

# GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

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**No. 20**
**FRIDAY, 22nd AUGUST**
**2014**


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[LEGAL NOTICE No. 40]

FIJI NATIONAL PROVIDENT FUND DECREE 2011  
(DECREE No. 52 OF 2011)

## **Fiji National Provident Fund Regulations 2014**

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## SCHEDULE—WARRANT FORMS

IN exercise of the powers conferred upon me by section 143 of the Fiji National Provident Fund Decree 2011 and on the advice from the Board, I hereby make these Regulations—

## PART 1—PRELIMINARY

### *Short title and commencement*

1. These Regulations may be cited as the Fiji National Provident Fund Regulations 2014 and shall come into force on the date of its publication in the *Gazette*, except for regulation 45 which shall come into force on 1st July, 2015.

### *Interpretation*

2. In these Regulations, unless the context otherwise requires—

- “actuary” means the actuary appointed under section 120(1) of the Decree;
- “Board” has the meaning given to it under the Decree;
- “Decree” means the Fiji National Provident Fund Decree 2011;
- “employer number”, in relation to an employer, means the identification number allocated to the employer under regulation 9;
- “FNPF” has the meaning given to it under the Decree;
- “Fund” means the Fiji National Provident Fund;
- “former Regulations” means the Fiji National Provident Fund Regulations;
- “ICT” means Information Communication and Technology;
- “ICT Strategy and Plan” means the plans approved by the Board on the development or advancement of the FNPF Information Communication and Technology, relating to the management of a fund and the overall administration of the functions of the Board as provided under the Decree;
- “member annual statement” means a member annual statement referred to in section 41 of the Decree;
- “member exit statement” means a member exit statement referred to in section 42 of the Decree;
- “membership card” means a card issued under regulation 16;
- “membership number”, in relation to an FNPF member, means the identification number allocated to the employer or the FNPF member under regulation 13;
- “Minister” means the Minister responsible for Finance;
- “Permanent Secretary” means the Permanent Secretary responsible for Finance;
- “relative”, in relation to a person, means—
  - (a) a parent, grandparent or step-parent of the person;
  - (b) a son, daughter, grandchild or stepchild of the person;
  - (c) a brother, sister, half-brother, half-sister, step-brother or step-sister of the person;

- (d) an uncle or aunt of the person;
- (e) a nephew or niece of the person;
- (f) a cousin of the person;
- (g) if the person is or was married, a person who is or was a relative, of the kind described in paragraphs (a) to (f) of the person’s spouse; or
- (h) if the person is or was in a *de facto* relationship with another person, a person who would be a relative of the kind described in paragraphs (a) to (f) if the persons in that *de facto* relationship were or had been married to each other;

“register of employers” means the register kept under regulation 10;

“register of FNPF members” means the register kept under regulation 14;

“registered employer” means an employer registered under the Decree; and

“Transition Decree” means the Fiji National Provident Fund Transition Decree 2011.

*Prescription of age, amount and percentage*

3.—(1) For the purpose of paragraph (a) of the definition of “entitlement event” in section 4(1) of the Decree, the prescribed age is 55 years.

(2) For the purpose of paragraph (b) of the definition of “exempt employee” in section 4(1) of the Decree, the prescribed amount is \$28 per month.

(3) For the purpose of section 4(6)(a) of the Decree, the prescribed percentage is 100%.

**PART 2—THE FIJI NATIONAL PROVIDENT FUND BOARD**

*Appointment process for Board members*

4.—(1) If a vacancy in the membership of the Board arises, the Secretary of the Board shall, in accordance with section 7(3) of the Decree,—

- (a) carry out a skills gap assessment of the vacancy; and
- (b) create a position description for the vacancy.

(2) The Secretary of the Board shall provide the particulars or information arising from sub-regulation (1)(a) and (b) to the Permanent Secretary.

(3) The Permanent Secretary shall select suitable candidates subject to a transparent and competent process approved by the Minister, and make a submission to the Reserve Bank of Fiji for a fit and proper assessment of the candidate.

(4) The Reserve Bank of Fiji shall assess the candidate under sub-regulation (3) and provide a report to the Minister.

(5) The Minister shall appoint a Board member in accordance with section 7(3) of the Decree and this regulation.

*Board committees*

5. For the purpose of section 16(1) of the Decree, the committees of the Board and the functions of such committees are set out in the following table—

<b>COMMITTEE</b>	<b>FUNCTIONS</b>
(a) Investment Committee	<ul style="list-style-type: none"> <li>(i) Developing investment strategies, policies and guidelines</li> <li>(ii) In the development of these strategies, policies and guidelines, due consideration is to be given to the nature and term of the liabilities to FPNF members and annuitants, recognising that the nature and term of these liabilities may change over time</li> <li>(iii) Developing policies regarding investment mandates, including such things as allowable investments, allocation ranges, benchmarks and risk control limits and trigger points</li> <li>(iv) Reviewing the definition of large, including non-standard transactions to assist the Board in deciding any changes to be made. This review is to be conducted at least annually</li> <li>(v) Reviewing the appointment, applicable terms and conditions, and termination criteria for external investment managers</li> <li>(vi) Monitoring the investment and fund manager performance</li> <li>(vii) Reviewing investment proposals and making recommendations to the Board, and any other functions delegated by the Board</li> </ul>
(b) Audit and Risk Management Committee	<ul style="list-style-type: none"> <li>(i) Financial reporting to ensure the integrity of the accounting and financial reporting processes of each fund. This includes assurances of compliance with all applicable accounting standards to give a true and fair view of the financial position and performance of a fund</li> <li>(ii) Internal audit to ensure that a fund's internal and external audit functions are carried out effectively and in line with approved mandate</li> <li>(iii) Compliance</li> <li>(iv) Oversee the status of the Fund's compliance with laws and regulations, including legislative and regulatory developments that may have significant impact on the Fund</li> <li>(v) Risk management to ensure that the Fund has implemented an appropriate and effective risk management process</li> <li>(vi) Oversee the Fund's risk management functions and provide direction in terms of policy and risks mitigation strategies</li> </ul>
(c) Human Resources Committee	<ul style="list-style-type: none"> <li>(i) To assist the Board with its governance in relation to the following— <ul style="list-style-type: none"> <li>A. remuneration and incentives policies</li> <li>B. performance assessments</li> <li>C. recruitment, retention and termination of key executive positions</li> <li>D. monitor culture, reputation and review of behavioural standards, and any other functions delegated by the Board</li> </ul> </li> </ul>

