee of the first ASF must not transfer the amount unless the trustee of the second ASF has agreed in writing to the transfer.”.

16. AMENDMENT OF SECTION 90. (PAYMENT OF ENTITLEMENTS.)

Section 90 of the Act is amended—

(a) by omitting from subsection (1) all words to and including “(or such other amount as is prescribed)” and substituting “Subject to this Act, a member, or in the case of a deceased member, his nominee, may withdraw the full amount standing to his credit in the ASF (or such other amount as is prescribed) only in the following cases”; and

(b) by omitting paragraph (2) (c) and substituting—

“(c) on the member’s death; and”; and

(c) by inserting after subsection (2)—

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“(2A) A member’s entitlements are payable, at the election of the member or of the nominee applying for payment—

- (a) as a single amount equal to the full amount standing to the credit of the member’s account in the ASF; or
- (b) by periodic withdrawals; or
- (c) as a single amount and by periodic withdrawals.

“(2B) A member must give at least 6 months notice of any variation or revocation of an election under subsection (2A).”

“(2C) Despite the other provisions of this section, a member of an ASF who is a member of a class of workers specified in regulations made for the purposes of section 3A (these regulations declare specified workers who are employed by an employer whose business is substantially in a primary industry not to be employees for the purposes of this Act) or, in the case of a deceased member, his nominee, may, at any time but subject to governing rules of the ASF that relate expressly to withdrawals of these amounts, withdraw up to the total of the following amounts standing to his credit in the ASF:

- (a) the amounts paid by him by way of contributions to the ASF as referred to in subsections 77 (2) or (3); and
- (b) interest and other amounts attributable to his contributions referred to in subsections 77 (2) or (3).”; and
- (d) by omitting paragraph (4) (a); and
- (e) by omitting from paragraph (4) (b) “the member’s entitlements” and substituting “the amount standing to the credit of the member’s account in the ASF at the time”; and
- (f) by inserting after paragraph (4) (b)—
 - “(ba) the amount withdrawn is to be used for the purchase or construction of the principal place of residence for the member; and” and
- (g) by inserting after subsection (4)—

“(4A) The reference in subsection (4) to one or more ASFs includes, in respect of the period before the commencement of this Act, a reference to any superannuation fund.”; and
- (h) by omitting from subsection (6) “An ASF may withdraw” and substituting “The trustee of an ASF may apply from a member’s account in the ASF”.

17. AMENDMENT OF SECTION 126. (EXEMPTION FOR EXISTING FUNDS.)

- (1) Subsection 126 of the Act is omitted and the following substituted—

“(2) An Existing Fund or Existing Trustee does not contravene this Act by paying benefits or entitlements if the regulations permit the payment of the benefits or entitlements.”.
- (2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

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18. AMENDMENT OF SECTION 126A. (EXISTING SMALL SUPERANNUATION FUNDS.)

(1) Subsection 126A (2) of the Act is omitted and the following substituted—

“(2) An Existing Small Superannuation Fund may not accept any new members after the commencement of this Act.

“(3) For a period of 5 years from the commencement of this Act, this Act does not prevent an Existing Small Superannuation Fund from accepting contributions in respect of persons who were members of the Fund on the commencement of this Act.”.

“(4) For a period of 5 years from the commencement of this Act, this Act does not prevent an Existing Small Superannuation Fund from paying benefits or entitlements in respect of members that are otherwise properly payable.”.

(2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

19. REPEAL OF SCHEDULE 3.

Schedule 3 of the Act is repealed.

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Moved to	0
Format changed	0
Total changes	20

Superannuation Amendment 2003

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10.	Amendment of section 71. (The covenants.)	4
11.	New section 71A.	5
12.	Amendment of section 76 (1). (Minimum contributions by an employer.)	6
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16.	Amendment of section 90. (Payment of entitlements.)	6
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MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with the advice of the Minister.

PART 1.—AMENDMENT OF THE *LIFE INSURANCE ACT 2000*.

