

FINANCE AND REVENUE DEPARTMENT.

PENSIONS BRANCH.

(The Secretary of State's Services (General Provident Fund) Rules)

No. 221

Rangoon, the 22nd November 1946.

[Amendment : 18.06.1989]

The following rules made by the Secretary of State are published for general information:-

I, Frederick William Baron Pethick-Lawrence one of His Majesty's Principal Secretaries of State in exercise of the powers conferred upon me by sections 105 and 108 of the Government of Myanmar Act, 1935, hereby make, with the concurrence of my Advisers, the following rules, namely:-

1. (1) These Rules may be cited as the Secretary of State's Services (General Provident Fund) Rules.
(2) They shall come into force on 1st October, 1945.
2. (1) Except as provided in sub-rule (2) they apply to persons appointed by the Secretary of State in Council, or the Secretary of State to a civil service or a civil post under the Crown in Myanmar, and to persons who hold reserved posts in accordance with the provisions of rules made under section 104 of the Act.
(2) They do not apply to-
 - (a) Members of the Myanmar Civil Service (Class I).
 - (b) Officers holding a Commission in His Majesty's Land Forces or His Majesty's Indian Land Forces or Officers of the Royal Indian Navy.
 - (c) Members of the Railway Services other than those borne on the pension establishment of State Railways who do not subscribe to the State Railway Provident Fund.
 - (d) Persons who hold temporarily posts reserved in accordance with the provisions of Rules made under section 104 of the Act or who subscribe to a Contributory Provident Fund.

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3. (1) Membership of the Fund shall be compulsory in the case of Europeans and Anglo-Myanmar in permanent employment who entered the service on or after 1st August, 1909, and optional in the case of other persons.

- (2) A person who exercises the option allowed by sub-rule (1) may discontinue subscribing to the Fund at any time, but his right of renewing the subscriptions shall lapse if he discontinues subscribing, except when on leave more than three times, but notwithstanding such lapse he shall retain his other rights and liabilities as a subscriber to the Fund and no final withdrawal of his deposits shall be allowed except as provided in Rules 22 and 23.

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4. In these Rules unless the context otherwise requires-

- (1) "Account Officer" means the Audit Officer so designated by the Auditor-General of Myanmar.
- (2) "Act" means the Government of Myanmar Act, 1935.
- (3) "Anglo-Myanmar" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India or Myanmar as defined by sub-section (7) of section 13 of the Third Schedule to the Act.
- (4) "Child" means a legitimate child and, in cases where the Account Officer, or, if any doubt arises in the mind of the Account Officer, Advocate-General of Myanmar, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child, includes an adopted child.
- (5) "Pay" means the amount drawn monthly by a person as basic pay, overseas pay, special pay, personal pay, judicial pay and language pay, and includes deputation or foreign service pay.
- (6) "Family" means the wife or wives and children of a subscriber and the widow or widows and children of a deceased son of a subscriber, but if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall be deemed to be no longer a member of the subscriber's family in matters to which these Rules relate, unless the subscriber indicates in writing to the Account Officer that she shall continue to be so regarded.
- (7) "Fund" means the Secretary of State's Services General Provident Fund.
- (8) "Leave" means any variety of leave prescribed in the Fundamental Rules.
- (9) "Year" means financial year.

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5. (1) Each subscriber shall as soon as may be after joining the Fund send to the Account Officer a nomination conferring on one or more persons the right to receive the amount that may stand to his

credit in the Fund, in the event of his death before that amount has become payable, or having become payable, has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) A subscriber may at any time cancel a nomination by sending a notice in writing to the Account Officer:

Provided that the subscriber shall along with such notice send a fresh nomination in accordance with the provisions of sub-rules (1) and (2).

