

THE KUCHING MUNICIPAL COUNCIL (PROVIDENT FUND) BY-LAWS

(Made under section 100)

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G.N.
L. 52 of 1961.

THE KUCHING MUNICIPAL COUNCIL (PROVIDENT FUND) BY-LAWS

[1st July, 1961]

1. These By-laws may be cited as the Kuching Municipal Council (Provident Fund) By-laws.

2.—(1) In these By-laws—

Interpre-
tation.

“contribution” means a contribution made as provided in by-law 7, 8 or 9;

“contributor” means a person who contributes to the Fund;

“Fund” means the Kuching Municipal Council Employees’ Provident Fund established under by-law 3;

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“local authority” means a local authority constituted under the provisions of the Local Authority Ordinance;

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“Non-Pensionable Employees Provident Fund” means the Fund established under the Government Employees Provident Fund Ordinance;

“personal allowance” means a special addition to salary granted personally to a contributor;

“salary” includes wages and any personal allowance but no other payment or allowance whatsoever.

[Paragraph (1) amended by virtue of section 10 (7) of Ordinance No. 4 of 1956]

(2) For the purposes of these By-laws, a contributor’s family shall be deemed to include his mother, father, wife and children but no other person:

Provided that, if a contributor is legally entitled to more than one wife at a time, all such wives shall be deemed to be included in his family.

3.—(1) There shall be established a Fund to be known as the Kuching Municipal Council Employees’ Provident Fund.

Establish-
ment and
manage-
ment of
Fund.

(2) All contributions and donations to the Fund shall be paid to the Council, which shall be responsible for the control and management of the Fund in accordance with the provisions of these By-laws.

(3) The expenses of management and administration of the Fund shall be paid out of the Fund.

(4) The moneys paid into the Fund shall, so far as practicable, be invested by the Council on behalf of the Fund in such security or securities yielding interest as the Governor shall approve.

12/5/75/63-100-f
16-7-63
Minister

(5) The Council shall keep a separate account for the moneys of the Fund.

Part III]

Kuching Municipal Council

*GNS 175/63-
w.e.f. 16-9-63*

(6) The Council shall submit to the ^{Minister} ~~Chief Secretary~~ as soon as practicable after the 31st day of December in each year a full statement showing the working of the Fund and all claims thereon, and containing full particulars of all transactions connected with the working of the Fund.

(7) The accounts of the Fund shall be audited by the auditor appointed by section 50 of the Ordinance.

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Who shall
become a
contributor.

4.—(1) Every person in the service of the Council who is eligible to join the Fund at the date of commencement of these By-laws shall become a contributor to the Fund.

(2) Every person who enters the service of the Council on or after the date of commencement of these By-laws shall become a contributor to the Fund from the date upon which he becomes eligible to join such Fund.

*GNS 175/63-
w.e.f. 16-9-63*

(3) For the purposes of this by-law and of paragraph (1) of by-law 17, "service of the Council" shall, subject to the provisions of by-law 6, and if, in any case, there is no break in any period of service, be deemed to include service on secondment from the service of the Council to the service of the Government of Sarawak, *or of the Federation*.

[Paragraph (3) re-cast by virtue of section 10 (7) of Ordinance No. 4 of 1956]

Who may
become a
contributor.

5. Every person in the service of the Council, other than any person referred to in by-law 6, who receives a monthly salary of not less than thirty dollars shall be eligible to become a contributor.

Who may
not be-
come a
contributor.

6. The following persons shall not be eligible to become contributors—

(a) any person employed temporarily on special mission in the service of the Council;

(b) any person eligible for pension or gratuity under the Pensions Ordinance, or making contributions to the Non-Pensionable Employees Provident Fund and seconded to the service of the Council;

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(c) any person employed under a contract which expressly provides that he shall not be eligible to become a contributor.

Compulsory
contribu-
tion.

7.—(1) Every contributor shall contribute to the Fund monthly an amount equal to one-twentieth of his monthly salary, until the termination of his service with the Council, and the Council shall deduct the contribution from the salaries of contributors.

(2) Such contribution shall be called the "compulsory contribution" and shall be calculated on full salary whether the contributor is on full, half or no salary:

Provided that, when a contributor is on half salary or no salary for a period exceeding two months continuously, he may elect to contribute in respect of the excess over two months at the rate of one-twentieth of any salary he receives.

