

LAWS OF BRUNEI

CHAPTER 276

SUPPLEMENTAL CONTRIBUTORY PENSIONS TRUST

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REVISED EDITION 2026

CHAPTER 276
SUPPLEMENTAL CONTRIBUTORY PENSIONS TRUST
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SUPPLEMENTAL CONTRIBUTORY PENSIONS TRUST ACT

An Act to establish the Supplemental Contributory Pensions Trust and to provide for all matters connected therewith or incidental thereto

Commencement: 1st January 2010

PART 1

PRELIMINARY

Citation

1. This Act may be cited as the Supplemental Contributory Pensions Trust Act.

Interpretation

2. (1) In this Act, unless the context otherwise requires —

“annual dividend” means the rate of dividend on SCP account balance of members declared annually by the Board under section 7(6);

“approve” means approved by the Board;

“average wage” means the average of wages applicable to an employee, as computed pursuant to the regulations made under section 39;

“Board” means the Tabung Amanah Pekerja Board established under section 3 of the Tabung Amanah Pekerja Board Act (Chapter 246);

“contract” means any contract, whether written or oral and whether expressed or implied;

(Deleted by S 13/2024);

“employee” means any person between the ages of 18 and 60 being a citizen of Brunei Darussalam or a permanent resident of who —

(a) is employed under a contract of service or apprenticeship or other agreement to work for an employer; and

(b) had not received any payment under section 20(1):

Provided that the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by an order signified in the *Gazette*, declare any person or class of persons not to be an employee for purposes of this Act;

“employer” means the person with whom an employee has entered into a contract of service or apprenticeship, and includes —

(a) any person, company, association or body of persons, whether or not statutory or incorporated, by whom an employee is employed;

(b) the owners of any vessel on which an employee is employed;

(c) any manager, agent or person who is responsible for the payment of wages to an employee on behalf of an employer;

(d) any foreign mission in Brunei Darussalam;

(e) the Government in respect of such categories, classes or descriptions of officers or employees as may be declared by the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, to be employees for the purposes of this Act:

Provided that no such officer or employee employed by or on behalf of the Government shall be personally liable for anything done or omitted to be done by him as an officer or employee of the Government in good faith;

“Fund” means the Tabung Amanah Pekerja Fund established under section 11 of the Tabung Amanah Pekerja Board Act (Chapter 246);

“*Hukum Syara*’ ” means the laws of Islam according to the Shafi’ee, Hanafi, Maliki or Hanbali sect of Ahlis Sunnah Waljamaah;

“inspector” means an inspector appointed under section 6(1);

“member” means a member of the Trust to whose credit any amount is standing in the Trust, and includes a self-employed person who contributes to the Trust voluntarily under section 9;

“Minister” means the Minister of Finance and Economy;

“SCP account” means an SCP account maintained under section 17(1);

“SCP account balance” means the sum of money standing to the credit in the SCP account of a member;

“SCP benefit” means the monthly SCP benefit payable to a member under section 21;

(Deleted);

“self-employed person” means any person between the ages of 18 and 60 years who, being a citizen of Brunei Darussalam or permanent resident and not being employed under a contract of service or apprenticeship, engages in any trade, vocation, profession or other activity in Brunei Darussalam for the purpose of gain;

“survivorship benefit” means the monthly survivorship benefit payable to a person under section 22;

“survivorship protection fund” means the survivorship protection fund referred to in section 7(4);

“wages” means the remuneration in money payable to an employee for work done in respect of his employment whether agreed to be paid monthly, weekly, daily or otherwise by the employer under his contract of service, apprenticeship or agreement or otherwise, but does not include —

[S 14/2024]

(a) the value of any house accommodation or the supply of any food, fuel, light or water or medical attendance, or of any amenity or services;

(b) any contribution paid by the employer on his own account to any pension fund or provident fund;

(c) any travelling allowance or the value of any travelling concession;

(d) any sum payable to the employee to defray special expenses entailed on him by the nature of his employment;

(e) any gratuity payable on discharge or retirement;

(f) service charge;

(g) overtime benefit;

(h) retrenchment, lay-off or termination benefits; or

(i) such other remuneration or payment as the Minister may, by notification published in the *Gazette*, specify.

