

# NATIONAL PROVIDENT FUND AMENDMENT BILL 2023

## SAMOA

### Explanatory Memorandum

#### 1.0 Summary:

- 1.1. The Bill seeks to amend the National Provident Fund Act 1972 (“Act”).
- 1.2. The main object of the Bill is to establish a legal framework for the Disability Benefit Fund scheme.
- 1.3. The Bill intends to insert a new Part 12A in the Act to provide:
  - (a) for the establishment of a Disability Benefit Fund (“Fund”) and the responsible offices to administer the Fund;
  - (b) for the requirements to be met in order to be entitled under the Fund;
  - (c) for the establishment of the Register for the purposes of registering those who are eligible under the Fund and the registration of those who are eligible; and
  - (d) for when a person is no longer eligible or entitled under the Fund.

**2.0 Clauses:**

- Clause 1:** - provides for the short title and commencement date.
- Clause 2:** - inserts a new Part 12A (*proposed sections 84A to 84Q*) in the Act to provide for the establishment and administration of the Disability Benefit Fund (“Fund”) as follows:
- (a) Section 84A: defines the terms used throughout the proposed new Part 12A of the Bill.
  - (b) Section 84B: provides for the establishment of the Fund, and the administration of the same by the Board of the Samoa National Provident Fund (“NPF Board”), and the Ministry of Women, Community and Social Development (“Ministry”). It also provides that the Ministry’s roles and responsibilities are to be prescribed by way of Regulations.
  - (c) Section 84C: provides that the benefits payable from the Fund, and the costs of administering the Fund are to be paid from the moneys appropriated by Parliament for such purposes.
  - (d) Section 84D: lists out the relevant Parts and provisions of the Act that apply (with modifications) to the new proposed Part 12A.

- (e) Section 84E: provides for the requirements a person must meet in order to be entitled to the benefits under the new proposed Part 12A.
- (f) Section 84F: provides for the process of an application for registration under the new proposed Part 12A. Further, it provides that registration is to be effected in the manner as prescribed.
- (g) Section 84G: provides for the residential requirements a person must meet in order to be entitled to a benefit, or to be registered in the Register under this new proposed Part 12A. Further, it also provides the grounds or circumstances upon which the NPF Board, and the Ministry may exempt a person from the residential requirements.
- (h) Section 84H: provides for when a person may or may not be entitled to a benefit from the date the person applies or reapplies for registration in the Register under this new proposed Part 12A.
- (i) Section 84I: provides for the benefits payable under this new proposed Part 12A to be monthly, computed each at the rates Government determines, and the same are to be payable monthly in such manner and on such dates as shall be prescribed.

- (j) Section 84J: provides for the exemption from taxation of the benefits payable under this new proposed Part 12A, and that the Income Tax Act 2012 applies accordingly.
- (k) Section 84K: provides that the NPF Board and the Ministry shall, as prescribed, establish, keep and maintain a Register of persons who have been accepted as eligible and who remain eligible for benefits under this new proposed Part 12A.
- (l) Section 84L: provides for the implication of, the eligibility of a beneficiary to the benefits payable to them and their registration under this new proposed Part 12A due to their absence from Samoa for more than 30 consecutive days. Further, it provides for a person who receives a benefit for the period the person's name has been or is taken to have been removed from the Register, to immediately repay the NPF Board the amount of such benefit the person received. This proposed section also provides that a person, whose name has or is taken to have been removed from the Register, may re-apply for registration in the prescribed manner.

- (m) Section 84M: provides for when a beneficiary who is entitled to a benefit under the Fund must claim such benefit.
- (n) Section 84N: provides for the period of time a person's name must be removed, or is taken to be removed from the Register following the receipt by the NPF Board, and the Ministry of the confirmation of the matters which are also stipulated under this new proposed section.
- (o) Section 84O: empowers the Head of State, on the advice of Cabinet, to make regulations to give effect to the provisions under the new proposed Part 12A. Further, it provides for specific matters regulations made under this new proposed section may provide for.
- (p) Section 84P: provides that where an act or step is required to be taken under the new proposed Part 12A, and regulations have not been made to govern the same, such act or step shall be done or taken in accordance with directions laid down by the Board.
- (q) Section 84Q: provides for the offence of making any false statement or misleading and the penalties available for such offence under the new proposed Part 12A of the Bill.

- Clause 3:** - provides for the consequential amendment to the Income Tax Act 2012 to ensure the Disability Benefit Fund as payable through the Samoa National Provident Fund, is included in the list of exempt income under Schedule 2 of the Income Tax Act 2012.



