

REPUBLIC OF KIRIBATI
(No. 11 of 2005)

I assent,

Beretitenti
2005

AN ACT TO AMEND THE PROVIDENT FUND ORDINANCE (CAP.78A).

Commencement:
2005

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

1. Short title

This Act may be cited as the Provident Fund (Amendment) Act 2005.

2. Interpretation

In this Act, ‘Ordinance’ means the Provident Fund Ordinance (Cap. 78A).

3. Amendment of section 7(2)(b)(i)

Section 7(2)(b)(i) of the Ordinance is amended by repealing the words “West German deutschemarks” and substituting the words “the euro (€)”.

4. Repeal and substitution of section 13(5)

Section 13(5) of the Ordinance is repealed and the following subsection substituted-

“(5) For the avoidance of doubt, contributions in respect of any person of or over the age of 50 years who continues in or resumes employment shall, subject to the provisions of this Ordinance, continue to be payable to the Fund for as long as the person remains employed.”

5. New section 17

After section 16 of the Ordinance the following section is inserted in Part V-

“17. Contributions to be paid into the Fund and credited to members

- (1) All sums recovered or collected on account of contributions to the Fund under the provisions of this Ordinance shall be paid into or credited to the Fund in such manner as the Board may direct.
- (2) The Board shall cause to be credited to the account of each member the amount of the contributions paid during such financial year in respect of that member and, upon the

declaration by the Board under the provisions of section 8 of a rate of interest for the financial year, interest at that rate on the amount standing to his credit in the Fund at the commencement of such financial year in such manner as the Board may direct:

Provided that, where the Board gives authority under any provisions of this Ordinance for the withdrawal from the Fund of any amount standing to the credit of a member, the amount of interest due from the first day of the financial year in which such authority is given to the last day of the month preceding that in which such authority is given shall be calculated at the rate of interest declared by the Board for the previous financial year and credited to such member before such withdrawal notwithstanding that the rate of interest subsequently declared by the Board in respect of that financial year may be greater or less than the amount so calculated.

- (3) For the purpose of calculating any interest due under the last preceding subsection any fraction of a dollar in the amount standing to the credit of a member shall be disregarded.”.

6. Renumbering of section 17A as section 27

Section 17A of the Ordinance (as inserted by section 5 of the Provident Fund (Amendment) Act 2001) is amended by relocating it after section 26 in Part VI of the Ordinance and renumbering it as section 27.

7. Amendment of section 19

Section 19 of the Ordinance is amended by repealing the words “or to be made in respect of that member, if he is a qualified member, under the provisions of section 17(4)”.

8. Amendment of section 20

Section 20 of the Ordinance is amended-

- (a) in paragraph (a) of subsection (1), by repealing the words “subject to the proviso in section 13(5)”;
- (b) by repealing paragraph (aa) of subsection (1) (as inserted by section 2(a) of the Gilbert Islands Provident Fund (Amendment) Ordinance 1978) and substituting the following paragraph-
 - “(aa) subject to subsection (3), has attained the age of 45 years; or”;
- (c) by repealing subsection (2) (as inserted by section 2(b) of the Gilbert Islands Provident Fund (Amendment) Ordinance 1978) and substituting the following subsections-
 - “(2) A member who, having attained the age of 50 years, has withdrawn any amount standing to his credit in the Fund shall not be entitled to make any further withdrawal from the Fund until at least six months has elapsed from the date of the previous withdrawal, or such other period as may be prescribed by the Minister, acting in accordance with the advice of Cabinet.

- (3) A member who has attained the age of 45 years may make a withdrawal from the amount standing to his credit in the Fund in the following circumstances-
- (a) where he has retired from employment permanently, he may withdraw an amount up to 100 per cent of the amount standing to his credit; or
 - (b) where he remains in employment, he may withdraw an amount up to 50 per cent of the amount standing to his credit for a purpose or purposes approved by the Board,

provided that the member shall not be entitled to make any further withdrawal from the Fund until he attains the age of 50 years.”.

PROVIDENT FUND (AMENDMENT) ACT 2005**EXPLANATORY MEMORANDUM**

This Act introduces a number of amendments to the *Provident Fund Ordinance* (Cap.78A).

Section 3 amends section 7 of the Ordinance to take account the fact that the German currency was replaced by the euro with effect from 1 January 2002.

Section 4 acts to remove the proviso from section 13(5), which prevented those who continued working after reaching the age of 50 years from accessing their Provident Fund contributions. Under the new section 20(2) (inserted by section 8(d)), such persons will now be able to make multiple withdrawals, although the withdrawals must be at least six months apart.

Section 5 corrects an error made by section 4 of the Provident Fund (Amendment) Act 1996, which inadvertently repealed all of the original section 17, when the intention was to repeal only subsection (4) (dealing with death benefits).

Sections 6 moves section 17A to the end of Part VI of the Ordinance, which is considered a more appropriate placement.

Section 7 removes a reference to section 17(4), which was repealed in 1996.

Section 8 accomplishes two primary objectives, enabling members to-

- a) make multiple withdrawals after reaching the age of 50 years, as discussed above; and
- b) withdraw up to 50 per cent of their contributions upon reaching the of 45 years, without having to take early retirement, although those who wish to permanently leave the work force after turning 45 will still be able to withdraw all of their contributions at that time.

These reforms have long been requested by members, and it is considered that their implementation will significantly enhance benefits for members without jeopardizing their financial security after retirement.

Titabu Tabane
Attorney General
7 November 2005