(2) For the purpose of this Act, where the amount of bonus payable by an employer to an employee —

(a) is 2 months or less in the aggregate for one year, such amount of bonus shall be disregarded in the computation of the wages of the employee;

(b) exceeds 2 months in the aggregate for one year, only such amount of bonus as is in excess of 2 months shall be included in the computation of the wages of the employee.

3. *(Repealed).*

3A. *(Repealed).*

4. *(Repealed).*

5. *(Repealed).*

Appointment of inspectors

6. (1) The Board may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint such number of inspectors as it may consider necessary for carrying this Act into effect.

(2) The Commissioner of Labour, Deputy Commissioner of Labour and any Assistant Commissioner of Labour under the Employment Act (Chapter 278) may exercise all or any of the powers of an inspector for the purposes of this Act.

(3) In the course of an inspection, an inspector or any of the officers referred to in subsection (2) may at any reasonable time —

(a) enter any premises or place where he has reasonable cause to believe that a person is employed therein;

(b) examine, either alone or in the presence of any other person with respect to any matters under this Act or which he may reasonably require information, any person whom he has reasonable cause to believe to be or to have been an employee or an employer, and require every such person to be examined and for the purposes of such examination may summon any such person to attend at the place and time specified in such summons;

(c) put questions concerning employees to their employers or to any person who may be in charge of them, or to the employees themselves, or to any other person whom he may consider desirable to question and the employers or employees or other person shall be legally bound to answer the questions truthfully to the best of his ability;

(d) require any employer to produce before him all or any of the employees employed by him together with any contract of service, book of account of salary, register and other document concerning employees of their employment and to answer such questions relating thereto as he may think proper to ask;

(e) require any employer to produce for his inspection the audited statements of accounts of his undertaking and other records relating to the accounts and to answer such questions relating thereto as he may think proper to ask; and

(f) make copies of any book, document or paper required to be produced under paragraph (d) or (e) and take possession of such book, document or paper when in his opinion —

- (i) the copying thereof cannot reasonably be performed without taking possession;
- (ii) the book, document or paper may be tampered with unless possession is taken; or
- (iii) the book, document or paper may be required as evidence in any proceedings for an offence under this Act or in any proceedings for the recovery of any monies due to the Trust.

(4) If any person wilfully —

(a) delays an inspector or any of the officers referred to in subsection (2) in the exercise of any power under this section;

(b) fails to comply with the requisition of an inspector or any such officer in pursuance of this section or to produce any records, certificate, notice or document which he is required by this section to produce;

(c) withholds any information as to the identity of the employees of any employer or as to the identity of the employer of any employee; or

(d) conceals, prevents, attempts to conceal or prevent a person from appearing before or being examined by an inspector or such officer,

he is deemed to have obstructed that inspector or officer in the execution of his duties under this Act.

(5) Any person who obstructs an inspector or any of the officers referred to in subsection (2) is guilty of an offence.

Power to examine persons [S 12/2024]

6A. (1) Without prejudice to section 6(3), an inspector or any of the officers referred to in section 6(2), in the course of an inspection under section 6(3), may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be legally bound to answer the questions truthfully relating to such case put to him by such inspector or any of the officers referred to in section 6(2), but may refuse to answer any question the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person under the provisions of this section shall be read over to him and shall, after correction if necessary, be signed by him.

(4) Any person who obstructs an inspector or any of the officers referred in this section is guilty of an offence.

Power to assess contributions based on information available [S 12/2024]

6B. (1) An inspector may assess any contribution which is due by any employer based on any information available if the employer —

(a) fails to prepare and keep any register or record any particulars pertaining to each employee as required to be performed by him under this Act or any regulations or rules made thereunder; or

(b) fails or refuses to produce any contract of service, book of account of salary, register and other document concerning each employee as required under this Act.

(2) The assessment made under subsection (1) shall be sufficient proof of the Board's claim for the summary recovery of any contribution under section 38.

Powers of Managing Director to require information and application for search warrant [S 12/2024]

6C. (1) For the purposes of obtaining full information for ascertaining whether any person is liable to pay contributions under this Act, the Managing Director may, by notice in writing, require any person —

(a) to furnish the Managing Director within a time specified in the notice not being less than 30 days from the date of such notice any information or particulars specified in the notice;

(b) to attend personally before the Managing Director or any person authorised in that behalf by the Managing Director and produce for examination all books, accounts, records and other documents which the Managing Director or authorised officer deems necessary; or

(c) to furnish the information or particulars in accordance with paragraph (a) and also to attend in accordance with paragraph (b).