COMMITTEE	FUNCTIONS
(d) Information Technology Committee	<ul style="list-style-type: none"> <li>(i) To ensure that the ICT Strategy and Plan is aligned to Board's vision and strategic plans</li> <li>(ii) To identify and consider strategic information management approaches aimed at delivering enterprise-wide benefits, and optimising potential gains</li> <li>(iii) To evaluate strategic ICT projects and make recommendations to the Board on appropriate ICT investment, architecture and governance arrangements that support innovative business solutions</li> <li>(iv) To sponsor key strategic issues in ICT for Board consideration, and any other functions delegated by the Board</li> </ul>

*Disclosure of interests*

6. For the purpose of section 21(5)(d) of the Decree, the prescribed percentage is 20%.

**PART 3—REGISTRATION OF EMPLOYERS AND ADMISSION  
OF FNPf MEMBERS**

*Registration of employers*

7.—(1) For the purpose of section 34(1) of the Decree, a return must be given to the Board with the following information and documents—

- (a) the employer's name;
- (b) the employer's address and contact details;
- (c) the names and membership numbers of the employer's employees who are FNPf members;
- (d) the names and addresses of the employer's employees who are exempt employees;
- (e) if the employer is a body corporate, the names and addresses of the directors;
- (f) for each employee who holds shares in the body corporate, the number of shares held;
- (g) the names and addresses of the partners and the number of shares held by each partner if the employer is a partnership;
- (h) the names of authorised officers;
- (i) if the employer is a body corporate, the certificate of incorporation;
- (j) if the employer is a company, the constitution of the company;
- (k) Tax Identification Letter; and
- (l) utility bills.

- (2) For the purpose of section 35 (1)(b) of the Decree—
- (a) the prescribed period is 4 weeks; and
  - (b) a return must be given to the Board with the following information—
    - (i) the employee’s name;
    - (ii) the employee’s address and contact details;
    - (iii) the employee’s marital status;
    - (iv) the employee’s date and place of birth;
    - (v) if the employee has been allocated a membership number, his or her membership number;
    - (vi) whether the employee has given the employer a written direction under section 38(1) of the Decree and, if so, the amount of those contributions; and
    - (vii) whether the employee has given the employer a nomination for transmission to the Board.

*Registration of employers generally*

8.—(1) The Board registers a person as an employer by entering the information specified in regulation 7(1) in respect of the employer in the register of employers.

(2) The Board must, as soon as practicable after registering an employer, notify the employer of—

- (a) the employer’s registration; and
- (b) the membership numbers of the employer’s employees if it has not notified the employer of the membership numbers.

*Employer numbers*

9. The Board must allocate to each registered employer a unique reference number.

*Register of employers*

10.—(1) The Board must establish and maintain a register of employers.

(2) The register of employers must show, for each employer, the following—

- (a) his or her name;
- (b) his or her address and contact details;
- (c) his or her employer number;
- (d) the names and membership numbers of his or her employees who are FNPF members;
- (e) the names and addresses of his or her employees who are exempt employees, so far as the Board is aware of them.

(3) The register of employers may include other information as the Board deems appropriate.

*Persons eligible to be FNPF members*

11. For the purpose of section 36(5) of the Decree, any person except the following persons is eligible to be an FNPF member—

- (a) a person under the age of 6 years;
- (b) a person over the age of 54 years, unless the person is an employee of a registered employer.

*Admission of FNPF members*

12.—(1) The Board admits a person as an FNPF member by entering the following information in respect of the person in the register of FNPF members—

- (a) his or her name;
- (b) his or her address and contact details;
- (c) his or her marital status;
- (d) the date and place of his or her birth;
- (e) Tax Identification Number;
- (f) whether he or she has given the employer a direction under section 38(1) of the Decree and, if so, the amount of those contributions; and
- (g) whether he or she has given the Board a nomination.

(2) The Board may admit a person as an FNPF member even if all the information required by sub-regulation (1) is not available to the Board, provided that the information required under sub-regulation (1)(a), (b) and (d) are available to the Board, whereby the person shall be required to furnish the remaining information within a specified time frame as indicated upon admission.

(3) The Board must, as soon as practicable after admitting a person as an FNPF member,—

- (a) notify the person that he or she has been admitted;
- (b) notify the person of his or her membership number;
- (c) give him or her a membership card;
- (d) if the Board has not been given a membership application form from the person, give the person an application form and require the person to complete it, and return it to the Board within 30 days; and
- (e) if the Board has not been given a nomination from the person, give the person information approved by the Chief Executive Officer in respect of nominations generally and a nomination form.

(4) The Board must not allow a withdrawal from the general or preserved entitlement of an FNPF member who fails to comply with sub-regulation (3)(d).

*Membership numbers*

13. The Board must allocate to each FNPF member a unique reference number.



*Register of FNPF members*

14.—(1) The Board must keep and maintain a register of FNPF members.

(2) The register of FNPF members must show, for each FNPF member, at least the following—

- (a) his or her name;
- (b) his or her address and contact details;
- (c) his or her marital status;
- (d) the date and place of his or her birth;
- (e) his or her membership number;
- (f) his or her employer's name, address and employer number;
- (g) whether he or she has given his or her employer a direction under section 38(1) of the Decree and, if so, the amount of the contributions;
- (h) whether he or she has given the Board a nomination.

(3) The register of FNPF members may include other information as the Board deems appropriate.

*Duplicate FNPF memberships*

15.—(1) If an FNPF member has been admitted more than once, the Board must consolidate—

- (a) the member's FNPF preserved accounts into a single preserved account; and
- (b) the member's FNPF general accounts into a single general account.

*Membership cards*

16.—(1) An FNPF member who does not, before or as soon as practicable after starting work for an employer, produce his or her membership card to the employer commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit.

(2) A person who fails to return his or her membership card to the Board as soon as practicable after ceasing to be an FNPF member commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit.

(3) Sub-regulation (2) does not apply if the membership card is lost.

(4) If an FNPF member has been issued with 2 or more membership cards, as a result of being admitted as an FNPF member more than once, or for any other reason, the Chief Executive Officer must cancel all, except one of those cards.

(5) An FNPF member may be issued with a replacement membership card upon providing sufficient proof to the Fund that his or her membership card is lost, destroyed or so damaged as to be unusable.

(6) The Board may impose a reasonable charge for the issue of a replacement membership card, but the Chief Executive Officer may remit that charge if he or she sees fit.