(4) Without prejudice to the provisions of sub-rule (3), a subscriber shall, along with every nomination made by him under this Rule, send to the Account Officer-

- (a) a notice to the effect that in the event of any of the nominees predeceasing him, the nomination in respect of the deceased nominee shall forthwith stand cancelled, and
- (b) if the nomination is made at a time when the subscriber has no family, a notice to the effect that in the event of his thereafter acquiring a family the nomination shall forthwith stand cancelled.

(5) Immediately on the occurrence of any event by reason of which the notice of cancellation referred to in sub-rule (4) becomes operative and the nomination to which that notice relates consequently stands cancelled, the subscriber shall send to the Account Officer a fresh nomination made in accordance with the provisions of sub-rules (1) and (2).

(6) Every nomination made, and every notice of cancellation given, by a subscriber shall, to the extent that it is valid and operative, take effect on the date on which it is received by the Account Officer.

(7) Nothing in this rule shall be deemed to invalidate, or to require the replacement by a nomination thereunder of, a nomination made before these Rules came into force under the corresponding rule heretofore in force.

6. To the account of each subscriber to the Fund there shall be credited, in addition to the sums prescribed by these Rules, the amount standing to his credit in the General Provident Fund, India, on 30th September, 1945.

7. (1) Except as provided in sub-rule (2) of Rule 3 and except during a period of suspension, each subscriber shall subscribe monthly to the Fund an amount (being a sum of whole rupees) fixed by himself for each year:

Provided that-

- (a) subscription shall be optional during Leave;
- (b) if a subscriber is on duty for a part of a month and on leave for the remainder of that month and has not elected to subscribe during leave, the amount of the subscription payable shall be proportionate to the number of days spent on duty during the month;
- (c) a subscriber on reinstatement after a period of suspension shall have the option of paying in one sum or instalments any sum not exceeding the maximum amount of arrear subscriptions permissible for that period.

- (2) The amount of monthly subscription fixed under sub-rule (1) for any year shall be not less than 6 ½ per cent and not more than 15 (3/8) per cent, of the subscriber's pay on the last day of the preceding year if he is then a subscriber, or, if he commences or re-commences subscribing to the Fund during the year, of his pay at the time of such commencement or re-commencement:

Provided that-

- (a) if the subscriber was on leave on the last day of the preceding year and elected not to subscribe during such leave or was under suspension on the said date, the fixation of the monthly subscription shall be based on the pay to which he was entitled on the first day after his return to duty; and
- (b) if the subscriber was on deputation out of Myanmar on the last day of the preceding year or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave, the fixation of the monthly subscription shall be based on the pay to which he would have been entitled had he been on duty in Myanmar:

Provided further that, in the case of a member permitted to serve in the armed forces of the Crown during an emergency, the amount of his subscription to the Fund shall be calculated on the pay he would have drawn if he had remained in civil employment, and that subscription to the Fund shall be optional while he is serving out of Myanmar.

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8. (1) Except as provided in sub-rule (4) interest at the rate determined for each year according to the method of calculation prescribed by the Secretary of State shall be credited to the account of each subscriber as from the 30th September of each year:

Provided that if the rate of interest so determined is less than 4 per cent persons who were subscribers to the Fund on or before 31st March, 1938, shall be allowed interest at 4 per cent.

- (2) Interest shall be credited in the following manner:-

- (a) On the amount at the credit of the subscriber on the last day of the preceding year, less any sums withdrawn during the current year- interest for twelve months;
- (b) On sums withdrawn during the current year- interest from the beginning of the current year up to the last day of the month preceding the month of withdrawal;
- (c) On all sums credited to the subscriber's account after the last day of the preceding year-interest from the date of deposit up to the end of the current year;
- (d) The total amount of interest shall be rounded to the nearest whole rupee (8 annas counted as next higher rupee):

Provided that when the amount standing at the credit of a subscriber has become payable interest shall thereupon be credited under this sub-rule in respect only of the period from the beginning of the current year or from the date of deposit, as the case may be, up to the date on which the amount standing at the credit of the subscriber became payable.