1. INTERPRETATION.

In this Part—

“the Act” means the ***Life Insurance Act 2000***.

2. LIFE POLICY. (AMENDMENT OF SECTION 4.)

(1) Subsection 4 (3) of the Act is repealed and the following substituted—

“(3) A continuous disability policy is a contract of insurance for a minimum cover period of 104 weeks and under which a benefit is payable in the event of—

- (a) the death, by accident or by some other cause stated in the contract, of the person whose life is insured; or
- (b) injury to, or disability of, the insured as a result of accident or sickness; or
- (c) the insured being found to have a stated condition or disease.”.

(2) Subsection 4 (4) of the Act is amended by omitting “not more than three years” and substituting “104 weeks or less”.

3. NEW SECTION 31A.

The Act is amended by inserting after section 31 but in Part IV—

“31A. POWER TO GIVE DIRECTIONS TO NON-LICENSED LIFE INSURANCE COMPANIES.

Sections 29, 30 and 31 also apply in respect of a life insurance company that is not a licence holder, modified as follows:

- (a) a reference in those sections to a licence holder is a reference to the life insurance company;

- (b) the purposes for which a notice or direction may be issued include the purposes of ensuring the following:
- (i) the prudent management of the life insurance company;
 - (ii) that the interests of policyholders and prospective policyholders are properly protected;
- and related purposes.”.

PART 2.—AMENDMENTS OF THE SUPERANNUATION (GENERAL PROVISIONS) ACT 2000.

4. INTERPRETATION.

In this Part—

“the Act” means the *Superannuation (General Provisions) Act 2000*.

5. AMENDMENT OF SUBSECTION 3 (1). (INTERPRETATION.)

Subsection 3 (1) of the Act is amended:

- (a) by omitting “accumulated fund” from subsection (1) and substituting “accumulation fund”; and
- (b) by omitting “and” from paragraph (c) of the definition of “employee”; and
- (c) by omitting paragraph (d) of the definition of “employee”.

6. NEW SECTION 3A.

The Act is amended by inserting after section 3—

“3A. EXEMPTIONS FOR CERTAIN WORKERS IN PRIMARY INDUSTRIES.

“(1) The regulations may declare that a class of workers specified in the regulations who are employed by an employer whose business is substantially in a primary industry are not employees for the purposes of this Act.

“(2) An employer or an association of employers in a primary industry may apply in writing to the Treasurer for an declaration under subsection (1).

“(3) In considering an application under subsection (2), the Treasurer may consult the Rural Industries Council and any other body he thinks fit.

“(4) An declaration under subsection (1) does not affect:

- (a) an obligation of an employer otherwise than under this Act to make superannuation contributions in respect of its employees; or
- (b) the right of an employer to make voluntary superannuation contributions in respect of its employees.”.

7. AMENDMENT OF SECTION 11. (APPLICATIONS FOR LICENCES.)

(1) Section 11 of the Act is amended by inserting after subsection (4)—

“(4A) The regulations may prescribe a fee by reference to the cost of supervising and regulating the superannuation industry, or on some other basis specified in the regulations.”.

(2) The amendment made by subsection (1) is taken to have effect from 1 November 2002.

8. NEW SECTION 26A.

The Act is amended by inserting after section 26 but in Part IV—

“26A. POWER TO GIVE DIRECTIONS TO NON-LICENSED SUPERANNUATION FUNDS.

Sections 24, 25 and 26 also apply in respect of a superannuation fund that is not an ASF, modified as follows:

- (a) a reference in those sections to an ASF is a reference to the superannuation fund;
- (b) a reference in those sections to the licensed trustee of an ASF is a reference to the trustee of the superannuation fund, or a person exercising control of a similar kind in relation to the superannuation fund;
- (c) the purposes for which a notice or direction may be issued include the purposes of:
 - (i) ensuring the prudent management of the superannuation fund; and
 - (ii) ensuring that the interests of members of the superannuation fund are properly protected; and
 - (iii) related purposes.”.