(Hon MULIPOLA Anarosa Ale Molioo)

**MINISTER OF FINANCE AND MINISTER RESPONSIBLE**  
**FOR THE SAMOA NATIONAL PROVIDENT FUND**

**NATIONAL PROVIDENT FUND AMENDMENT BILL 2023**

**SAMOA**

**Arrangement of Provisions**

1. Short title and commencement
2. New Part 12A inserted
3. Consequential amendments

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**2023, No.**

**A BILL INTITULED**

**AN ACT to amend the National Provident Fund Act 1972 (“Act”) to establish a Disability Benefit Fund and for related purposes.**

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

**1. Short title and commencement:**

This Act may be cited as the National Provident Fund Amendment Act 2023 and commences on the date of assent by the Head of State.

**2. New Part 12A inserted:**

After Part 12 of the Act, insert new Part 12A as follows:

**“PART 12A  
DISABILITY BENEFIT FUND**

**84A. Interpretation:**

In this Part, unless the context otherwise requires:

“application” includes reapplication;

“benefit” means a benefit payable under this Part;

“beneficiary” means a person who is qualified to receive benefits under this Part and is registered under this Part;

“disability” means long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;



“Fund” or “Disability Benefit Fund” means the Disability Benefit Fund established under section 84B;

“medical practitioner” has the same meaning under section 2 of the Medical Practitioners Act 2007;

“Ministry” means the Ministry responsible for women, community and social development;

“month” means a calendar month;

“prescribed” means prescribed by regulations made under this Act;

“Register” means the register established and maintained under section 84K;

“registration” means enrolment on the register, and “registered” has a corresponding meaning.

**84B. Establishment and administration of the Disability Benefit Fund:**

- (1) There is established a Disability Benefit Fund which Fund shall be administered by the Board separately from the Senior Citizens Benefit Fund and the National Provident Fund.
- (2) The Board is to work in collaboration with the Ministry for the administration of the Fund to be paid under this Part.
- (3) The roles and responsibilities of the Ministry are to be prescribed by Regulations.

**84C. Cost of benefits and administration:**

Benefits payable from the Fund and the costs of administering the Fund shall be met from moneys appropriated by Parliament for this purpose.

**84D. Application of other provisions of this Act:**

Parts 1, 2, 9 and sections 6(2), 8, 12(1), and 14 of the Act applies to the Fund and to this Part with such modifications as the context may require.

**84E. Disability benefits:**

- (1) Subject to the provisions of this Part, after the coming into force of this section, a person who has been registered in the Register which is kept by the Board and the Ministry is entitled to a benefit so long as that person shows that:
  - (a) he or she is a citizen of Samoa; or
  - (b) he or she meets the requirement of a permanent resident under section 84G.
- (2) Despite subsection (1), a person is not entitled to a benefit under this Part unless that person is medically proven by a medical practitioner that the person has a disability.

**84F. Applications for registration:**

- (1) An application for registration must be made to the Chief Executive Officer of the Ministry and registration must be effected in the manner prescribed.
- (2) An application for registration may be made at any time once the person is medically proven by a medical practitioner that the person has a disability.

**84G. Residential qualifications for benefits:**

- (1) Subject to subsection (2), a person is not entitled to a benefit or be registered unless the person:

- (a) is a permanent resident in Samoa at the date of the person's application for registration; and
  - (b) has resided continuously in Samoa for a period of not less than 90 days immediately prior to the date of the person's application for registration; and
  - (c) is of the age of 0 to 64 years.
- (2) The Board and the Ministry may exempt a person from all or part of the requirements of subsection (1) if the person:
- (a) is employed by the Government in an overseas mission; or
  - (b) is employed by an international or regional organisation of which Samoa is a member; or
  - (c) satisfies the Board, upon the advice of the Ministry that the person's absence from Samoa is reasonable and appropriate in the circumstances:

**PROVIDED THAT** the total period of the person's absence from Samoa does not exceed 90 consecutive days prior to the date of the person's application for registration.

**84H. Prior registration required:**

Despite any other provision of this Act, a person is not entitled to a benefit in respect of any month commencing prior to the expiry of 30 days from the date upon which the person applies for registration:

**PROVIDED THAT** in the case of a person who reapplies for registration, after the person's name has been removed from the Register as a result of the person's absence from Samoa, the Board upon the advice from the Ministry may in its discretion allow the payment of a benefit in the month following the month in which that person so reapplies.

**84I. Rates of benefits and payment:**

Benefits under this Part shall be monthly benefits, each computed at the rates determined by the Government and shall be payable monthly in such manner and on or before such monthly dates as shall be prescribed.