*Certain information to be updated*

17.—(1) If there is a change in the information details of a registered employer, that employer must, within 3 months after such change, notify the Board.

(2) A registered employer must, within 1 month after ceasing to employ any person as an employee, notify the Board that he or she has so ceased.

(3) If a registered employer engages an exempt employee as an employee, the employer must, within 3 months, notify the Board of the employee's name and address.

(4) A registered employer, including any Director or Chief Executive Officer, who fails to comply with sub-regulation (1), (2) or (3) commits an offence and is liable upon conviction to a fine not exceeding 40 penalty units or imprisonment for a term not exceeding 6 months or both.

(5) If there is a change in the name, address, contact details or marital status of an FNPF member, the member must—

- (a) notify the Board; and
- (b) in the case of a change of name, return his or her membership card to the Board for necessary amendments.

*Remittance statements*

18. For the purpose of section 37(1)(b) of the Decree, a remittance statement given to the Board with a payment by an employer must show—

- (a) the names and membership numbers of each employee in respect of whom payment is being made;
- (b) for each of those employees, the—
  - (i) total amount of wages payable to the employee by the employer for the month to which the payment relates; and
  - (ii) amount of contributions being paid in respect of the employee;
- (c) for each such amount, whether it is paid as mandated contributions or additional contributions under section 38 of the Decree;
- (d) for each amount paid by the employer as additional contributions under section 38(5) of the Decree, whether the employer is giving a notice under section 46 of the Decree in relation to the contributions; and
- (e) if the payment includes penalty amounts, the amount of those penalty amounts.

*Payments of contributions*

19.—(1) For the purpose of section 38(1) of the Decree, the employer must immediately advise the Board in the format required of the direction by his or her employee.

(2) For the purpose of section 38(2) of the Decree, the Chief Executive Officer may specify a minimum period of time where an FNPF member must not amend or revoke his or her direction under section 38(1) of the Decree and the member must only amend or revoke the direction after approval from the Board.

(3) For the purpose of section 38(3) of the Decree, the employer must comply with the direction upon confirmation by the Chief Executive Officer of the receipt of the employee's direction and pay the amount deducted as contributions for the FNPF member at the same time as the employer is required to pay mandated contributions for the member upon confirmation from the Board.

(4) Contributions and penalty amounts may be paid to the Board—

- (a) in cash, money order or postal order, given to a member of the Board's staff authorised by the Chief Executive Officer in that behalf at an office of the Board;
- (b) by money order or postal order, or by cheque drawn from a licensed bank, delivered to an office of the Board or by Electronic Fund Transfer or Internet Banking; or
- (c) in some other way determined or authorised by the Chief Executive Officer.

(5) Contributions and penalty amounts are not taken to be paid to the Board until the amount, and the forms required by these Regulations in relation to the payment, are actually received by the Board.

*Receipts for payment of penalty amounts*

20. The Board must issue a receipt, for each amount paid as contributions or penalty amounts, to the person who made the payment.

*Date for payment of penalty amounts*

21. A penalty amount payable by an employer is payable on written demand by the Chief Executive Officer given to the employer.

*Where registered employers cease to be liable to pay contributions*

22.—(1) A registered employer, including any Director or Chief Executive Officer, who—

- (a) ceases to employ any person as an employee; and
- (b) fails to do both the following no later than 30 days after the end of the month in which the employer last employed a person as an employee—
  - (i) notify the Board that he or she no longer employs the person as an employee; and
  - (ii) send the Board remittance statements and contribution schedules in respect of the periods since the employer last sent the Board remittance statements and contribution schedules,

commits an offence and is liable upon conviction to a fine not exceeding 40 penalty units or imprisonment for a term not exceeding 6 months or both.

(2) Section 37(1) of the Decree applies as if it requires payment of contributions following no later than 30 days after the end of the month in which the employer last employed a person as an employee.

*Employers to keep records*

23. An employer who fails to—

- (a) make and maintain a record in writing of the following information—
  - (i) the name, date and place of birth, addresses and contact details of each employee;
  - (ii) the membership number of each employee;
  - (iii) the dates on which each employee started and terminated his or her employment with the employer;
  - (iv) the dates and amounts of each payment of wages to each employee;
  - (v) the dates and amounts of each payment of contributions by the employer under the Decree, showing whether such contributions were contributions required by section 37 or 38 of the Decree or section 40 of the Decree;
  - (vi) the dates and amounts of each deduction from wages paid to each employee under section 39 of the Decree; and
- (b) keep copies of all the remittance statements and contribution schedules, the copy sheets attached to them and the receipts or confirmation of payments issued by the Board for payments under the Decree and these Regulations, for 7 years after the date of the transactions to which they relate,

commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months or both.

*Employees and exempt employees to give information*

24.—(1) Each employee and exempt employee must, on request by his or her employer, give the employer whatever information is necessary for the employer to complete returns or otherwise provide information to the Board or an inspector required by the Decree or these Regulations.

(2) Any employee or exempt employee who contravenes sub-regulation (1) commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

## PART 4—REPORTING TO FPNF MEMBERS AND EMPLOYERS

*Annual reports*

25. For the purpose of section 27(3)(a) of the Decree, the following information must be included in an annual report—

- (a) signed and audited financial statements for the financial year;
- (b) management discussion and analysis of the funds' financial condition and the result of operation for the financial year, including the asset allocation for a fund made in accordance with the investment guidelines for the fund;
- (c) the operation of the Board during the year;
- (d) remuneration information; and
- (e) review of the Decisions Scheme made during the financial year.

*Contents of member annual statements*

26. For the purpose of section 41 of the Decree, a member annual statement for a financial year must include each of the following for the FNPF member—

- (a) personal details, as follows—
  - (i) his or her name;
  - (ii) his or her address;
  - (iii) his or her membership number;
  - (iv) the names of each of his or her employers during the financial year;
  - (v) whether he or she has given his or her employer a direction under section 38(1) of the Decree and, if so, the amount of those contributions;
- (b) nomination information—
  - (i) a statement as to whether he or she has given the Board a nomination;
  - (ii) information on how to change a nomination;
  - (iii) information on grounds of revocation of nomination under section 56(5) of the Decree;
- (c) account information, as follows—
  - (i) the account balance for each of his or her preserved and general accounts as at the start of the financial year;
  - (ii) the total amounts of contributions received by the Board in respect of him or her during the financial year, showing the amounts received as mandated contributions and other contributions separately;
  - (iii) the crediting rate for the financial year;
  - (iv) amounts deducted as special death benefit premium for the financial year;
  - (v) the amounts withdrawn from each of his or her preserved and general accounts during the financial year, and the basis for the withdrawals;
  - (vi) the account balance for each of his or her preserved and general accounts as at the end of the financial year.