(2) Where a person is found guilty of an offence under subsection (4)(a), the court before which the person is found guilty shall order such person to comply with the notice of the Managing Director under subsection (1) within 21 days from the date of the order of the court.

(3) Whenever it appears to any court, upon written information on oath, and after any enquiry it may think necessary, that there are reasonable grounds for suspecting that there are on particular premises any book, account, record or other document the production of which has been required pursuant to subsection (1) and which has not been produced in compliance with that requirement, such court may issue a warrant authorising the Managing Director or any person named therein with or without assistance —

(a) to search the premises and to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises; and

(b) to take possession of, or secure against interference, any book, account, record or other document that appears to be the book, account, record or other document the production of which was so required.

(4) Any person who —

(a) fails to comply with subsection (1); or

(b) obstructs the Managing Director or any person named therein referred to in subsection (3),

is guilty of an offence.

PART 2

CONTRIBUTIONS TO TRUST

Establishment of Supplemental Contributory Pensions Trust

7. (1) For the purposes of this Act, there is hereby established a trust to be known as the Supplemental Contributory Pensions Trust into which shall be paid all contributions authorised under this Act and out of which shall be met all payments authorised to be paid under this Act.

(2) *(Deleted).*

(3) *(Deleted).*

(4) Each member shall be assigned an individual account within the Trust to be called the SCP account to which all contributions for that member shall be credited, excluding that portion of contributions to be paid into the survivorship protection fund under sections 8, 9 and 10.

(5) An annual dividend reflecting the income generated from investment of the Trust also shall be credited to the SCP account.

(6) An annual dividend shall be payable on the SCP account balance at such rate as the Board may declare.

(7) The Board shall not declare a rate of annual dividend except with the approval of the Minister.

(8) The Board, with the objective of reducing fluctuations in the rate of annual dividend from year to year, may not declare a rate of annual dividend in any one year which is higher than the average of actual total annual return on investments of the Trust over the 5 years up to and including that year, calculated following internationally accepted accounting principles and standards for valuing investment portfolios; the surplus from years where the declared rate of annual dividend is lower than the actual total return shall be accounted for separately and used solely for allocation to members' SCP account balances in years where the declared rate of annual dividend is higher than the actual total return.

(9) During the first 4 years, the Board may not declare a rate of annual dividend in any year which is higher than the average annual total return up to that year since the establishment of the Trust.

(10) If the Board is at any time unable to pay any sum which the Trust is required to pay under this Act, the sum required to be so paid shall be charged on and advanced to the Board from the Consolidated Fund and the Board shall as soon as practicable repay to the Government the sum so advanced.

Rate of contributions by employers, employees and Government
[S 14/2024]

8. (1) Subject to any regulations under section 39, and except as otherwise provided in this section, every employer of an employee shall pay to the Trust monthly in respect of each employee contributions at the rates set out in the Schedule.

(2) The Board may, in its discretion and on such terms and conditions, authorise an employer or a class of employers or member of the Trust to pay the contributions under subsection (1) at other intervals not exceeding 6 months.

(3) With respect to contributions under subsection (1) in respect of an employer, irrespective of an employee's wage, the minimum monthly contribution from the employer shall be \$57.50 of which \$5 shall be paid to the survivorship protection fund.

(4) Notwithstanding any written law or any contract to the contrary, an employer shall be entitled to recover from the monthly wages of an employee the amount recoverable from the employee.

(5) Where any employer who has recovered any amount from the monthly wages of an employee in accordance with subsection (4) fails to pay the contributions to the Trust within such time as may be prescribed by the Board, he is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years or both.

(6) Every employee shall pay to the Trust monthly, in respect of himself, contributions at the rates set out in the Schedule.

(7) The Board may, on such terms, authorise an employee or a class of employees to pay the contributions under subsection (6) at other intervals not exceeding 6 months.

(8) Without prejudice to subsections (1) to (7) —

(a) an employer may at any time pay to the Trust voluntary contributions in respect of his employees at a rate in excess of the contribution rate under subsection (1);

(b) an employee may at any time contribute voluntarily to the Trust a sum additional to the contribution under subsection (1);

(c) an employee who desires to have the excess monthly contributions under paragraph (b) deducted from his monthly wages by his employer may give to his employer written notice to that effect, and thereafter, so long as he is employed by that employer, the employer shall make the deductions from his wages for each month until such time, not being less than 6 months from the giving of the previous notice, as he gives further written notice to his employer of his desire to cease to have the excess monthly contributions deducted from his wages, and the employer shall pay the amount of the excess deductions to the Trust in addition to the contributions under subsection (1).