**84J. Benefits to be exempt from taxation:**

Benefits payable under this Part are exempt from taxation and the Income Tax Act 2012 applies accordingly.

**84K. The Board and Ministry to keep Register:**

The Board and the Ministry shall as prescribed establish, keep and maintain a Register of persons who have been accepted by the Board and the Ministry as being eligible for benefits under this Part and who remain eligible for such benefits.

**84L. Absence from Samoa:**

(1) A beneficiary who departs from Samoa and remains absent from Samoa for more than 30 consecutive days is taken to have ceased to be eligible for benefits under this Part from the date of the beneficiary's departure from Samoa and his or her name is taken to have been removed from the Register accordingly:

**PROVIDED THAT** if the Board upon the advice of the Ministry that it is satisfied that the reasons for a beneficiary's absence from Samoa are reasonable and appropriate, it may determine that the beneficiary is entitled to receive the benefits relating to that period of absence.

- (2) A person whose name has been or is taken to have been removed from the Register under subsection (1) is not entitled to receive any benefit for any period after the date his or her name has been removed or is taken to have been removed from the Register.
- (3) A person who receives any benefit in respect of himself or herself or any other person if his or her name or the name of that other person has been or is taken to have been removed from the Register under section 84N or subsection (1) shall, if the payment of such benefit is in respect of any period after his or her name or the name of that other person has been or is taken to have been removed from the Register, immediately on demand made by the Board repay to the Board the amount of such benefit and such amount if not so repaid shall constitute a debt due to the Board.
- (4) A person whose name has been or is taken to have been removed from the Register may re-apply for registration in the prescribed manner.

**84M. Unclaimed benefit:**

A beneficiary who is entitled to a benefit under the Disability Benefit Fund must claim the benefit:

- (a) after 30 days from the date of registration; or
- (b) on the next monthly disbursement of the benefit.

**84N. Removal of name from Register:**

The name of the person must be removed from the Register, or is taken to be removed from the Register within 30 days in receipt of the confirmation of the following by the Board and the Ministry:

- (a) confirmation from one (1) medical practitioner that the beneficiary no longer suffers from the disability that he or she was diagnosed with; or
- (b) confirmation of the beneficiary's death; or
- (c) confirmation that the beneficiary has moved permanently overseas.

**84O. Regulations:**

- (1) The Head of State, acting on the advice of Cabinet, may make regulations for any purpose for which regulations are contemplated under this Part, or which are necessary or convenient to be prescribed for the carrying out of, or the giving of full effect to, the provisions of this Part and its due administration.
- (2) Without limiting the generality of subsection (1), regulations may provide for any or all of the following matters:
  - (a) providing for the administration of the Disability Benefit Fund;
  - (b) providing for information to be supplied and forms to be used by persons applying for registration under this Part;
  - (c) requiring information supplied by any person to be verified by affidavit or declaration as the case may require;
  - (d) providing for the keeping of a Register of persons entitled to benefits under this Part;

- (e) providing for the method to be used in the payment of benefits;
- (f) providing for the monthly date or dates on or before which benefits are to be paid;
- (g) providing for the nature and form of evidence of identification to be used by beneficiaries, and the matters required to be complied with by any beneficiary wishing to obtain such evidence of identification;
- (h) providing for records to be kept by Government hospitals in respect of persons obtaining free treatment or medicines;
- (i) providing for the inspection of records by persons authorised so to do by the Board;
- (j) empowering the Board to carry out investigations and enquires, and to summon witnesses where it has reason to believe that any person should not be registered under this Part or being registered should have his or her name removed from the Register, or that an offence has been committed under this Part;
- (k) providing roles and responsibilities of the Ministry for the smooth implementation and administration of the Fund under this Part.

**84P. Procedure where none laid down:**

If any act or step is required or permitted to be done or taken under this Part, and no regulations have been made governing the same, that act or step shall be done or taken in accordance with directions laid down by the Board.

**84Q. Offences:**

A person commits an offence and is liable on conviction to a fine not exceeding 5 penalty units, or to imprisonment for a term not exceeding two (2) years who, for the purpose of obtaining any benefit or other entitlement under this Part for himself or herself or for any other person:

- (a) makes any false statement to; or
- (b) misleads or attempts to mislead,  
any person concerned in the administration of this Part or any other person whomsoever.”.

**3. Consequential amendments:**

Clause (1)(d) of Part A, Schedule 2 of the Income Tax Act 2012 is amended by inserting a new paragraph as follows:

“(v) the Disability Benefit Fund payable by or through the Samoa National Provident Fund.”.

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