*Contents of member exit statements*

27.—(1) For the purpose of section 42(1) of the Decree, a member exit statement must include each of the following for the FNPF member—

- (a) personal details, as follows—
  - (i) his or her name;
  - (ii) his or her address;
  - (iii) his or her membership number;
  - (iv) the names of each of his or her employers during the period since the member's most recent member annual statement; and

- (b) account information, as follows—
- (i) the account balance for each of his or her preserved and general accounts as at the start of the exit period;
  - (ii) the total amounts of contributions received by the Board in respect of him or her during the exit period, showing the amounts received as mandated contributions and other contributions separately;
  - (iii) the amounts received from each of his or her employers during the exit year;
  - (iv) the crediting rate applied in respect of the member’s final withdrawals during the exit period;
  - (v) the amounts deducted as special death benefit premium for the exit period;
  - (vi) the amounts withdrawn from each of his or her preserved and general accounts during the exit period, and the basis for the withdrawals.

(2) In this regulation, “exit period” means the period since the FNPF member’s most recent member annual statement.

#### PART 5—WITHDRAWALS

##### *Early withdrawals*

28.—(1) For the purpose of section 50(2)(d), an application for the withdrawal may be made by the person nominated by the FNPF member to make his or her funeral arrangements.

(2) For the purpose of section 59(1)(a)(iv) of the Decree, the following matters are prescribed—

- (a) to assist with unemployment;
- (b) subject to the approval of the Board, to assist with dealing with the effects of a natural disaster as defined in the Natural Disaster Management Act 1998.

##### *Withdrawals on physical or mental incapacity*

29.—(1) This regulation applies to a withdrawal application made on the entitlement event specified in paragraph (b) of the definition of “entitlement event” in section 4(1) of the Decree.

(2) The application must include a certificate in the approved form given by a registered medical practitioner stating the practitioner’s opinion on the physical or mental capacity, or both of the FNPF member.

(3) The Board may require the FNPF member to be examined by one or more registered medical practitioners appointed by the Board to report to the Board on the application, and the Board need not deal further with the application until it receives the reports.

##### *Withdrawals on death of FNPF member*

30.—(1) This regulation applies to a withdrawal application made on the entitlement event specified in paragraph (d) of the definition of “entitlement event” in section 4(1) of the Decree.

(2) The following documents may be accepted by the Board as sufficient proof that the FNPF member has died—

- (a) a grant of probate or letters of administration of the member’s estate, in any jurisdiction;
- (b) a death certificate or certified copy of a death certificate for the member; or
- (c) a court order that the member is presumed dead, in any jurisdiction.

(3) If the applicant claims to be entitled to payment and is the spouse of the deceased FNPF member, the application must include a certified copy of the relevant certificate of marriage.

*Withdrawal applications generally*

31. The Chief Executive Officer may also require an applicant for withdrawal from an FNPF member’s account to provide further documents or information for verification of the FNPF member’s information and make a statutory declaration as to the truth of any statement of fact made in, or in connection with, the application.

*Death of FNPF member before withdrawal application determined*

32. If an FNPF member who has applied for withdrawal of an amount from his or her account in the FNPF dies before actually receiving the payment, the application is taken never to have been made.

*Where person to be paid is incapacitated*

33.—(1) If the Board is satisfied that—

- (a) a person (the “beneficiary”) to be paid benefits out of a fund is incapable of acting for himself or herself; and
- (b) another person (the “payee”) is an appropriate person to receive the payment on the beneficiary’s behalf and shall apply it in the interests of the beneficiary,

the payment may be made instead to the payee.

(2) The Board must require the payee to provide a guarantee in an approved form showing that he or she is an appropriate person to receive the payment on the beneficiary’s behalf and shall apply it in the interests of the beneficiary.

(3) The guarantee under sub-regulation (2) shall be a good and sufficient discharge to the Board for the amount paid to the payee.

*Prisoners*

34. Where a person to be paid benefits out of a fund is serving a sentence of imprisonment or otherwise held in legal custody, the payment may be postponed until he or she is no longer imprisoned or is released from custody.

PART 6—PAYMENT ON ENTITLEMENT EVENTS

*Nominations*

35.—(1) A nomination must be—

- (a) signed by the FNPF member making it; and
- (b) witnessed by another person, who must also sign as a witness.

(2) A nominee must not be a witness.

(3) A nomination, and a revocation of a nomination, is not effective unless the Board receives it during the FNPF member's lifetime.

(4) The Board may decline to treat a nomination as effective if it has reason to believe that the nomination—

(a) was made under duress; or

(b) is in favour of the FNPF member's employer unless the employer is a relative of the member.

*Death of nominee*

36. If a nominee who is the only nominee in an FNPF member's nomination dies before the member, the nomination ceases to have effect.

*Transmission of nominations*

37.—(1) If—

(a) an employee gives his or her employer a nomination for transmission to the Board with a return under the Decree; and

(b) the employer fails to transmit the nomination with the return,

the employer, including any Director or Chief Executive Officer, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months or both.

(2) Strict liability applies to sub-regulation (1)(b).

*Where no application made by nominee etc. on FNPF member's death*

38.—(1) If—

(a) an FNPF member dies; and

(b) within 12 months after the member's death, a withdrawal application in respect of the member has not been made,

the Board may keep the account balance of the member's accounts in the FNPF, and if the Board keeps such account balance, it must transfer the account balance to the Unclaimed Money Account.

(2) To avoid doubt, sub-regulation (1) does not prevent the Board from dealing with the amount in accordance with any law relating to unclaimed money.

## PART 7—OTHER PROVISIONS APPLICABLE TO THE FUNDS

*Transfer of surplus*

39. For the purposes of sections 30(d), 65(d) and 81(c) of the Decree, a transfer of surplus from the Retirement Income Fund or the Special Death Benefits Fund, as the case may be, must—

(a) be authorised in a written statement signed by the actuary, and in his or her statement the actuary must—

(i) specify the amount to be transferred;



- (ii) specify the date by which the transfer must be effected, being a date not later than 3 months from the date of him or her signing the statement or the expiry date of the current funding and solvency certificate issued under section 88 of the Decree, whichever is the earlier; and
  - (iii) state that the transfer shall not affect the validity of the current funding and solvency certificate issued under section 88 of the Decree for the fund from which surplus is to be transferred; and
- (b) have written confirmation from the Reserve Bank of Fiji that there is no objection to the transfer.