9. AMENDMENT OF SECTION 56. (DISCLOSURE OF INFORMATION TO MEMBERS.)

Section 56 of the Act is amended by omitting subsection (2) and substituting—

“(2) A member’s statements issued under subsection (1) must be in the form prescribed by regulation or prudential standards, and must contain—

- (a) information concerning the expenses of operating the fund and the management expense ratio for the fund, each consistent with guidelines issued by the Central Bank; and
- (b) any other information required by regulation or prudential standards.”.

10. AMENDMENT OF SECTION 71. (THE COVENANTS.)

Section 71 of the Act is amended—

- (a) by omitting from paragraph (2) (f) “investment stately” and substituting “investment strategy”; and
- (b) by omitting subparagraph (2) (f) (iv) and substituting—

“(iv) the ability of the trustee to discharge the ASF’s existing and prospective liabilities; and”; and

(c) by omitting paragraph (2) (g) and substituting—

“(g) to maintain an account for each member—

- (i) to which the contributions (including voluntary contributions) paid in respect of the member are to be credited; and
 - (ii) at least once each year—to which the amount that the trustee determines is the member’s proportion of the increase or decrease in the value of the assets of the ASF is to be credited or debited (as the case requires); and
 - (iii) from which the amount that the trustee determines is the member’s proportion of expenses of operating the ASF, and of the fees payable to the trustee in respect of the ASF, are to be debited at least once each year; and
 - (iv) from which periodic withdrawals (see subsection 90(2A)) are to be deducted as they are made; and
 - (v) from which any amount the licensed trustee is required to deduct, withhold or pay as income tax or salary or wages tax are to be deducted; and
- (ga) if the ASF maintains reserves—to formulate and to give effect to a strategy for their prudential management, consistent with the ASF’s investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and”.

11. NEW SECTION 71A.

The Act is amended by inserting after section 71—

“71A. RESERVING.

“(1) The trustee of an ASF may maintain reserves of the ASF unless the governing rules of the ASF prohibit it.

“(2) On and from the Change Date as defined in Part XVIII in respect of the ASF, the amount standing to the credit of the reserve at any time must not be more than 2% of the total value of the assets of the ASF at that time.

“(3) The Central Bank may by written notice to the licensed trustee of an ASF fix a higher percentage for the purposes of subsection (2) for the ASF.

“(4) The licensed trustee of an ASF must ensure that, if the amount standing to the credit of the reserve of the ASF at any time is more than 2% of the total value of the assets of the ASF at that time, the strategy for the purposes of the covenant in paragraph 71 (2) (ga) has been approved in writing by the Central Bank.

“(5) The Central Bank may not give approval under subsection (4) unless it is satisfied that the ASF’s strategy for the purposes of the covenant in paragraph 71 (2) (ga) takes proper account of the higher percentage, and makes provision satisfactory to the Central Bank for reducing the percentage of reserves to 2%.”.

12. AMENDMENT OF SECTION 76 (1). (MINIMUM CONTRIBUTIONS BY AN EMPLOYER.)

Section 76 of the Act is amended by omitting subsection (1) and substituting—

“(1) An employer referred to in paragraph 4 (1) (a) shall, in respect of each of its employees continuously employed for 3 months or more, make a contribution to an ASF of an amount equal to the percentage of the employee’s pay prescribed, and computed from the date prescribed, by regulation.”.

13. AMENDMENT OF SECTION 77 (1). (CONTRIBUTIONS BY EMPLOYEE.)

Section 77 of the Act is amended by omitting subsection (1) and substituting—

“(1) Every employee referred to in paragraph 4 (1) (b) continuously employed for 3 months or more shall make a contribution to an ASF of an amount equal to the percentage of the employee’s pay prescribed, and computed from the date prescribed, by regulation.”.

14. AMENDMENT OF SECTION 88. (PROHIBITED TRANSFERS BY EMPLOYEES.)

Section 88 of Act is amended by omitting “Subject to Sections 90(1)(g) and (h)” and substituting “Subject to section 89A and to paragraphs 90 (1) (g) and (h)”.

