

BILL NO. 28 OF 2020

A BILL

FOR AN ACT TO AMEND THE FIJI NATIONAL PROVIDENT FUND ACT 2011

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Fiji National Provident Fund (Budget Amendment) Act 2020.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette, except for section 3 which comes into force on 1 August 2020.

(3) In this Act, the Fiji National Provident Fund Act 2011 is referred to as the “Principal Act”.

Section 4 amended

2. Section 4(1) of the Principal Act is amended after the definition of “document” by inserting the following new definition—

““drawdown account” means an account established by the Board as the result of an option exercised by an FNPF member or nominee of the FNPF member, referred to as the holder of the drawdown account, consequent on an entitlement event, and which provides for a phased payment of the funds lodged in the account by the holder of the drawdown account as governed by regulations for that purpose;”.

Section 40A amended

3. Section 40A of the Principal Act is amended by—

- (a) in subsection (1), deleting “31 December 2020” and substituting “31 December 2021”; and
- (b) in subsection (2)—
 - (i) deleting “2020” and substituting “2021”; and
 - (ii) deleting “31 January 2021” and substituting “31 January 2022”.

Section 44 amended

4. Section 44 of the Principal Act is amended after subsection (2) by inserting the following new subsections—

“(3) The Board may, consequent on an entitlement event, on application by an FNPF member or nominee of the FNPF member, establish an account (the “drawdown account”) and the holder of the drawdown account must be the FNPF member or, if the FNPF member has died, the nominee of the FNPF member.

(4) The holder of the drawdown account must be the FNPF member or the nominee of the FNPF member for such time the drawdown account has a non-zero balance.

(5) Payments from the drawdown account to the holder of the drawdown account may only be made in accordance with regulations governing the operation of subsections (3) to (7).

(6) Notwithstanding any other provision of this Act, an entitlement event does not apply in respect of a drawdown account.

(7) Notwithstanding any other provision of this Act, the holder of a drawdown account is not eligible for the Special Death Benefit in any financial year unless he or she has had a Special Death Benefit premium deducted from his or her general entitlement subaccount.”.

Section 47 amended

5. Section 47(1)(c) of the Principal Act is amended after “entitlements” by inserting “and drawdown accounts”.

Section 48 amended

6. Section 48(9) of the Principal Act is amended after “general entitlement” by inserting “and each drawdown account”.

Section 49 amended

7. Section 49 of the Principal Act is amended after subsection (3) by inserting the following new subsection—

“(4) The Board must debit an FNPF member’s drawdown account with the following—

- (a) amount withdrawn or deducted from the account in accordance with this Act and regulations; and

(b) fees and charges that this Act or the regulations authorise to be debited to the account.”.

Section 52 amended

8. Section 52 of the Principal Act is amended after “of withdrawal” by inserting “, provided that if an FNPF member applies to have all or part of his or her entitlements applied to a drawdown account, an application for withdrawal must be made for the whole of the FNPF member’s preserved and general entitlements”.

Section 54 amended

9. Section 54 of the Principal Act is amended by deleting subsections (4) and (5) and substituting the following—

“(4) Payments in accordance with this subsection are made as follows—

If the amount to be paid in accordance with this subsection is	the amount is to be paid in any one or more of the following ways, as directed by the FNPF member in the withdrawal application
equal to or more than the conversion threshold but less than or equal to the minimum sum	<p>(a) to the Board – as payment for the basic annuity specified in the withdrawal application;</p> <p>(b) to the Board – to be credited to a drawdown account for the amount specified in the withdrawal application;</p> <p>(c) to the provider of an approved retirement income product specified in the withdrawal application – as payment or part payment for the product.</p>
more than the minimum sum	<p>(a) for so much of the amount as equals the minimum sum—</p> <p>(i) to the Board – as payment or part payment for the basic annuity specified in the withdrawal application;</p> <p>(ii) to the Board – to be credited to a drawdown account for the amount specified in the withdrawal application;</p> <p>(iii) to the provider of an approved retirement income product specified in the withdrawal application – as payment or part payment for the product; and</p>

	<p>(b) for the excess over the minimum sum—</p> <p>(i) to the Board – as payment or part payment for the basic annuity specified in the withdrawal application;</p> <p>(ii) to the Board – to be credited to a drawdown account for the amount specified in the withdrawal application;</p> <p>(iii) to the provider of an approved retirement income product specified in the withdrawal application – as payment or part payment for the product.</p>
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(5) Payments to the Board under subsection (4) are to be made by transferring the amount of the payment from the FNPF to the Retirement Income Fund for a basic annuity and to the drawdown account in the FNPF established by the Board for the FNPF member.”.

Section 56 amended

10. Section 56 of the Principal Act is amended by—

(a) in subsection (2) after paragraph (a), inserting the following new paragraph—

“(aa) the member’s drawdown account;” and

(b) deleting subsection (4) and substituting the following—

“(4) A nominee’s right for an option for subsection (2)(aa) and (c) is only effective if only one person is nominated and, unless the FNPF member has no spouse, the sole nominee is the spouse of the deceased FNPF member.”.