*Solvency requirement for FNPF*

40.—(1) For the purpose of section 32(2) of the Decree, the total value of the liabilities of the Board referable to the FNPF at any time is the sum for all current members of—

- (a) the amounts of their account at the most recent balance date, less subsequent deductions including the special death benefit premium and partial withdrawals paid;
- (b) contributions received since the most recent balance date and not taken into account in calculating their most recent balance date account; and
- (c) interim interest calculated at the current interim credited interest rate in accordance with section 48(9) of the Decree.

(2) For the purposes of this regulation, “current member” means a member with a positive account at the most recent balance date or for whom contributions have been received since the most recent balance date, and includes members for whom a retirement or other benefit has been calculated but who have as not yet been paid out, but does not include members for whom a payment has been made since the most recent balance date reducing their account to zero and for whom no further contributions have been received.

*Crediting rate*

41.—(1) For the purpose of section 47 of the Decree, the value of the assets at the end of the financial year is the value of—

- (a) financial investments and non-financial investments as determined for inclusion under Investments in the annual financial accounts; plus
- (b) interest receivable, dividends receivable and rent receivable as determined for inclusion under Other Receivables and Assets in the annual financial accounts.

(2) The Board must establish, publish and maintain a policy statement to guide its determination of how much of any increase shall be distributed to FNPF members by way of credited interest.

(3) The crediting rate shall be determined by dividing the amount determined to be allocated to FNPF members by the average of amounts of entitlement over intervals during the year as determined by the Board in terms of section 48(9) of the Decree, and the amount of entitlement for each active member at the end of any interval means the member’s opening balance (if any) at the start of the year less deduction of the special death benefit premium, plus all contributions for the financial year that have been posted to the member’s account by the end of the interval, less all partial withdrawals and other debits for the financial year that have been posted to the member’s account by the end of the interval.

(4) No crediting rate can be determined without the actuary confirming that the proposed determination can be made without placing undue stress on the solvency requirement for the FNPF.

(5) The actuary shall keep the Board informed of his or her view as to any difference between the value of the assets determined under sub-regulation (1) and the value the actuary considers appropriate for determining whether or not the solvency requirement continues to be met.

*Key features statement requirements for approved pension products*

42.—(1) For the purpose of section 71(2)(b) and (4)(b) of the Decree, the requirements are as follows—

- (a) the key features statement must set out the name and contact details of the provider of the product;
- (b) the key features statement must set out information in respect of any significant benefits to which the annuitant shall or may become entitled, the circumstances in which and times at which those benefits shall or may be provided, and the way in which those benefits shall or may be provided;
- (c) the key features statement must set out information in respect of any significant risks associated with the product;
- (d) the key features statement must set out information in respect of—
  - (i) the cost of the product;
  - (ii) any amounts that shall or may be payable by the annuitant in respect of the product, and the times at which those amounts shall or may be payable; and
  - (iii) the amounts of any commission, or similar payments, that shall or may be made in respect of the product;
- (e) the key features statement must set out information in respect of the rights, terms, conditions and obligations attached to the product;
- (f) the key features statement must set out information in respect of any significant characteristics or features of the product;
- (g) the key features statement must set out information in respect of how disputes in relation to the product are to be resolved or dealt with;
- (h) the key features statement must set out all other information that might reasonably be expected to have a material influence on the decision of a reasonable person to buy the product;
- (i) the key features statement must not contain a misleading or deceptive statement;
- (j) the key features statement must not, as a result of the omission of a particular matter from the key features statement, be misleading or deceptive;
- (k) the key features statement must be dated;

- (l) the key features statement must clearly identify, on its cover, that it is a key features statement and the product to which it relates;
  - (m) if the key features statement comprises 2 or more documents, each of the documents must, on its cover—
    - (i) clearly identify that it is a key features statement, the product to which it relates and the other document or documents; and
    - (ii) clearly state that the key features statement comprises all the documents; and
  - (n) the key features statement must not include a statement made by a person, or based on a statement made by a person, unless the—
    - (i) person consented to the statement being included in the key features statement in the form and context in which it is included;
    - (ii) key features statement states that the person gave his or her consent; and
    - (iii) person had not withdrawn his or her consent before the date of the key features statement.
- (2) For sub-regulation (1)(d), an amount shall or may be payable by the annuitant in respect of the product if—
- (a) the annuitant shall or may have to pay an amount in respect of the product; or
  - (b) an amount shall or may be deducted from a payment to be made by the annuitant or an entitlement of the annuitant, or debited from an account maintained in relation to the annuitant for the purposes of the product.
- (3) For sub-regulation (1)(j), a person is taken to make a misleading statement in respect of a future matter, including the doing of, or refusal to do, an act, if he or she does not have reasonable grounds for making the statement, but this does not limit the meaning of that paragraph.
- (4) All amounts to be set out in a key features statement for an approved pension product are to be stated in dollars.
- (5) The person who prepared the key features statement commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units if, without reasonable excuse, the person fails to keep the consent, or a copy of it, for 7 years after the date of first issue of the key features statement.

#### PART 8—DISPOSAL OF AMOUNTS UNCLAIMED OR OTHERWISE REMAINING IN THE FUND

##### *Unclaimed Deposits Account*

43.—(1) The Board must maintain, as a separate account, the Unclaimed Deposits Account set up under the former Regulations.

(2) The money in the Unclaimed Deposits Account is part of the FNPF.

- (3) The following are to be credited to the Unclaimed Deposits Account—
- (a) amounts of contributions that cannot be credited to a preserved or general account because the relevant FNPF member cannot be identified after diligent inquiry made within 2 years from the date of payment of contributions;
  - (b) if —
    - (i) it is considered by the Board after due inquiry that a person would be entitled to payment of benefits out of the Fund if he or she were to apply; and
    - (ii) after 1 year after the date on which, in accordance with the rules of entitlement under the Decree, the person would be so entitled, the person has not applied for payment of the benefits,
 the amount of the benefits;
  - (c) if—
    - (i) no contributions have been received in respect of a member for at least 10 years;
    - (ii) in accordance with information available to the Board as records that the member shall have turned 55; and
    - (iii) no application for payment of benefits has been received by the Board in respect of the member,
 the amount standing to the credit of the member's FNPF account.