8. A contributor may from time to time—

Voluntary contribution.

(a) in addition to his compulsory contributions, contribute to the Fund sums, which shall be called "voluntary contributions", of one hundred dollars or any multiple thereof, to an amount not exceeding one thousand dollars in any one year, or five thousand dollars in all;

(b) withdraw all or any part of such contributions, including interest credited thereon; and

(c) repay any sum so withdrawn.

9.—(1) A sum equal to each compulsory contribution shall, on the date when the contribution is made, be paid out of the account of the Council into the Fund for the credit of the contributor. Donations.

(2) Every sum so credited shall be called a "donation".

10.—(1) Interest shall be credited separately on compulsory contributions, voluntary contributions and donations at a rate to be fixed annually by the Council, with the approval of the Governor in Council, and shall begin to accrue in respect of each sum contributed and each donation on the first day of the month next following the day on which the contribution was made or the donation credited, and shall be calculated to the 31st day of December in each year, and shall then be added to and become part of the principal and be deemed, for the purposes of these By-laws, to be compulsory contribution, voluntary contribution or donation, as the case may be. Interest.

(2) No interest shall be credited on any sum withdrawn in respect of the period between the last day of the month preceding the date of withdrawal and the first day of the month next following the date of repayment.

11. As soon as practicable after the 31st day of December in each year, the Municipal Secretary shall inform each contributor of the total amount standing to his credit in the Fund at that date. Information to contributors.

12. Subject to the provisions of these By-laws, no compulsory contribution, donation or interest on any such contribution or donation shall be assignable or transferable, or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever. Contributions, etc., not to be assigned or attached.

13. A contributor may withdraw compulsory contributions with the permission of the Council if the Council is satisfied that such contributions are not security for a debt due to the Council, and that withdrawal is desirable, and that it is required for any one or more of the following purposes— Withdrawal of compulsory contributions.

(a) to pay the passage of any member of the contributor's family coming from abroad, or leaving Sarawak on medical advice, or for other good cause, such person being wholly or mainly dependent upon, or ordinarily resident with, the contributor;

(b) to pay the funeral expenses of any member of the contributor's family;

(c) to pay hospital or other expenses incurred through the illness of the contributor or any member of his family.

Repayment
of with-
drawal.

14. Any sum withdrawn from compulsory contributions under by-law 13 shall be repaid by the contributor in not more than twelve equal monthly instalments, commencing in the month following the withdrawal, which may be deducted from his salary.

Closing of
accounts.

15.—(1) On the death of a contributor or the termination of the contributor's service with the Council, otherwise than on secondment or transfer to the service of the Government or another local authority, interest up to the end of the month previous to the date of such death or termination of service shall be credited to his account, which shall then be closed.

(2) Notice of closure shall thereupon be given—

(a) if the contributor is living, to the contributor; or

(b) if the contributor is dead, to such person or persons mentioned in by-law 22 to whom it shall appear to the Council that notice should properly be given,

and, in either case, to such other persons as shall, or may in the opinion of the Municipal Secretary, reasonably require such notice.

Death or
termination
of service.

16. Subject to the provisions of these By-laws, if a contributor dies while in the service of the Council, or leaves the service of the Council, otherwise than on secondment to the service of the Government of Sarawak or on transfer to another local authority, in any of the following circumstances—

(a) retirement on medical evidence to the satisfaction of the Council that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office;

(b) satisfactory completion of contract;

(c) abolition of office;

(d) on or after reaching the age of forty-five years;

(e) determination of contract by, or with the consent of, the Council otherwise than by dismissal,

the amount standing to his credit in the Fund at the closing of such account shall be paid out of the Fund to the contributor or any other person to whom by virtue of these By-laws or otherwise payment may lawfully be made.

17.—(1) Subject to the provisions of these By-laws, if a contributor shall be dismissed, or resign, or leave the service of the Council without permission or without completing the period prescribed by any contract under which he may be serving—

Resignation or dismissal.

(a) the amount of his contributions and interest credited thereon under paragraph (1) of by-law 15 shall be paid out of the Fund to the contributor; and

(b) such part, if any, of the donations credited to the contributor and interest credited as aforesaid, as the Council shall determine, may be so paid.

(2) Any part of such donations and interest not paid as aforesaid shall be paid out of the Fund to each local authority with which the contributor had served or to the Government of Sarawak in such proportions as those in which donations were paid by such local authority or Government into the Fund for the credit of the contributor.