(9) Where wages are payable at intervals of less than one month, the employer may deduct from that employee's wages at the time of each payment.

(10) All voluntary contributions paid by or for any employee under subsection (8) shall be credited to the SCP account of the employee.

(11) In the event of the death of an employee, no contributions shall be due under this section by or on behalf of the employee in respect of the month during which his death occurs.

(12) Where any contribution referred to in subsection (11) has been received, it shall be carried to the Trust in accordance with section 16.

Voluntary contributions by self-employed person

9. (1) Subject to the regulations or rules made under section 39, any self-employed person may at any time contribute voluntarily to the Trust.

(2) Any self-employed person who chooses to pay voluntary contributions to the Trust shall pay to the Trust monthly in respect of himself a contribution of \$17.50, of which \$15 shall be credited to the person's SCP account and \$2.50 shall be paid to the survivorship protection fund.

(3) The Board may on such terms and conditions authorise any self-employed person or class of self-employed persons to pay contributions under subsection (2) at other intervals not exceeding 3 months.

(4) Where any self-employed person has paid any voluntary contribution under subsection (2), the Government shall match the person's contribution with a contribution of \$17.50, of which \$15 shall be credited to the person's SCP account and \$2.50 shall be paid to the survivorship protection fund.

(5) Any self-employed person may at any time contribute voluntarily to the Trust a sum additional to the contribution under subsection (2).

(6) All voluntary contribution made by a self-employed person under subsection (5) shall be credited to his SCP account.

(7) This section does not apply to any self-employed person who has received payment under section 20(1).

Payment of contributions

10. (1) Except where otherwise provided in this Act, the employer shall, in the first instance, be liable to pay both the contributions payable by himself and also, on behalf of and to the exclusion of the employee, the contributions payable by that employee; and for the purposes of this Act, contributions paid by an employer on behalf of an employee are deemed to be contributions by the employee.

(2) Contributions payable by the employer for himself and on behalf of the employee under subsection (1) shall be paid in respect of the first and subsequent month's wages.

(3) Notwithstanding section 12, where an employer fails to pay any contribution due within such period as may be prescribed, the employer shall in addition to such contribution be liable to pay the rate of dividend which would have accrued on such contribution if such contribution had been paid

at the rate and in accordance with any manner and calculation determined by the Board.

[S 14/2024]

(4) Where the annual dividend for a particular year has not been declared by the Board, the annual dividend declared for the year preceding that year shall apply for the purpose of calculating annual dividend for that year.

Recovery by employer of employee's contributions

11. (1) Subject to this section, the employer shall be entitled to recover from the employee, the amount of any contribution payable on behalf of the employee.

(2) The amount of any contribution payable by the employer on behalf of the employee shall, notwithstanding any written law or any contract to the contrary, be so recoverable by means of deductions from the wages of the employee due from the employer to the employee and not otherwise.

(3) No deduction of any contribution shall be made —

(a) except at the time wages are paid to the employee; and

(b) other than the contribution in respect of the wages which are then being paid.

(4) Subject to such conditions as may be prescribed by the Board, where an employer has, by error not occasioned by the employer's negligence omitted to deduct any contribution or part of any contribution payable by him on behalf of the employee, then, such contribution or part thereof may be deducted from the wages payable by such employer to the employee not later than 6 months from the date of the payment of the wages in respect of which the contribution or part thereof was omitted to be deducted.

(5) Any employer who contravenes subsection (2) or (3) is guilty of an offence.

Payment of service charge on contributions in arrears

12. (1) Where the amount of the contributions which an employer is liable to pay under this Act in respect of any month is not paid within such period as may be prescribed, the employer is liable to pay service charge on such amount for every day such amount remains unpaid commencing from the 16th day of the month succeeding the month in respect of which the amount is payable and the service charge shall be calculated at such rate as may be determined by the Board.

[S 12/2024; S 14/2024]

(2) The Board may, in any case in which it thinks fit, waive the payment of the whole or part of, or remit in whole or in part, any service charge due or paid under subsection (1).