July 2020

FIJI NATIONAL PROVIDENT FUND (BUDGET AMENDMENT) BILL 2020

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 On 27 March 2020, Parliament enacted the Fiji National Provident Fund (COVID-19 Response) (Amendment) Act 2020 (**‘COVID-19 Response Act’**).
- 1.2 The COVID-19 Response Act amended the Fiji National Provident Fund Act 2011 (**‘Act’**) to *inter alia* reduce the rates of mandated contributions for employers and employees from 10% and 8% respectively, to 5%. The reduction was effective from 1 April 2020 and continues to 31 December 2020.
- 1.3 The Fiji National Provident Fund (Budget Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Act to extend the application period from 31 December 2020 to 31 December 2021.
- 1.4 The extension aims to provide relief for an additional 12 months to further assist employers in meeting their expenses, including payment of salaries and wages for their employees, loan repayments, operational costs and other day-to-day expenses, and to also put more money back into the pockets of employees.
- 1.5 The Bill also amends the Act to introduce drawdown accounts as an additional retirement income product.
- 1.6 At the moment, when a member of the Fiji National Provident Fund (**‘FNPF member’**) reaches the age of 55 years or exercises an option to retire due to medical incapacitation, three options are available to the FNPF member – they can opt to take out their entire retirement savings (i.e. lump sum withdrawal) or they can opt to purchase a life or term annuity product (i.e. pension) or they can opt for a combination of both (i.e. part lump sum and part pension).

- 1.7 The current pension product provides for only a fixed amount to be received by pensioners on a monthly basis (which is a common feature for all life and term annuity products). It does not allow pensioners to withdraw a higher sum in the event that they need more money for medical expenses or other needs. FNPF pensioners have continuously highlighted the inflexibility of the pension product as it only guarantees a fixed amount to be received for life or a specific term (5 years, 10 years or 15 years) but does not accommodate any additional withdrawal when the need arises for the pensioner.
- 1.8 The proposed additional retirement income product is ‘drawdown accounts’. A drawdown account will be an interest-earning account designed for retiring FNPF members, who would be able to opt to transfer their entire retirement savings or a portion of their retirement savings to the drawdown account and receive a regular income based on an age-based conversion rate that will be prescribed by regulations and policies.
- 1.9 The introduction of drawdown accounts will have reasonable flexibility such as the following:
- (a) the option to draw on a big sum;
 - (b) the option to withdraw the balance of the principal sum subject to regulations and policies;
 - (c) the opportunity to earn interest at the same rate as FNPF members; and
 - (d) the opportunity for FNPF members to receive regular income from their accumulated savings in a manner that releases capital as well as earns investment return.
- 1.10 The interest earnings for the drawdown accounts will be the same as the crediting rate for FNPF members’ accounts. This simply means that the interest rates declared to FNPF members will also be declared on the balances of those with drawdown accounts.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette, except for clause 3 which comes into force on 1 August 2020.
- 2.2 Clause 2 of the Bill amends section 4(1) of the Act to insert the definition of “drawdown account”.
- 2.3 Clause 3 of the Bill amends section 40A of the Act to extend the application period for Division 3A of the Act to 31 December 2021.

- 2.4 Clause 4 of the Bill amends section 44 of the Act by inserting new subsections (3) to (7) in order to:
- (a) provide for drawdown accounts if applied for by the retired FNPF member;
 - (b) define a holder of a drawdown account (**‘drawdown account holder’**), where the drawdown account holder is treated as an FNPF member and not as an annuitant;
 - (c) make additional provision on payment or drawdown of funds for drawdown accounts, with specific governing rules to be prescribed through regulations and policies approved by the Board;
 - (d) provide that whilst drawdown account holders are treated as FNPF members and drawdown accounts sit in the member fund, the triggers for an entitlement event do not need to apply for drawdown accounts since a drawdown account is a retirement income product.
- 2.5 Clause 5 of the Bill amends section 47 of the Act to include drawdown accounts for annual crediting rates. This is a key feature of the drawdown accounts product since the drawdown accounts will also be earning annual interest at the same rate as current FNPF members.
- 2.6 Clause 6 of the Bill amends section 48(9) of the Act to provide for interest entitlement for drawdown accounts once drawdown accounts are introduced. Drawdown accounts will be entitled to the same interest rate for FNPF members. This is also a key feature of the drawdown accounts product. Retired FNPF members will continue to earn the same interest that current FNPF members are entitled to. However, they will be allowed to access their savings to ongoing drawdown over a specific period of time.
- 2.7 Clause 7 of the Bill amends section 49 of the Act to enable the deduction of fees from an FNPF member’s drawdown account if the need arises. Currently, FNPF is not charging any fees for FNPF members’ withdrawals.
- 2.8 Clause 8 of the Bill amends section 52 of the Act to provide for the transfer to drawdown accounts upon the occurrence of an entitlement event for an FNPF member. The FNPF member must fully withdraw his or her preserved and general entitlement before opting for a drawdown account which will be opened in the member fund.
- 2.9 Clause 9 of the Bill amends section 54 of the Act to provide for drawdown accounts upon an FNPF member reaching the age of 55 years.
- 2.10 Clause 10 of the Bill amends section 56 of the Act to include the nominee’s right to opt for a drawdown account or an annuity product upon the death of an FNPF member only if the sole nominee is the spouse or, in the event the FNPF member has no spouse, another person who is the sole nominee of the FNPF member.

8

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for finance.

A. SAYED-KHAIYUM
Attorney-General