- (3) Before the amount to the credit of a subscriber in the Fund is finally paid, his account shall be credited with interest up to the month preceding that in which the payment is made or tendered or up to the end of the sixth month after the end of the month in which he quitted the service or died, whichever of these periods is less.
- (4) Interest shall not be credited to the account of a Muhammadan subscriber if he inform the Account Officer that he does not want to receive it but if he subsequently asks for interest it shall be credited with effect from the first day of the year in which he asks for it.

9. (1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the authority specified in this behalf by the Governor, subject to the following condition:-

- (a) no advance will be granted unless the sanctioning authority is satisfied that the applicant pecuniary circumstances justify it and that it will be expended on one or more of the following objects and not otherwise:-
 - (i) to pay expenses incurred in connection with the prolonged illness of the applicant or of any person actually dependent on him,
 - (ii) to pay for the overseas passage undertaken for reasons of health or education of the applicant or of any person actually dependent on him,
 - (iii) to pay obligatory expenses on a scale appropriate to the applicant's status in connection with marriages, funerals ceremonies which by his religion it is incumbent on him to perform:Provided that, if the reason is of a confidential nature, it may be communicated to the sanctioning authority personally and confidentially,
- (b) the authority shall, unless it has been communicated to it personally and/or confidentially under the proviso to Rule 9 (1) (a) record in writing its reasons for granting the advance.
- (c) an advance shall not exceed with the previous sanction of the Governor-
 - (i) exceed three months pay or half the amount at the credit of the subscriber in the Fund whichever is less, or
 - (ii) unless the amount already advanced does not exceed two-thirds of the amount admissible under sub-rule (c) (i), be granted until at least twelve months after the final repayment of all previous advances together with interest thereon:

(2) Nothing in this Rule shall invalidate any advance granted before 21st January, 1946, under the General Provident Fund (Superior Civil Services) Rules.

10. (1) An advance shall be recovered in such number of equal monthly instalments, each being a complete number of rupees, not less than twelve nor more than twenty-four as the sanctioning authority may prescribe:

- (a) provided that, except with the subscriber's consent no recovery shall be made while he is on leave or while under suspension during which reduced remuneration is drawn;
- (b) recovery may be postponed by the Governor during the recovery of an advance granted to the subscriber otherwise than from the Fund;
- (c) a subscriber may if he so desires repay more than one instalment in a month.

- (2) If at any time under the provisions of Rule 9 an advance has been made to a subscriber before one previously made has been completely repaid, each advance shall be treated separately for purposes of recovery.
- (3) After repayment of the advance interest thereon equivalent to one-fifth per cent of the advance for each month or part of a month of the period between drawal and complete repayment of the advance and rounded off to the nearest whole rupee (8 annas counting as the next higher rupee) shall be payable in one instalment or, if the period of repayment exceeds twenty months and if the subscriber so desires, in two instalments: Provided that Muhammadan subscribers whose deposits in the Fund carry no uninterest shall not be required to pay into the Fund any additional instalments on account of interest on advances granted to them from the Fund.

11. Subject to the conditions hereinafter stated-

- (a) Subscriptions to a Family Pension Fund approved in this behalf by the Secretary of State or payments towards a policy of life insurance may, at the option of the subscriber, be substituted in whole or in part for subscriptions to the Fund:
- (b) Any amount, which shall be a whole number of rupees, standing to the credit of a subscriber in the Fund may be withdrawn to meet-
 - (i) payments towards a policy of life insurance;
 - (ii) the purchase of a single payment insurance policy;
 - (iii) the payment of a single premium or subscriptions to a Family Pension Fund approved in this behalf by the Secretary of State:

Provided that no amount shall be withdrawn-

- (1) before the details of the proposed policy have been submitted to the Account Officer and accepted by him as suitable;
- (2) to meet any payment or purchase made or effected more than twelve months before the withdrawal;
- (3) in excess of the amount required to meet a premium or subscription actually due for payment within six months of the withdrawal.