15. NEW SECTION 89A.

The Act is amended by inserting after section 89 but in Part XV—

“89A. TRANSFER OF ENTITLEMENTS BY MEMBERS.

“(1) Where an amount is or is about to become payable from an ASF (the ‘first ASF’) in respect of a member under subsection 90 (1), the member or, if the member has died, the member’s nominee, may direct the licensed trustee of the ASF to transfer some or all of the amount to another ASF (the ‘second ASF’).

“(2) The trustee of the first ASF must not transfer the amount unless the trustee of the second ASF has agreed in writing to the transfer.”.

16. AMENDMENT OF SECTION 90. (PAYMENT OF ENTITLEMENTS.)

Section 90 of the Act is amended—

- (a) by omitting from subsection (1) all words to and including “(or such other amount as is prescribed)” and substituting “Subject to this Act, a member, or in the case of a deceased member, his nominee, may withdraw the full amount standing to his credit in the ASF (or such other amount as is prescribed) only in the following cases”; and
- (b) by omitting paragraph (2) (c) and substituting—
 - “(c) on the member’s death; and”; and
- (c) by inserting after subsection (2)—
 - “(2A) A member’s entitlements are payable, at the election of the member or of the nominee applying for payment—
 - (a) as a single amount equal to the full amount standing to the credit of the member’s account in the ASF; or
 - (b) by periodic withdrawals; or
 - (c) as a single amount and by periodic withdrawals.
 - “(2B) A member must give at least 6 months notice of any variation or revocation of an election under subsection (2A).
 - “(2C) Despite the other provisions of this section, a member of an ASF who is a member of a class of workers specified in regulations made for the purposes of section 3A (these regulations declare specified workers who are employed by an employer whose business is substantially in a primary industry not to be employees for the purposes of this Act) or, in the case of a deceased member, his nominee, may, at any time but subject to governing rules of the ASF that relate expressly to withdrawals of these amounts, withdraw up to the total of the following amounts standing to his credit in the ASF:
 - (a) the amounts paid by him by way of contributions to the ASF as referred to in subsections 77 (2) or (3); and
 - (b) interest and other amounts attributable to his contributions referred to in subsections 77 (2) or (3).”; and
- (d) by omitting paragraph (4) (a); and
- (e) by omitting from paragraph (4) (b) “the member’s entitlements” and substituting “the amount standing to the credit of the member’s account in the ASF at the time”; and
- (f) by inserting after paragraph (4) (b)—
 - “(ba) the amount withdrawn is to be used for the purchase or construction of the principal place of residence for the member; and” and
- (g) by inserting after subsection (4)—
 - “(4A) The reference in subsection (4) to one or more ASFs includes, in respect of the period before the commencement of this Act, a reference to any superannuation fund.”; and
- (h) by omitting from subsection (6) “An ASF may withdraw” and substituting “The trustee of an ASF may apply from a member’s account in the ASF”.

17. AMENDMENT OF SECTION 126. (EXEMPTION FOR EXISTING FUNDS.)

(1) Subsection 126 of the Act is omitted and the following substituted—

“(2) An Existing Fund or Existing Trustee does not contravene this Act by paying benefits or entitlements if the regulations permit the payment of the benefits or entitlements.”.

(2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

18. AMENDMENT OF SECTION 126A. (EXISTING SMALL SUPERANNUATION FUNDS.)

(1) Subsection 126A (2) of the Act is omitted and the following substituted—

“(2) An Existing Small Superannuation Fund may not accept any new members after the commencement of this Act.

“(3) For a period of 5 years from the commencement of this Act, this Act does not prevent an Existing Small Superannuation Fund from accepting contributions in respect of persons who were members of the Fund on the commencement of this Act.”.

“(4) For a period of 5 years from the commencement of this Act, this Act does not prevent an Existing Small Superannuation Fund from paying benefits or entitlements in respect of members that are otherwise properly payable.”.