Refund of contributions paid in error

13. (1) Where the Board is satisfied that any amount has been paid in error to the Trust in respect of any person or as service charge under section 12, the Board may refund the amount so paid in error to the Government or the person by whom it was paid, as the case may be.

(2) If the refund of any amount paid in error under subsection (1) is not claimed within 6 months from the date on which it was paid, the amount paid in error shall not be refunded but is deemed to have been properly paid under the provisions of this Act as service charge or for the Government or the person in respect of whom it was paid, as the case may be.

[S 14/2024]

(3) No refund shall be made and no amount shall be set off under subsection (2) except with consent of the Board and the Board may require the Government or any person who claims to have paid any amount to the Trust in error to furnish information to determine the amount so paid.

[S 14/2024]

14. *(Repealed).*

15. *(Repealed).*

Contributions to be paid into Trust

16. (1) All sums recovered or collected on account of contributions to the Trust under this Act shall be paid into or carried to the Trust in such manner as the Board may determine.

(2) The Board shall cause to be credited to each member —

(a) the amount of every contribution paid to the Trust for him, excluding that portion of contribution to be paid into the survivorship protection fund; and

(b) annual dividend at the rate declared under section 7(6) at such intervals as the Board may determine and on the amount standing to his credit in the Trust at such time as the Board may determine.

Crediting of contributions into SCP account

17. (1) There shall be maintained for each member in respect of the money standing to his credit a SCP account in the Trust.

(2) The Board shall credit to the SCP account every contribution paid into the Trust for a member, excluding that portion of contribution paid into the survivorship protection fund under sections 8, 9 and 10, in such manner as the Minister may direct, and the Minister may give different directions in respect of different classes of members.

Catch-up payment by Government for transition generation

18. (1) Where a member belongs to the transition generation, there shall be paid by the Government a lump sum catch-up contribution of such amount as the Minister may determine to be paid to his SCP account.

[S 12/2024]

(2) The lump sum catch-up contribution payable to a member under subsection (1) shall be —

[S 12/2024]

(a) for the period the member attains the age of 25 years at any time after 1st January 1993 up to 31st December 2009; and

[S 12/2024]

(b) determined after taking into account the number of months the member has contributed to Tabung Amanah Pekerja as at 31st December 2009.

[S 12/2024]

(3) For the purpose of this section, “transition generation” means citizens of Brunei Darussalam and permanent residents who are members of Tabung Amanah Pekerja on 31st December 2009 and who have not attained the age of 55 years on that date.

PART 3

PAYMENTS FROM TRUST

Authority for payment from Trust

19. No sum of money standing to the credit of a member may be paid from the Trust except with the authority of the Board and, subject to any regulations and rules made under section 39 such authority shall not be given unless the Board is satisfied that the member —

(a) has died;

(b) has attained the age of 60 years; or

(c) is renouncing his citizenship of Brunei Darussalam or decides not to renew his Entry Permit issued under the Immigration Act (Chapter 17) or his Entry Permit is cancelled.

[S 14/2024]

Lump sum payment for member leaving Brunei Darussalam permanently or dying without dependants

20. (1) Where authority is granted to a member under section 19(c), a lump sum payment equal to his SCP account balance shall be paid to him.

(2) Where a member dies and no person is eligible to be paid any monthly survivorship benefit under section 22, a lump sum payment equal to his SCP account balance at the time of his death shall be paid to his estate and distributed in accordance with —

(a) if the member was a Muslim at the time of his death, *Hukum Syara'*;

(b) if the member was a non-Muslim at the time of his death, his will or if there is no will, the law relating to intestate succession.

Amount of SCP benefit [S 14/2024]

21. Where a member has attained the age of 60 years, there shall be paid to him a minimum monthly amount of \$250, for such period as the Board may determine.

[S 11/2024]

Amount of survivorship benefit [S 14/2024]

22. (1) Where a member dies —

(a) before attaining the age of 60 years; and

(b) has made any contribution under this Act for the month immediately preceding the month in which his death occurs, there shall be paid to —

- (i) a widow or husband;
- (ii) a widow or husband and children of the member;
- (iii) children of the member; or
- (iv) parents, if such member has no widow or husband or children,

a minimum monthly survivorship benefit of \$400 to them collectively for a fixed period of 15 years with effect from the date immediately following the death of such member.

(2) Where a widow or husband in respect of whom a monthly survivorship benefit is granted under this section remarries or dies, such benefit shall be paid to the children to whom a monthly survivorship benefit is paid or payable under subsection (1).