12. (1) If the total amount of any subscriptions on payments substituted under clause (a) of Rule 11 is less than the amount of the minimum subscription payable to the Fund under Rule 7 the difference shall be

rounded to the nearest whole rupee (8 anns and more counting as the next higher rupee) and paid by the subscriber as a subscription to the Fund.

(2) If the subscriber withdraws any amount standing to his credit in the Fund for any of the purposes specified in clause (b) of Rule 11 he shall subject to his option under clause (a) of that Rule, continue to pay to the Fund the subscriptions payable under Rule 7.

13. (1) Government will not make any payments on behalf of subscribers to Insurance Companies nor take steps to keep the policy alive.

(2) The policy shall be on the life of the subscriber himself or on the joint lives of the subscriber and of his wife, and shall, unless it is a policy expressed on the face of it to be for the benefit of his wife and/or his children or any of them, be such as may be legally assigned by the subscriber himself to the Governor of Myanmar, provided that a policy which has been assigned to the subscriber's wife shall not be accepted unless either the policy is first re-assigned to the subscriber or the subscriber and his wife both join in an appropriate assignment:

Provided further that subscribers who have taken out policies under Note I to Rule 21 (ii) or under clause (b) or clause (c) of Rule 21A of the Rules of the General Provident Fund, India in force on 30th September, 1945, shall remain subject to the provisions of those Rules in so far as policies so taken out are concerned.

(3) The Policy may not be effected for the benefit of any beneficiary other than the wife and / or children of the subscriber or any of them and may not be an educational endowment policy, if such policy is due for payment in whole or in part before the subscriber attains the age for superannuation.

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14. (1) The policy shall be delivered to the Account Officer within three months or, in the case of an Insurance Company whose headquarters are outside India or Myanmar, within such longer period as the Account Officer, if he is satisfied by the production of the completion certificate (interim receipt), may fix after the first withholding of a subscription or withdrawal from the Fund in respect of the policy. If it is not a policy expressed on the face of it to be for the benefit of the wife and /or children of the subscriber or any of them it shall, before delivery, be assigned to the Governor of Myanmar.

(2) The terms of a policy which has been accepted by the Account Officer for the purpose of being financed from the Fund shall not be altered nor shall it be exchanged for another policy without the

prior consent of the Account Officer to whom details of the alteration or of the new policy shall be furnished.

(3) If the policy is not delivered in accordance with the provisions of sub-rule (1) any amount withheld or withdrawn from the Fund in respect of the policy shall, with interest thereon at the rate provided in Rule 8, forthwith be paid or repaid as the case may be by the subscriber to the Fund or in default be ordered by the Governor to be recovered by deduction from the emoluments of the subscriber by instalments or otherwise as he may direct.

(4) Notice of assignment of a policy shall be given by the subscriber to the Insurance Company and the acknowledgment of the notice by the Insurance Company shall be sent to the Account Officer within three months of the date of assignment.

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15. A subscriber shall not during the currency of the policy draw any bonus the drawl of which during such currency is optional under the terms of the policy, and the amount of any bonus which under the terms of the policy the subscriber has no option to refrain from drawing during its currency shall be paid forthwith into the Fund by the subscriber or in default recovered by deduction from his emoluments by instalments or otherwise as may be directed by the Governor.