(2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

19. REPEAL OF SCHEDULE 3.

Schedule 3 of the Act is repealed.

Draft of 23 May 2003

INDEPENDENT STATE OF PAPUA NEW GUINEA

STATUTORY INSTRUMENT

No. of 2003

Superannuation (Amendment) Regulation 2003,

Being a Regulation to amend the *Superannuation Regulation 2002,*

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Superannuation (General Provisions) Act 2000.*

1. ELIGIBILITY AGE. (SECTION 2 OF THE SUPERANNUATION REGULATION 2002.)

Section 2 of the Regulation is amended by omitting paragraph (a) and substituting—

- “(a) in the case of a member who was a member of the Public Officers Superannuation Fund on the commencement of the Act and who is a member of the Police Force, the Correctional Service or the Fire Service—the age of 50 years or, at the option of the member, the age attained after completing 20 years service;
- (aa) in the case of a member who was a member of the Public Officers Superannuation Fund on the commencement of the Act but is not referred to in paragraph (a)—the age of 55 years or, at the option of the member, the age attained after completing 25 years service;”.

2. NEW SECTIONS.

The Regulation is amended by inserting after section 3—

“3A. EXEMPTIONS FOR CERTAIN WORKERS IN PRIMARY INDUSTRIES. (SECTION 3A OF THE ACT.)

For the purposes of section 3A of the Act, the following classes of workers employed by an employer whose business is substantially in a primary industry are declared not to be employees for the purposes of this Act, namely, workers whose employment with the employer is intermittent or discontinuous, but not if the worker has been so employed for more than 24 months.

“3B. APPLICATION OF THE ACT. (SECTION 4 OF THE ACT.)

“(1) For the purposes of Sections 4 (1) (a) and 4 (1) (c) of the Act, the prescribed number of employees is 15.

“(2) Subsection (1) commences on the date 5 years after the commencement of the Act.”.

“3C. FEES. (SECTIONS 11 AND 19 OF THE ACT.)

“(1) The fees payable for an application for a licence under section 11 or 19 of the Act are—

- (a) a non-refundable application fee of K15,000; and
- (b) for a licence for a trustee for an ASF for a year—a supervision fee equal to 0.143% of the value of the assets of the ASF at the end of the immediately previous year as disclosed in the most recent audited accounts of the ASF.

“(2) If, when an application under section 11 or 19 of the Act is made, it is not possible to work out the supervision fee, the Central Bank may make an estimate of the supervision fee, with adjustments to be made when the supervision fee is worked out, and the estimate is taken to be the fee until the correct fee is worked out.

“(3) The Central Bank may enter into arrangements satisfactory to the Central Bank with an applicant for a licence under section 11 or 19 of the Act for the payment of the supervision fee by no more than 4 instalments.”.

“3D. FINANCIAL REQUIREMENTS. (SECTIONS 12 AND 20 OF THE ACT.)

“(1) For the purposes of sections 12 and 20 of the Act—

- (a) the financial requirements are—
 - (i) for a trustee that does not itself hold any assets of the ASF—nil;
 - (ii) for a trustee that itself holds assets of the ASF—the total net tangible assets of the trustee must be at least K250,000;
 - (iii) for a fund administrator—the total net tangible assets of the fund administrator must be at least K250,000;
 - (iv) for an investment manager—the total net tangible assets of the investment manager must be at least K500,000;
- (b) the amounts of the approved guarantee are—
 - (i) for a trustee that does not itself hold any assets of the ASF—nil;
 - (ii) for a trustee that itself holds assets of the ASF—the total net tangible assets of the trustee must be at least K250,000;
 - (iii) for a fund administrator—the total net tangible assets of the fund administrator must be at least K250,000;
 - (iv) for an investment manager—the total net tangible assets of the investment manager must be at least K500,000.

“(2) For the purposes of this section, the net tangible assets of an entity are to be worked out in accordance with generally accepted accounting practice in Papua New Guinea.”.