(4) If a current annuitant as defined in the Transition Decree, fails to apply as mentioned in section 7(2)(f) of the Transition Decree, or fails to satisfy the requirements mentioned in section 7(2) of the Transition Decree, within 2 months after the date specified for application or compliance in accordance with that section, the current annuitant's conversion amount is to be credited to the Unclaimed Deposits Account.

- (5) The following are to be debited from the Unclaimed Deposits Account—
- (a) amounts required to be paid by regulation 44;
  - (b) the amount determined in accordance with the Decree as the costs of maintaining and administering the account.

*Payments out of Unclaimed Deposits Account*

44.—(1) If a person provides sufficient evidence to the Board that he or she is entitled to payment of an amount that was credited to the Unclaimed Deposits Account within the 5 years from the date the amount was credited to the Unclaimed Deposits Account, the Board must pay the amount to the person.

(2) Any sum remained unclaimed after the expiration of 5 years after such sum has been transferred to the Unclaimed Deposits Account, shall be transferred to the General Reserve Account of FNPF.

- (3) For the avoidance of doubt, no amount is payable as interest under this regulation.

## PART 9—SPECIAL DEATH BENEFITS FUND

*Special Death Benefits*

45.—(1) For the purposes of this Part—

“member account” means the balance at any time in the account established for the FNPF member under section 44(1) of the Decree provided that upon the Board having established a sub-account (the “general account”) under section 44(2) of the Decree, member account means the balance at any time in the member’s general account;

“personal health statement” means a statement signed by the FNPF member to the effect that he or she is in good health and has no reason to believe that he or she is suffering from any medical condition which would adversely impact on his or her continued existence over the next 5 years or until he or she ceases to be eligible, whichever is the earlier;

“voluntary contribution” means any contribution made to an FNPF member account by or on behalf of the member other than as mandated by section 37 of the Decree and includes any transfer made in terms of section 136 of the Decree to an account required to be established under that section.

(2) Subject to sub-regulation (5), the amount of the Special Death Benefit in respect of a financial year for an FNPF member who has a full Special Death Benefit Premium deducted from his or her member account at the commencement of the year shall be in accordance with the age of the member determined at the start of the financial year as follows—

- (a) if the age at the start of the financial year is less than 20: nil;
- (b) if the age at the start of the financial year is between 20 and 24: \$18,000;
- (c) if the age at the start of the financial year is between 25 and 29: \$17,000;
- (d) if the age at the start of the financial year is between 30 and 34: \$16,000;
- (e) if the age at the start of the financial year is between 35 and 39: \$12,000;
- (f) if the age at the start of the financial year is between 40 and 44: \$8,500;
- (g) if the age at the start of the financial year is between 45 and 49: \$5,000;
- (h) if the age at the start of the financial year is between 50 and 54: \$4,000;
- (i) if the age at the start of the financial year is more than 54: nil.

(3) Subject to sub-regulation (5), the amount of the Special Death Benefit in respect of a financial year for an FNPF member who has a partial Special Death Benefit Premium deducted from his or her member account at the commencement of the year shall be the amount in accordance with sub-regulation (2) multiplied by the ratio of the partial premium to the full premium.

(4) Subject to sub-regulation (5), the amount of the Special Death Benefit in respect of a financial year for an FNPF member who becomes a member during the year shall be the amount in accordance with sub-regulation (2) provided that if the member is required to provide a personal health statement as a condition of eligibility for the Special Death Benefit the amount shall be nil until the date the personal health statement is received by the Board.

(5) Notwithstanding sub-regulations (2), (3) and (4), in any instance where provision of a personal health statement is a condition of eligibility for the Special Death Benefit and upon the death of the FNPF member within 5 years of providing that personal health statement, the Board has reason to believe that that personal health statement was not correct in all material particulars, then the Board in its discretion may determine the amount of the Special Death Benefit to be nil.

(6) An FNPF member to be eligible for the Special Death Benefit must satisfy all the following conditions—

- (a) age grounds: a member at the commencement of the financial year for which eligibility is being considered must be at least age 20 and not more than age 54;
- (b) financial grounds: a member who is a member at the start of a financial year other than a member for whom no positive amount has been credited to his or her member account must have a sum greater than zero in his or her member account before deduction of the Special Death Benefit premium at the commencement of the financial year, and a new member shall not be eligible until their member account has a positive amount credited to it;
- (c) selection grounds: a member must provide a personal health statement on each occasion any voluntary contribution is made to his or her member account such that without such payment, the amount in his or her member account would be zero or less provided that if the member has had a Special Death Benefit premium deducted at the commencement of the financial year, the personal health statement shall not be due until the end of the financial year;
- (d) prior membership: a member must not have previously been a member and withdrawn the total of his or her balance in the FNPF in the event of his or her retirement or incapacity, or upon any other ground permitted by the Decree other than migration.

(7) Where a personal health statement is due, the FNPF member shall not be eligible for the Special Death Benefit until the date the personal health statement is received by the Board.

(8) The amount of the Special Death Benefit annual premium shall be \$35 for a full year of membership.

(9) Subject to sub-regulation (5), the premium shall be deducted in full at the commencement of the financial year from the member account of FNPF members who meet the eligibility requirements of sub-regulation (6) at the commencement of that financial year provided that if the amount in the member account is less than the full premium, the total member account balance shall be deducted as a partial premium and sub-regulation (3) shall apply.

(10) If a person becomes eligible through an initial credit being made to his or her member account or through having provided a personal health statement, then the amount of the premium required for the full benefit shall be reduced by the fraction of the year represented by the date of commencement of eligibility to the end of the financial year and deducted from the member account, provided that if the amount in the member account is insufficient, the total member account balance shall be deducted as a partial premium and sub-regulation (3) shall apply.

(11) In the event a person ceases to be eligible for the Special Death Benefit in the course of a financial year other than by death, the FNPf member shall be entitled to a refund of a portion of any premium deducted calculated by the ratio of the period to the end of the year divided by the period from the due date of the premium to the end of the financial year.

(12) An FNPf member shall cease to be eligible for the Special Death Benefit if—

- (a) he or she withdraws the total of his or her balance in the FNPf in the event of retirement, migration, incapacity, or upon any other ground permitted by the Decree other than his or her death;
- (b) he or she is aged 55 or more at the commencement of a financial year;
- (c) he or she has a zero or negative balance in his or her member account at the commencement of a financial year.