16. (1) Except as provided by Rule 20 when the subscriber-

(a) quits the service, or

(b) has proceeded on leave preparatory to retirement and applies to the Account Officer for re-assignment or return of the policy, or

(c) while on leave has been permitted to retire or is required to retire on grounds of ill-health and applies to the Account Officer for re-assignment or return of the policy, or

(d) pays or repays to the Fund the whole of any amount withheld or withdrawn from the Fund for any of the purposes mentioned in Rule 11 together with interest thereon at the rate provided in Rule 8. the Account Officer shall-

(i) if the policy has been assigned to the Governor, re-assign it to the subscriber or, as the case may be, to the subscriber and the joint assured, and make it over to the subscriber together with a signed notice of re-assignment addressed to the Insurance Company, and

(ii) if the policy has been delivered to the Account Officer, make it over to the subscriber:

Provided that if a subscriber to whom clause (b) or clause (c) applies returns to duty any policy so re-assigned or made over shall, if it has not matured or been assigned or charged or encumbered in any way, be again assigned to the Governor and delivered to the Account Officer in the manner provided in Rule 14, and thereupon the provisions of these Rules shall, so far as may be, again apply in respect of the policy.

Provided further that if the policy has matured or been assigned or charged or encumbered in any way the provisions of sub-rule (3) of Rule 14 shall apply.

(2) Save as provided by Rule 20 when a subscriber dies before quitting the service, the Account officer shall:

- (i) if the policy has been assigned to the Governor re-assign it to the person legally entitled to receive it, and make it over to him together with a signed notice of re-assignment addressed to the Insurance Company, and
- (ii) if the policy has been delivered to the Account Officer, make it over to the beneficiary, or, if there is no beneficiary, to the person legally entitled to receive it.

17. (1) If a policy assigned to the Governor under Rule 14 or under the corresponding Rule in force on 30th September, 1945, matures before the subscriber quits the service or if a policy on the joint life of a subscriber and his wife assigned under either of the said Rules falls due for payment by reason of the death of the subscriber's wife, the Account Officer shall, save as provided by Rule 20 proceed as follows:-

- (a) If the amount assured together with the amount of any accrued bonuses is greater than the whole of the amount withheld or withdrawn from the Fund in respect of the policy with interest thereon at the rate provided in Rule 8, the Account Officer shall re-assign the policy to the subscriber or to the subscriber and to the joint assured, as the case may be, and make it over to the subscriber, who shall immediately on receipt of the policy monies from the Insurance Company pay or repay to the Fund the whole of any amount withheld or withdrawn with interest, and, in default the provisions of sub-rule (3) of Rule 14 shall apply;
- (b) If the amount assured, together with the amount of any accrued bonuses is less than the whole of the amount withheld or withdrawn with interest, the Account Officer shall realise the amount assured together with any accrued bonuses, and shall place the amount so realised to the credit of the subscriber in the Fund.

- (2) Save as provided by Rule 20 if a policy delivered to the Account Officer under Rule 14 matures before the subscriber quits the service, the Account Officer shall make over the policy to the subscriber: Provided that if the interest in the policy of the wife and/or children of a subscriber, or any of them, as expressed on the face of the policy expires when the policy matures, the subscriber, if the policy monies are paid to him by the Insurance Company, shall immediately on receipt thereof pay or repay to the Fund either-
- (a) the whole of any amount withheld or withdrawn from the Fund in respect of the policy, together with interest thereon at the rate provided in Rule 8, or
 - (b) an amount equal to the amount assured together with any accrued bonuses, which ever is less, and, in default, the provisions of sub-rule (3) of Rule 14 shall apply.
18. If the interest of the subscriber in the Family Pension Fund ceases in whole or in part from any cause whatsoever, the account of the subscriber in the Fund shall forthwith be re-imbursed by the amount of the refund secured by the subscriber from the Family Pension Fund, which amount shall, in default of reimbursement, be deducted from the subscriber's emoluments by instalments or otherwise as may be directed by the Governor.
19. If the policy lapses or is assigned otherwise than to the Governor under Rule 14 charged or encumbered, the provisions of sub-rule (3) of the said Rule shall apply.
20. If the Account Officer receives notice of-
- (a) an assignment (otherwise than an assignment to the Governor under Rule 14), or
 - (b) a charge or encumbrance on, or
 - (c) an order of a Court restraining dealings with the policy or any amount realised thereon he shall not make over or re-assign the policy as provided in Rule 16 or realise the amount assured by the policy or re-assign or make over the policy as provided in Rule 17 but shall refer the matter to the Governor.
21. If the authority competent to sanction an advance under Rule 9 is satisfied that money drawn from the Fund under that Rule, or withheld or withdrawn from the Fund under Rule 11, has been utilized for a purpose other than that for which the money was allowed to be drawn, withheld or withdrawn, the amount in question shall, with interest at the rate provided in Rule 8, forthwith be repaid or paid as the case may be by the subscriber to the Fund or, in default, be ordered by the Governor to be recovered from the subscriber's pay or leave salary in one or more instalments as he thinks fit.