3. AMENDMENT OF SECTION 5. (RATES FOR EMPLOYER CONTRIBUTIONS.)

Section 5 of the Regulation is amended—

- (a) by omitting from subsection (1) “prescribed rates” and substituting “prescribed percentages”; and
- (b) by omitting from subsection (2) “rates paid” and substituting “percentages used”.

4. AMENDMENT OF SECTION 6. (RATES FOR EMPLOYEE CONTRIBUTIONS.)

Section 6 of the Regulation is amended—

- (a) by omitting from subsection (1) “prescribed rates” and substituting “prescribed percentages”; and
- (b) by omitting paragraph (1) (a) and substituting—
 - “(a) for Employees in the Public Sector —6% at all times;”;and
- (b) by omitting from subsection (2) “rates paid” and substituting “percentages used”.

5. REPEAL AND REPLACEMENT OF SECTION 9.

(1) Section 9 of the *Superannuation Regulation 2002* is repealed and the following substituted:

“9. PRIOR BENEFITS TO CONTINUE.

(1) For the purposes of subsection 126 (2) of the Act, the payment of the following benefits or entitlements is permitted but only if the right to the benefit or entitlement accrued on or before 30 June 2003—

- (a) benefits or entitlements required or permitted by such of the governing rules of the superannuation fund as were in force immediately before the commencement of the Act;
- (b) without limiting paragraph (a), any of the following—
 - (i) housing benefits or entitlements in respect of an application made to the trustee of the relevant superannuation fund before the commencement of the Act;
 - (ii) benefits or entitlements by way of funding for primary, secondary, and tertiary education in respect of an application made to the trustee of the relevant

superannuation fund before the commencement of the Act;

(iii) benefits or entitlements by way of funding for medical expenses;

(iv) life insurance benefits or entitlements.

“(2) Nothing in subsection (1) entitles a member of the POSF to the employer benefit component of superannuation benefits calculated as provided in section 38 of the *Public Officers Superannuation Fund Act 1990* as in force immediately before the commencement of the Act. Such a member’s entitlement to the employer benefit component of superannuation benefits is to be calculated as provided in section 38 of the *Public Officers Superannuation Fund Act 1990* as in force for the time being.”.

(2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

STATUTORY INSTRUMENT

No. of 2003

Superannuation (Amendment) Regulation 2003,

Being a Regulation to amend the ***Superannuation Regulation 2002,***

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the ***Superannuation (General Provisions) Act 2000.***

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2 INDEPENDENT STATE OF PAPUA NEW GUINEA

NEW SECTIONS.

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“(2) If, when an application under section 11 or 19 of the Act is made, it is not possible to work out the supervision fee, the Central Bank may make an estimate of the supervision fee, with adjustments to be made when the supervision fee is worked out, and the estimate is taken to be the fee until the correct fee is worked out.

“(3) The Central Bank may enter into arrangements satisfactory to the Central Bank with an applicant for a licence under section 11 or 19 of the Act for the payment of the supervision fee by no more than 4 instalments.”.

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- (a) the financial requirements are—
 - (i) for a trustee that does not itself hold any assets of the ASF—nil;
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 - (iv) for an investment manager—the total net tangible assets of the investment manager must be at least K500,000;
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 - “(a) for Employees in the Public Sector —6% at all times;”; and
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5. REPEAL AND REPLACEMENT OF SECTION 9.

(1) Section 9 of the *Superannuation Regulation 2002* is repealed and the following substituted:

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- (a) benefits or entitlements required or permitted by such of the governing rules of the superannuation fund as were in force immediately before the commencement of the Act;
- (b) without limiting paragraph (a), any of the following—
 - (i) housing benefits or entitlements in respect of an application made to the trustee of the relevant superannuation fund before the commencement of the Act;
 - (ii) benefits or entitlements by way of funding for primary, secondary, and tertiary education in respect of an application made to the trustee of the relevant

superannuation fund before the commencement of the Act;

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“(2) Nothing in subsection (1) entitles a member of the POSF to the employer benefit component of superannuation benefits calculated as provided in section 38 of the *Public Officers Superannuation Fund Act 1990* as in force immediately before the commencement of the Act. Such a member’s entitlement to the employer benefit component of superannuation benefits is to be calculated as provided in section 38 of the *Public Officers Superannuation Fund Act 1990* as in force for the time being.”.