(3) A child in respect of whom a monthly survivorship benefit is paid under this section shall cease to be eligible for such benefit on such child attaining the age of 21 years or on marriage below such age.

(4) A monthly survivorship benefit shall be ceased if there is no eligible beneficiary.

(5) In this section —

“child” means a person under 21 years of age and includes —

(a) a posthumous child;

(b) a stepchild or illegitimate child born before the death of the member and wholly or mainly dependent on him for support; and

(c) an adopted child who is adopted in a manner recognised by any written law before the death of the member and dependent on him for support;

“widow” means, in the case of a deceased member who was a Muslim, all his legal wives living at the time of his death.

23. *(Repealed by S 13/2024).*

Board to inform Probate Officer

24. If the Board is satisfied that a member or person to whom any benefit is payable under this Act has died, it shall thereupon inform the Probate Officer who shall proceed forthwith to exercise his powers under section 13 of the Probate and Administration Act (Chapter 11).

Contributions not to be assigned etc. [S 14/2024]

25. Notwithstanding anything to the contrary contained in any other written law —

(a) no amount payable by the employer as his contribution; and

(b) no amount standing to the credit of a member of the Trust,

shall be assignable, transferable, attached, sequestered or levied on for, or in respect of, any debt or claim and shall not be subjected to any set-off of any nature for any debt owing by the member and if the member is adjudicated a bankrupt by a court, it shall not pass to the Official Assignee on the bankruptcy of the member and is deemed not to form part of the property of the member.

PART 4

OFFENCES, PENALTIES AND PROCEEDINGS

Offences

26. Any person who for any purpose connected with this Act —

(a) knowingly makes any false statement;

(b) produces or furnishes or causes or knowingly allows to be produced or furnished any document which he knows to be false in a material particular;

(c) fails to pay to the Trust within such period as may be prescribed any amount which he is liable under this Act to pay in respect of or on behalf of any employee in any month;

(d) obstructs any officer or employee of the Board in the discharge of his functions as such;

(e) fails to comply with any regulation or rule made under this Act; or

(f) fails to pay to the Board within such period as may be prescribed any amount that he is liable to pay under this Act,

is guilty of an offence.

Publication of information to unauthorised person

27. (1) Any person employed by the Board who without lawful authority publishes or communicates to any person, otherwise than in the ordinary course of his duty or employment, any information acquired by him in the course of his duty or employment is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both.

(2) The Board may, on an application by a prospective employer who is considering whether or not to employ any person as an employee, give to the prospective employer the following particulars of that person —

(a) the name of his previous employer or, if he has been in the employment of more than one employer, the name of all his employers during the past 3 years; and

(b) the period for which contributions were paid into the Trust for that person by each of his employers.

(3) A prospective employer who wishes to obtain any of the particulars referred to in subsection (2) shall apply to the Board in such form as the Board may determine and shall pay the prescribed fee.

(4) The Board may require an applicant under subsection (3) to furnish proof that he is considering whether to employ the person in respect of whom the application is made.

(5) No refund shall be made of any fee paid under subsection (3).

Offences by bodies corporate etc. [S 12/2024]

28. Where an offence against this Act or any regulations or rules made thereunder committed by a body corporate, partnership, association or other body of persons is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of that body corporate, partnership, association or other body of persons, or any person who was purporting to act in that capacity, he as well as that body corporate, partnership, association or other body of persons is guilty of that offence and liable to be proceeded against and punished accordingly.

Joint and several liability on directors etc. [S 12/2024]

28A. (1) Where any contribution remaining unpaid by a body corporate, partnership, association or body of persons, then, notwithstanding anything to the contrary in this Act or any other written law, the directors or former directors of such body corporate, or the partners or former partners of such partnership, or the members of such association or body of persons or the office bearers of such association or body of persons, as the case may be, during such period in which contributions were liable to be paid, shall together with the body corporate, partnership, association or body of persons liable to pay contributions, be jointly and severally liable for the contributions due and payable to the Trust.

(2) In this section, “contributions” includes any dividend, service charge and penalty on any contribution charged by the Board under this Act or any regulations or rules made thereunder.

Penalty for offences not otherwise provided for

29. (1) Any person convicted of an offence under this Act for which no penalty is provided is liable to a fine not exceeding \$3,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$10,000.

