



**SAINT LUCIA**

## **CHAPTER 16.01**

# **NATIONAL INSURANCE CORPORATION ACT**

**Revised Edition**

Showing the law as at 31 December 2005

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

**NATIONAL INSURANCE CORPORATION ACT**

Act 18 of 2000.. in force 1 January 2000

**NATIONAL INSURANCE REGULATIONS – Section 91**

Statutory Instrument 22/2003 in force 3 March 2003



## CHAPTER 16.01

### NATIONAL INSURANCE CORPORATION ACT

#### ARRANGEMENT OF SECTIONS

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#### Section

<b>PART 1</b>	<b>7</b>
<b>PRELIMINARY</b>	<b>7</b>
1. Short title.....	7
2. Interpretation.....	7
 <b>PART 2</b>	 <b>11</b>
<b>ESTABLISHMENT AND ADMINISTRATION OF THE NATIONAL INSURANCE FUND AND THE NATIONAL INSURANCE CORPORATION</b>	<b>11</b>
3. Establishment of National Insurance Fund.....	11
4. Establishment of National Insurance Corporation .....	12
5. National Insurance Board.....	13
6. Minister's powers and Board's duty to give advice and submit annual reports.....	14
7. Committees of the Board .....	14
8. Validity of Board's actions and protection of members .....	15
9. Power of Board to enter into arrangements with public authorities .....	15
10. Appointment, duties and powers of Director .....	16
11. Termination of Director's appointment and resignation .....	16
12. Deputy Director .....	17
13. Board to appoint Secretary .....	17
14. Inspectors .....	17
15. Appointment of other officers .....	18
16. Appointment of Legal, Medical Officers and other Advisors.....	19
17. Transfers from the Public Service and vice versa .....	19
18. Declaration of secrecy.....	20
19. Present employees retained .....	20
 <b>PART 3</b>	 <b>20</b>
<b>FINANCE</b>	<b>20</b>
20. Investment Committee .....	20
21. Investment of surplus moneys .....	21
22. Accounts and financial statements.....	21
23. Board to submit financial statement for laying before the House .....	22
24. Actuarial review.....	22

25.	Approval of borrowing by Minister and of the House for guarantee of any borrowing .....	22
-----	---	----

## **PART 4** **23**

### **INSURED PERSONS AND CONTRIBUTIONS** **23**

26.	Persons insured .....	23
27.	Regulations for persons not falling under section 26 .....	24
28.	Liability to make deductions and contributions .....	25
29.	Exceptions from liability to make contribution .....	25
30.	Regulations for contributions and exemptions .....	25
31.	Liability of person providing employees to others .....	26
32.	Deductions from wages .....	26
33.	Payment of contributions .....	26
34.	Surcharge for late payment .....	27
35.	Crediting of unpaid contributions .....	27
36.	Employment by more than one employer .....	28
37.	Contributions and other payments where benefit drawn .....	28
38.	Contributions or benefits to be inalienable .....	28
39.	Regulations relating to payment and collection of contributions .....	28
40.	Contributions exempt from Income Tax Act .....	29

## **PART 5** **29**

### **BENEFITS** **29**

41.	Benefits .....	29
42.	Entitlement to benefit .....	30
43.	Contribution credits during receipt of short-term benefit .....	30
44.	Conditions for sickness benefit .....	31
45.	Conditions for invalidity benefit .....	32
46.	Calculation of day of incapacity for work .....	34
47.	Regulations for sickness and invalidity benefits .....	34
48.	Maternity grant and allowance .....	35
49.	Entitlement to maternity allowance .....	35
50.	Regulations for maternity allowance .....	36
51.	Calculation of daily rate of maternity allowance .....	37
52.	Unmarried woman and maintenance under Affiliation Act .....	37
53.	Hospitalisation grant .....	38
54.	Scheme of medical insurance .....	38
55.	Survivor's benefit .....	38
56.	Survivor's pension and grant .....	39
57.	Regulations relating to survivor's benefits .....	39
58.	Matters affecting entitlement to age pension .....	39
59.	Entitlement to age grant .....	40
60.	Regulations concerning age pensions and grants .....	40
61.	Funeral grant .....	40
62.	Employment injuries .....	41
63.	Presumptions regarding employment injury .....	41
64.	Conditions where employment injury benefit not payable .....	42
65.	Regulations for employment Injury .....	42