Law of the Federation
S.N.S. 170/62 dated 11.9.62

18.—(1) If the post which a contributor holds is declared to be a pensionable office under the Pensions Ordinance, the contributor shall, unless he has exercised any election which may have been given him to remain on non-pensionable terms, cease to contribute to the Fund and his account shall then be closed.

Contributor shall cease to contribute to the Fund on becoming pensionable under Pensions Ordinance.

(2) If any such contributor has exercised any such election he shall continue to contribute to the Fund.

[By-law 18 recast by virtue of section 10 (7) of Ordinance No. 4 of 1956]

19. If a contributor is transferred to a post in the service of the Government or a local authority, the following provisions shall apply—

Transfer to post in service of Government.

(a) if the post is pensionable and such contributor does not exercise an election to remain on non-pensionable terms, he shall cease to contribute to the Fund and his account shall then be closed;

(b) if the post is pensionable and such contributor elects to remain on non-pensionable terms, he shall continue to contribute to the Fund;

(c) if the post is non-pensionable and the contributor becomes a contributor to the Non-Pensionable Employees Provident Fund or the Local Authority Employees' Provident Fund, he shall cease to contribute to the Fund and his account shall then be closed;

(d) if the post is non-pensionable and the contributor does not become a contributor to the Non-Pensionable Employees Provident Fund or the Local Authority Employees' Provident Fund, he shall continue to contribute to the Fund.

S.N.S. 170/62
10.1.64-9-62

Frozen funds.

20.—(1) In the case of a contributor who has ceased to contribute to the Fund in the circumstances mentioned in by-law 18 or paragraph (a) of by-law 19, the sum standing to the credit of his account shall be dealt with in the following manner—

(a) any contributions made under by-law 7 or 8 shall remain standing to the credit of the contributor and shall not be paid out until his death or final retirement, whether from the service of the Council, a local authority or the Government; and

(b) the donations made under by-law 9 shall be paid into the funds of the Council.

(2) Where the account of a contributor has been closed pursuant to by-law 18 or paragraph (a) of by-law 19, interest shall continue to be credited on the contributions referred to in subparagraph (a) of paragraph (1) up to the end of the month preceding the date of the death or final retirement of the contributor.

(3) When the account of a contributor has been closed pursuant to paragraph (c) of by-law 19, interest shall continue to be credited on the amount standing to the credit of the contributor until his death or final retirement, when the amount then standing to the credit of his account shall be paid out.

Transfer from Non-Pensionable Employees Provident Fund.

21. Any person contributing to the Non-Pensionable Employees Provident Fund who is transferred without break of service to the service of the Council may, by a written notice addressed to the Accountant-General, within three months after such transfer elect to have any payments made by him or on his behalf under section 20 or 22 of the Government Employees Provident Fund Ordinance credited to his account in the Fund, and such credit or any part thereof shall rank as compulsory or voluntary contributions, or as donations, in the Fund in the same proportions as those in which it ranked in the Non-Pensionable Employees Provident Fund.

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Payment on death of a contributor.

22.—(1) Subject to the provisions of these By-laws, on the death of a contributor—

(a) if the amount at his credit does not exceed five hundred dollars, the Council shall pay to the person or persons nominated for the purpose by the contributor by a nomination in writing lodged with the Council, or, if no such nomination has been so made and lodged, to the legal personal representative of the contributor or, at the discretion of the Council, the person appearing to the Council to be entitled ultimately by law to receive it; and

(b) if the amount at his credit exceeds five hundred dollars, the Council shall pay it to the personal representative of the contributor:

Provided that the Council may make payments, not exceeding two hundred dollars in any one case, to meet the expenses of the funeral of the deceased or to give immediate relief to the widow or children or other dependants of the deceased, if in the opinion of the Council such relief is required.

(2) All amounts paid under this by-law shall be paid out of the Fund, and all payments under this by-law shall be valid and effectual against any demand made upon the Council by any person in respect of the amount standing to the credit of the contributor.

23. Any sum or sums due to the Council, a local authority or to Government by a contributor on payment out of the Fund of any amount then standing to his credit therein may be deducted from the amount otherwise payable.

Sums due
to the
Council,
or to
Govern-
ment.

*[By-law 24 omitted by virtue of section 10 (7) of Ordinance
No. 4 of 1956]*