(2) The court before which the conviction is had shall in addition to the fine order him to pay the amount of any contributions together with any dividend due thereon certified by an officer appointed by the Board in that behalf to be due from that person at the date of the conviction and the amount may be recovered according to the law relating to the recovery of fines.

[S 12/2024]

Consent of Public Prosecutor to prosecutions

30. A prosecution under this Act or any regulations or rules made thereunder shall not be instituted except by or with the consent of the Public Prosecutor.

Compounding of offences

31. The Board may compound any offence punishable under this Act or any regulations or rules made thereunder as may be prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed that offence a sum of money as the Minister thinks fit towards such compound, being a sum not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

Saving for criminal proceedings

32. The provisions of this Act or of any regulations or rules made thereunder shall be without prejudice to any other proceedings under any other written law.

Certificate of authorised officer to be evidence

33. In any legal proceedings a copy of an entry in the accounts of the Trust duly certified under the hand of any officer authorised by the Board as

is prescribed by the Board shall be *prima facie* evidence of such entry having been made and of the truth of the contents thereof.

Conduct of prosecutions

34. Proceedings in respect of any offence under the provisions of this Act or of any regulation or rule made thereunder may be conducted by an officer authorised in writing in that behalf by the Chairman of the Board.

PART 5

GENERAL

Protection of employees' interest in execution proceedings and sale

35. (1) Where a writ of seizure and sale has been issued in execution of a judgment against an employer and any property or other assets belonging to the employer has been seized or sold or otherwise realised in pursuance of the execution, and, prior to the payment of the proceeds of the sale or other realisation to an execution creditor, notice has been given to the officer charged with the execution of the writ by the Board that any sum is due to the Trust, no part of the proceeds shall be paid to an execution creditor, unless and until the court issuing the writ has ascertained and provided for the sum due to the Trust at the date of such sale or other realisation.

(2) In the event of any interest in any place of employment being sold on the application of a secured creditor under any written law in force for the time being and the Board giving to the officer charged with the conduct of the sale notice that a sum of money is due by the debtor to the Trust, the proceeds of the sale shall not be paid to any creditor other than to the Government or a secured creditor unless and until the court ordering the sale has ascertained and provided for the amount due to the Trust at the date of the sale or unless the court is satisfied that all sums due to the Trust have been paid up to the date of sale.

Power to exempt

36. His Majesty the Sultan and Yang Di-Pertuan may by notification published in the *Gazette* by order exempt any person or class of person from all or any of the provisions of this Act.

Board may engage in activities not directly related to Trust and may call for information

37. The Board may, if the Minister is satisfied that it is in the public interest to do so, engage in activities not directly related to the administration of the Trust including in particular the compilation of information of a statistical nature or otherwise relating to employers and employees and for this purpose the Board may require employers and employees to furnish such particulars as may be necessary.

Civil proceedings to recover contributions

38. (1) Notwithstanding any other written law, all contributions payable under this Act may, without prejudice to any other remedy, be recoverable by the Board summarily as a civil debt.

(2) Subject to section 30, proceedings for such summary recovery may be instituted by any person authorised in that behalf by the Board and that person may conduct such proceedings.

(3) In subsection (1), “contributions” include any dividend, service charge and penalty on any contribution charged by the Board under this Act or any rules or regulations made thereunder.

Furnishing of information [S 14/2024]

38A. (1) The Board or any person authorised by the Board in that behalf may by notice in writing require any person to furnish to the Board or the person so authorised, within such period as shall be specified in the notice, all such documents or information relating to such matters as may be required by the Board for the purposes of this Act and as are within the knowledge of that person or in his custody or under his control.

(2) Any person who, on being required by notice under subsection (1) to furnish any document or information, fails to comply with any requirement of the notice is guilty of an offence.

(3) A person who —

(a) intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any estimate, return or other information required of him under any notice under subsection (1), makes any statement which he knows to be false in any material particular,

is guilty of an offence.

Preservation of secrecy [S 14/2024]

38B. (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a member, an officer, an employee, a consultant or an agent of the Board or a member of a committee shall disclose any information relating to the affairs of the Board or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 12 months or both.

Recovery of sums due to Trust [S 14/2024]

38C. Any sum due to the Trust, including any sum required by the Board or ordered by a court to be paid, repaid, refunded or transferred to any account maintained for a member of the Trust in respect of the moneys standing to the credit of the member in the Trust, may be sued for and recovered by the Board as if it were a debt due to the Government.