(13) Cessation of eligibility shall be permanent in the case of sub-regulation (12)(a) and (b) except for an FNPf member who withdrew the total of his or her balance on the ground of migration.

(14) In the case of sub-regulation (12)(c), an FNPf member may become eligible from the commencement of any subsequent financial year in which he or she meets the eligibility requirements in sub-regulation (6).

## PART 10—MISCELLANEOUS

### *Form of warrant*

46. For the purpose of section 103 of the Decree, the forms of warrant and information for a warrant are set out in the Schedule.

### *Board not liable to tax*

47. For the purpose of section 138(2) of the Decree, the tax charged or levied under the Value Added Tax Decree 1991 is prescribed.

### *Posting is equivalent to delivery*

48.—(1) The posting by registered post of a document containing a cheque for payment of a benefit out of the Fund, or a funeral benefit, addressed to the person to be paid at the address of that person set out in the application for payment is, so far as liability to make the payment concerned, equivalent to delivering the cheque to the person personally.

(2) If sufficient evidence is provided as proof that the person did not in fact receive the document containing a cheque for payment, the Board may make payment again upon receiving a guarantee from the person in favour of whom the payment is made.

### *Employers to facilitate contact with FNPf members and employees*

49.—(1) For the purposes of the Decree or these Regulations, the Board may give an FNPf member a communication, certificate or document by sending it to his or her employer, as last known to the Board, for transmission to the member or employee, and if the employer does not, as soon as practicable—

- (a) give it to the employee; or

- (b) if he or she no longer employs the employee, give it back to the Board with all information in respect of the employee's whereabouts that the employer has,

the employer, including any Director or Chief Executive Officer, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months or both.

(2) For the purposes of the Decree or these Regulations, an employee may give the Board a communication, certificate or document by giving it to his or her employer for transmission to the Board, and if the employer does not, as soon as practicable, send it to the Board, the employer, including any Director or Chief Executive Officer, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months or both.

*Incomplete documents*

50.—(1) If, in the opinion of the Chief Executive Officer, a document required to be completed by an employer is incomplete, inaccurate or illegible, the Chief Executive Officer may return the document to the employer, member or applicant, and require him or her to correct or complete the document and send it back to the Board within a reasonable period specified by the Chief Executive Officer.

(2) The employer must comply with the requirement in sub-regulation (1) and if the employer fails to comply with such requirement, the employer commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

(3) If, in the opinion of the Chief Executive Officer, a document required to be completed by an FNPF member or an applicant for FNPF membership is incomplete, inaccurate or illegible, the Chief Executive Officer may return the document to the member or applicant, and require him or her to correct or complete the document and send it back to the Board within a reasonable period specified by the Chief Executive Officer.

(4) If the FNPF member or applicant fails to comply with the requirement in sub-regulation (3), the FNPF member or applicant commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit.

*Lodged etc. forms to remain property of Board*

51.—(1) All forms issued to employers or other persons by the Board in connection with the Decree or these Regulations are at all times the property of the Board.

(2) A person in possession of such a form commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units if, on demand by the Board or an inspector, he or she fails or refuses to give such form to the Board or the inspector in accordance with the demand.

*Correcting errors*

52.—(1) If—

- (a) an error occurs in a remittance statement; and



- (b) the employer fails to notify the Board as soon as the error comes to his or her notice,

the employer, including any Director or Chief Executive Officer, commits an offence and is liable upon conviction to a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months or both.

(2) If, on application, it is proven that mandated contributions in respect of an employee were wholly or partly paid in error, the Board may refund the amount paid in error, and the refund is to be paid to—

- (a) the employee, so far as the excess payment represented—
- (i) contributions paid under section 38(1) of the Decree; or
  - (ii) amounts recovered by the employer from the employee's wages under section 39 of the Decree; or
- (b) otherwise – the person who made the excess payment.

(3) Notwithstanding sub-regulation (2), if the person to be refunded owes money to the Board in connection with the Fund, the Board may, instead of refunding the amount, set it off against the amount owed.

(4) No refund is to be made if the application for refund is made more than 2 years after the excess payment was made.

*Form of payment*

53. Benefits payable out of a fund may be paid in cash or by cheque or otherwise as determined in accordance with the rules and guidelines set out by the Board.

*Receipts*

54.—(1) Where a payment is made by cash under regulation 53, a receipt must be issued by the Board as confirmation of the payment made to the person paid benefits out of the Fund and such receipt shall be a proper discharge to the Fund and Board for the sum specified therein.

(2) Where a payment is made by a cheque issued under regulation 53, a receipt for the amount specified in the cheque must be issued by the Board as confirmation of the payment made to the person paid benefits out of the Fund and such receipt shall be a proper discharge of the Fund and the Board for the sum specified therein.

*Repeal*

55. The Fiji National Provident Fund Regulations are repealed.

Made this 12th day of August 2014.

J. V. BAINIMARAMA  
Prime Minister and Minister for Finance, Strategic  
Planning, National Development, Statistics, Public Service,  
People's Charter for Change and Progress, Information, iTaukei  
Affairs, Provincial Development, Sugar Industry, Lands and Mineral Resources

SCHEDULE—WARRANT FORMS  
(Regulation 46)

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SEARCH WARRANT

In the Magistrates Court at  
FIJI

To All FNPF Inspectors within Fiji

Whereas it is made to appear to me by information on oath laid this day by (a)

of

there is reasonable ground for suspecting that certain property, namely (b):

in respect of which an offence has been committed (or which is necessary to the conduct of an investigation into an offence) is in a certain (c)

At (d)

Of (e)

You are hereby authorised forthwith with proper assistance to enter the said (b) if necessary by force, and there search for the property above suspected to have been obtained or relating to the commission of an offence, to seize it and bring it before this Court to be dealt with according law.

Dated this

day of

20

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*Magistrate*

(a) *Name of Inspector*

(b) *Describe article or things*

(c) *Situation of building etc.*

(d) *Building, ship, vehicle, receptacle or place*

(e) *Name of owner or person residing in being in charge of the buildings, etc.*



[LEGAL NOTICE NO. 41]

FISHERIES ACT  
(CAP. 158)

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**Fisheries (Shark Reef Marine Reserve) (Serua)  
Regulations 2014**

IN exercise of the powers conferred upon me by section 9 of the Fisheries Act (Cap. 158), I hereby make these Regulations—

*Short title and commencement*

1. These Regulations may be cited as the Fisheries (Shark Reef Marine Reserve) (Serua) Regulations 2014 and shall come into force on the date of its publication in the *Gazette*.