22. Except as provided in Rule 11, the amount standing to the credit of a subscriber in the Fund shall not be withdrawn until he quits the service or dies:

Provided that a subscriber who has been granted leave preparatory to retirement or, in the case of one serving in a vacation department, has been allowed to combine vacation with such leave, or who, while on leave, is either permitted to retire voluntarily or is required to retire on the grounds of ill-health, may withdraw the amount standing to his credit at any time between the commencement of the leave or vacation as the case may be or the date of such permission or retirement as the case may be and the date of actual retirement, but if he returns to duty at the end of his leave he shall, if required to do so by the Governor, pay to the Fund the whole amount withdrawn by him together with interest thereon at the rate provided in Rule 8. A subscriber who exercises the option allowed by this Rule shall not subscribe to the Fund after such withdrawal unless and until he returns to duty.

23. On the death of a subscriber before the amount standing to his credit has become payable, or, where the amount has become payable, before payment has been made-

(1) When the subscriber leaves a family-

(a) If a nomination in favour of a member or members of his family subsists, the amount standing to his credit in the Fund or the part thereof to which the nomination relates shall be paid to his nominee or nominees in the proportion specified in the nomination.

(b) If no such nomination subsists, or, if such nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall notwithstanding any nomination purporting to be in favour of any person or persons other than a member or members of his family be paid to the members of his family in equal shares:

Provided that no shares shall be payable to-

- (1) sons who have attained legal majority,
- (2) sons of a deceased son who have attained legal majority,
- (3) married daughters whose husbands are alive,
- (4) married daughters of a deceased son whose husbands are alive;

if there is any member of the family other than those specified in clauses (1), (2), (3) and (4) of the proviso:

Provided further that the widow or widows and the child or children of deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the subscriber and had been exempt from the provisions of clause (1) of the first proviso.

(2) When the subscriber leaves no family, if a nomination in favour of any person or persons subsists, the amount standing to his credit in the Fund or the part thereof to which the nomination relates shall be paid to his nominee or nominees in the proportion specified in the nomination and, if no nomination subsists it shall be paid to the person legally entitled to receive it.

24. All payments from the Fund shall be made in Myanmar or India in rupees.

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25. If a person who is a subscriber to any other Government Provident Fund which is a non-contributory Provident Fund is permanently transferred to pensionable service under the rule-making control of the Secretary of State and becomes a compulsory or optional member under Rule 3 (1) the amount of subscriptions together with interest thereon standing to his credit in such other fund at the date of transfer shall be transferred to his credit in the Fund.

26. As soon as possible after the close of each year each subscriber shall be supplied with a statement of his account in the Fund which shall show the opening balance as on 1st October of the year, the total amount credited or debited during the year, the amount of interest credited as on the 30th September of the year, and the closing balance as on that date.

27. In the discharge of his functions under these Rules the Governor shall exercise his individual judgment.

28. The General Provident Fund (Superior Civil Services) Rules in their application to members of the Myanmar Civil Services are hereby repealed.

<Amendment 18.06.1989>

Given under my hand this 21st day of January, 1946.

PETHICK-LAWRENCE,
One of His Majesty's Principal
Secretaries of State.