Power to nominate administrator nominees [S 14/2024]

38D. (1) A member who has attained the age of 18 years may nominate any person as an administrator nominee to receive the amount standing to his credit and due to him at his death.

(2) A nomination may be made in favour of one person or a maximum of three persons and such nomination shall be made in such form and manner as the Board may determine.

Cessation of nominations [S 14/2024]

38E. (1) A nomination shall cease to have effect —

(a) on the death of the administrator nominee or, where there is more than one administrator nominee, all the administrator nominees during the lifetime of the member; or

(b) by written notice of revocation.

(2) The cessation of nomination under subsection (1)(b) shall not be revoked by any will or by any other means.

Payment on death of member if there is nomination [S 14/2024]

38F. (1) Subject to subsection (2), where a member dies having nominated an administrator nominee, the Board shall pay the amount standing to the credit of the deceased member according to the directions of the nominations.

(2) Where a Muslim member dies having nominated an administrator nominee in accordance with this Act, the administrator nominee shall receive the amount standing to the credit of the deceased member as an executor and not solely as a beneficiary and shall distribute the amount in accordance with *Hukum Syara'*.

(3) In this section, "*Hukum Syara'*" means the laws of Islam according to the Shafi'ee, Hanafi, Maliki or Hanbali sect of Ahlis Sunnah Waljamaah.

Payment on death of member if there is no nomination [S 14/2024]

38G. Where a member dies without having made any nomination, the Board shall pay any amount standing to the credit of the deceased member in accordance with section 24.

Regulations and rules

39. (1) The Minister may, after consultation with the Board and with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to or for carrying out the provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations —

(a) to provide for the disposal of amounts which are unclaimed, unpaid or otherwise remaining in the Trust;

(b) to specify and periodically revise the class of self-employed persons for the purposes of section 9;

(c) to provide for rates, amounts and time period for contributions specified under this Act;

(d) to determine annually the average wage applicable for the following financial year;

(e) *(Deleted by S 13/2024)*;

(f) to refine the terms and operation of the SCP benefit and survivorship benefit;

[S 13/2024]

(g) to prescribe anything required to be or which may be prescribed under this Act.

(3) The Board may, in addition to the other duties imposed and powers conferred upon it by this Act, make rules —

(a) to provide for the manner of payment and collection of contributions and any matters incidental thereto, including by electronic or other means;

[S 12/2024]

(b) to provide for —

(i) the return of contributions under this Act or any part of such contributions paid in error; and

(ii) the payment of contributions under this Act, or of any part of such contributions omitted to be paid in error;

(c) to provide for the keeping of books, accounts or records by employers;

- (d) to provide for the procedure for payments from the Trust;
- (e) to provide for the evidence to be produced and the person, officer or authority to whom the evidence is to be produced for the purposes of section 33;
- (f) to provide for the procedure to be followed when contributions are paid into the Trust;
- (g) to provide, in case where an employee is employed concurrently by two or more employers, the extent of the obligation of those employers as to payment of contributions under this Act;
- (h) to provide for the form and period of any notice to be given by an employee to his employer under section 8;
- (i) to provide for the returns to be made and the forms and registers to be used in the carrying out of the provisions of this Act;
- (j) to provide for the registration with the Board of employers, employees and self-employed persons;
- (k) to prescribe fees;
- (l) to prescribe any other thing required to be or which may be prescribed;
- (m) generally for giving effect to the objects and purposes of this Act and for the due administration thereof.

SCHEDULE

[S 14/2024]

(section 8)

RATES OF CONTRIBUTIONS

1. Employee of age 50 to 54 years old —

Income group (employee's salary)	Employer Share	Member Share
\$500 and below	6.5%	3.5%
\$500.01 to \$1,500	5.5%	3.5%
\$1,500.01 to \$2,800	4.5%	3.5%
Above \$2,800.00	3.5%	3.5%

2. Employee of age 55 to 59 years old —

Income group (employee's salary)	Employer Share	Member Share
\$500 and below	11.5%	8.5%
\$500.01 to \$1,500	10.5%	8.5%
\$1,500.01 to \$2,800	9.5%	8.5%
Above \$2,800.00	8.5%	8.5%

3. For the purposes of payment of contributions, where the percentage figure of the contribution by the employers and employees is not a whole cent, the figure shall be rounded off to two decimal points.