*Interpretation*

2. In these Regulations, unless the context otherwise requires—

“Act” means the Fisheries Act (Cap. 158);

“Buffer Zone” means the Buffer Zone declared under regulation 4;

“Coastal Zone” for the purposes of these Regulations means the area within 2 kilometres inland from the high water mark and includes areas from the high water mark up to the Marine Reserve;

“development activity or undertaking” means any activity or undertaking likely to alter the physical nature of the land in any way, and includes the construction of buildings or works, the deposit of wastes or other material from outfalls, vessels or by other means, the removal of sand, coral, shells, natural vegetation, sea grass or other substances, dredging, filling, land reclamation, mining or drilling for minerals, but does not include fishing;

“indiscriminate fishing gear” means any fishing gear deployed that indiscriminately catches sharks, fish or any marine organism such as gillnets and handlines with steel wire leaders and even poison fishing where derris root extracts, chemicals or dynamite are used; and

“Marine Reserve” means the Shark Reef Marine Reserve-Serua declared under regulation 3.

*Shark Reef Marine Reserve-Serua*

3.—(1) The area marked in blue on the map set out in the Schedule is hereby declared a Marine Reserve to be known as the Shark Reef Marine Reserve-Serua for the purpose of conserving, protecting and maintaining shark species and marine organisms including coral within the area.

(2) Any person operating a vessel within the Marine Reserve shall use only the mooring provided within the Marine Reserve.

(3) A person shall not dispose of or throw rubbish or any other waste material within the Marine Reserve area.

(4) Any development activity or undertaking within the Coastal Zone of the Marine Reserve is prohibited except with the approval of the Department of Fisheries.

(5) Any fishing activity or activity consisting of the collection of any species of shark and marine organisms including coral within the Marine Reserve is prohibited.

(6) Any person who contravenes this regulation commits an offence and is liable upon conviction to a fine of not less than \$500 and not exceeding \$10,000 or imprisonment to a term not exceeding 6 months, or both.

(7) The Department of Fisheries may seize any marine organism, fishing equipment, conveyance including vehicles and vessels used for their transport, or other property involved in a breach of sub-regulation (5).

*Buffer Zone*

4.—(1) The area marked in green on the map set out in the Schedule is hereby declared a Buffer Zone for the Marine Reserve.

(2) The use of any form of indiscriminate fishing gear and any fishing equipment used to specifically target sharks within the Buffer Zone is prohibited.

(3) Any person who contravenes sub-regulation (2) commits an offence and is liable upon conviction to a fine of not less than \$500 and not exceeding \$5,000 or imprisonment to a term not exceeding 6 months, or both.

(4) The Department of Fisheries may seize any shark species or marine organism captured or any fishing equipment involved in a breach of sub-regulation (2).

*Scientific Research*

5. Notwithstanding regulations 3 and 4, the Minister may authorise activities otherwise prohibited under these Regulations for the purpose of scientific research.

*Management guidelines*

6. The Minister may, by notice in the *Gazette*, issue guidelines for the proper management and monitoring of the areas within the Marine Reserve and the Buffer Zone.

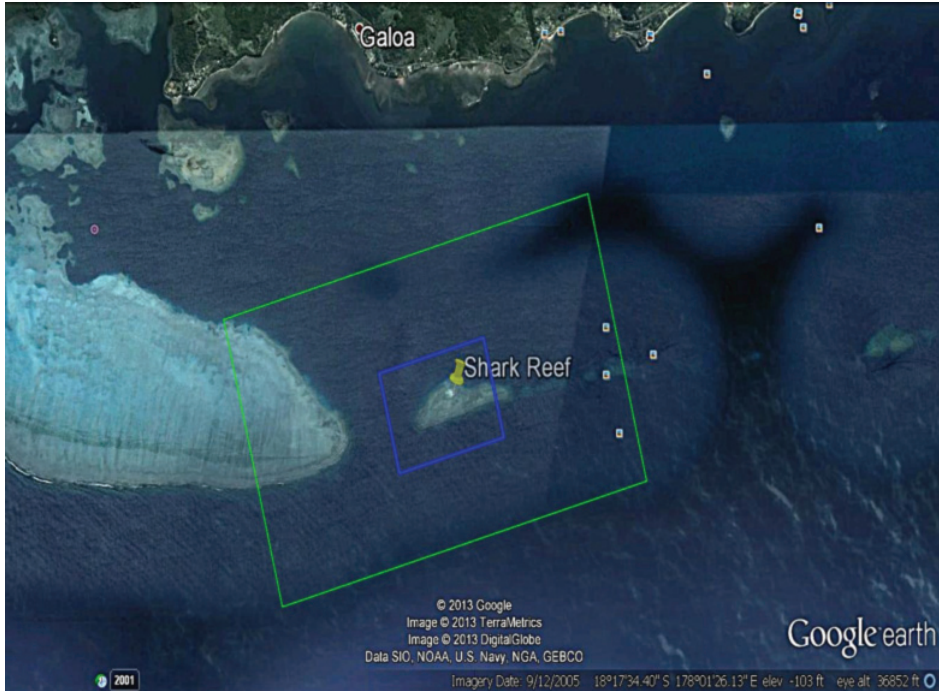
Made this 13th day of August 2014.

I. B. SERUIRATU  
Minister for Agriculture, Fisheries and Forests,  
Rural & Maritime Development and  
National Disaster Management

## SCHEDULE

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### SHARK REEF MARINE RESERVE-SERUA



Co-ordinates of boundaries of the Shark Reef Marine Reserve-Serua—marked in blue

NE Corner: 18° 17' 41.80" S ; 178° 00' 42.53" E

SE Corner: 18° 18' 20.00" S ; 178° 00' 52.04" E

NW Corner: 18° 17' 27.31" S ; 178° 01' 30.61" E

SW Corner: 18° 18' 06.80" S ; 178° 01' 41.31" E

Co-ordinates of boundaries of the Buffer Zone—marked in green

NE Corner: 18° 17' 27.61" S ; 177° 59' 27.29" E

SE Corner: 18° 19' 04.70" S ; 177° 59' 58.63" E

NW Corner: 18° 16' 37.47" S ; 178° 02' 15.79" E

SW Corner: 18° 18' 21.01" S ; 178° 02' 59.72" E