(2) The amendment made by subsection (1) is taken to have effect on the commencement of the *Superannuation (General Provisions) Act 2000*.

COMMENTS ON SUPERANNUATION AND TAX LEGISLATION (PACK V17-03-03)

Life Insurance and Superannuation Amendment Bill 2003

CLAUSE	COMMENT
2	Technical amendments to align the Life Insurance Act with the Insurance Act coverage of continuous disability policies
3	Power to direct life companies before licensing
5 (a)	Technical amendment (to correct spelling error in Act)
5 (b), (c), 6	Relates to rural workers. Para (d) of the definition is covered in new s 3A. See also the amendment to the Superannuation Regulation (new reg 3A).
7	a wide power to prescribe fees. See amendment to the Superannuation Regulation below (new reg 3C). This is backdated to 01-11-02.
8	Power to direct super funds before licensing
9	Amends s 56 to require trustees to give members, in their annual statements, information about the expenses of operating the fund (management expenses) and an MER — both consistent with BPNG guidelines.
10 (a)	Technical amendment (to correct spelling error in Act)
10 (b)	Technical correction
10 (c)	Requires trustee to maintain accounts and pay in and deduct - including for tax (see new section 71 (2) (g) (iv) — these are in the Tax Bill new s 47BC) and for periodic

	<p>withdrawals</p> <p>New para (ga) links to new clause 71A, about strategies for reserving</p>
11	New s 71A, about reserving and reducing excessive reserves.
12, 13	Contributions - to make it very clear what basis of contributions are
14	Technical amendment to update cross-referencing for new s 89A
15	New s 89A allows members to transfer between ASFs and still stay in the superannuation system, even after retirement.
16	<p>Clause 15 (a), (b) — Technical amendments.</p> <p>New s 90 (2A) allows payment by periodic withdrawals. 6 months notice is needed to change an election to take by periodic withdrawals.</p> <p>New s 90 (2C) allows rural workers to withdraw voluntary contributions and interest etc at any time, subject to the rules of the ASF.</p> <p>The other changes are consequential or technical amendments.</p>
17	See new Superannuation Regulations reg 9 below. Backdated to commencement.
18	Technical amendment to clarify the position
19	Sch 3 is financial requirements - will be in regs (see new reg 3D).

Superannuation (Amendment) Regulation 2003

1	Public service issue
2	<p>new s 3A links to <i>Life Insurance and Superannuation Amendment Bill 2003</i> cl 5 b), (c), 6..</p> <p>new s 3B - self explanatory</p> <p>new s 3C - self explanatory</p> <p>new s 3D - self explanatory</p>
3, 4	Follows cl 8, 9 in the Life & Super Amendment Bill
5	See cl 13 in Life & Super Amendment Bill
6	To preserve the transitional position of certain funds (see Act s 126 and the amendments in cl 16 of the Life and Super Bill).

Income Tax (Superannuation) Amendment Bill 2003

1(a)	Technical amendment, for consistency
1(b)	So as not to catch transfers under new s 89A of the SA(GP) Act
2	Makes the periodic withdrawal income of the Fund tax exempt - amounts worked out on monthly rests on an averaging basis

3	periodic withdrawals not taxable in the payee's hands
4	only catches the first election (not ones made in later years).
5	overrides new s 28A except where member has given a zero rate declaration to the trustee.
6	consequential
7, 8	Technical amendments — makes the trustee (fund) a group employer and thus liable to remit (see cl 4, 8)

Income Tax (Salary or Wages Tax) (Rates) Amendment Bill 2003

	fixes sliding rates.
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Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Amendment Bill 2003.

	fixes the rate at 15%.
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