## **PART 6** **43**

### **PUBLIC OFFICERS AND EMPLOYEES OF STATUTORY BOARDS** **43**

66.	Regulations for treating public servants as insured persons .....	43
-----	---	----

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 Revision Date: 31 Dec 2005

67.	Modification or repeal of Public Service Pension Scheme .....	43
<b>PART 7</b>		<b>44</b>
<b>MARINERS AND AIRCRAFT PERSONNEL</b>		<b>44</b>
68.	Regulations for mariners and aircraft personnel .....	44
69.	Regulations re wives or widows of mariners and aircraft personnel.....	45
<b>PART 8</b>		<b>46</b>
<b>REGISTRATION OF BENEFICIARIES</b>		<b>46</b>
70.	Application for registration.....	46
<b>PART 9</b>		<b>47</b>
<b>AGREEMENTS WITH FOREIGN GOVERNMENTS</b>		<b>47</b>
71.	Reciprocal agreements with other countries .....	47
<b>PART 10</b>		<b>47</b>
<b>EXEMPTED SCHEMES</b>		<b>47</b>
72.	Regulations for exempted schemes .....	47
<b>PART 11</b>		<b>48</b>
<b>ADJUDICATION AND LEGAL PROCEEDINGS</b>		<b>48</b>
73.	Adjudication and appeals.....	48
74.	Unpaid contributions to rank as privileged debt .....	50
75.	Joint liability of firm and officers .....	50
76.	Certified copy as evidence .....	50
77.	Civil proceedings.....	51
78.	Execution and enforcement of judgement in certain circumstances .....	51
79.	Garnishment .....	51
80.	Joint liability of third parties in civil proceedings.....	52
81.	Recovery by way of distress warrant .....	53
82.	Offences and penalties .....	53
83.	Recovery of contributions in proceedings under this Act.....	55
84.	Proceedings against employer for benefit lost by default.....	56
85.	Disclosure of information by Inland Revenue Department .....	57
86.	Proceedings to be in Director's name or person authorised.....	57
<b>PART 12</b>		<b>58</b>
<b>MISCELLANEOUS PROVISIONS</b>		<b>58</b>
87.	Members of Board, Tribunal or Investment Committee not disqualified from membership of Parliament .....	58
88.	Exemption from taxes .....	58
89.	Private schemes .....	58
90.	Assessment of damages against employer.....	58
91.	Regulations .....	59
92.	Power to remove difficulties .....	60
93.	Savings .....	60

<b>SCHEDULE 1</b>	<b>61</b>
<b>SCHEDULE 2</b>	<b>62</b>
<b>SCHEDULE 3</b>	<b>63</b>
<b>SCHEDULE 4</b>	<b>64</b>
<b>SCHEDULE 5</b>	<b>65</b>

## CHAPTER 16.01

### NATIONAL INSURANCE CORPORATION ACT

(Act 18 of 2000)

AN ACT to establish the National Insurance Corporation to govern and regulate national insurance.

Commencement [1 January 2000]

#### PART 1 PRELIMINARY

##### 1. SHORT TITLE

This Act may be cited as the National Insurance Corporation Act.

##### 2. INTERPRETATION

(1) In this Act—

“**beneficiary**” means a person entitled to a benefit or to whom a benefit is payable under this Act;

“**benefit**” includes any benefit, grant, allowance or pension payable under this Act;

“**Board**” means the National Insurance Board established by section 5;

“**business**” includes a profession, calling, trade, manufacture, adventure or concern in the nature of trade and an undertaking of any kind whatever; but does not include an office or employment;

“**chairperson**” means the chairperson of the Board or Investment Committee as the context requires;

“**child**” in relation to an insured person, includes a step child, an adopted child and any other child whether legitimate or not, under the age of 16 and wholly or partly maintained by the insured;

“**claimant**” means a person claiming a benefit under this Act;

“**contribution**” means the contribution of the employee or employer as the case may be, payable under this Act;

“**contribution period**” means—

- (a) in respect of an employee paid at intervals of a week or less, the week in which wages are paid;
- (b) in respect of an employee paid at intervals of more than one week but not more than a fortnight, the fortnight ending with the last day of the week in which wages are paid;
- (c) in respect of an employee paid at intervals of more than a fortnight, the month in which wages are paid;

“**contributor**” means a person who has made a prescribed contribution under this Act;

“**Corporation**” means the National Insurance Corporation established under section 4;

“**Director**” means the person charged with the responsibility of administering this Act or any person appointed to act in that position;

“**deduct**” includes withhold;

“**disease**” includes personal injury not caused by accident and any condition which has resulted from such injury;

“**disablement**” means a loss of capacity for any of the ordinary activities of life;

“**earnings**” include any remuneration or profit derived from employment, and “**earner**” shall be construed correspondingly;

“**employment**” includes a trade, business, profession, office and vocation;

“**employment injury**” means any disablement or personal injury or fatality arising out of and in the course of employment and any personal injury caused by any prescribed disease, being a disease due to the nature of employment and developed on or after the appointed day;

“**employment injury benefit**” includes medical care and treatment as well as periodical payments or payment of a lump sum as prescribed in respect of employment injury;



“**employer**” means the person or body corporate with whom an employee has entered into a contract of service or apprenticeship, express or implied and who is liable to pay salary, wages or other remuneration for services performed;

“**exempted scheme**” means a scheme exempted from the provisions of the repealed National Provident Fund Act, 1970;

“**financial year**” means the period from 1 July in any year to 30 June the following year or such other period of 12 months as may be prescribed;

“**Fund**” means the National Insurance Fund established by section 3;

“**functions**” include powers and duties;

“**incapacity for work**” means incapacity to engage in gainful occupation by reason of some specific disease or bodily or mental disablement, or deemed in accordance with regulations to be so incapable;

“**inspector**” means any person appointed by the Board to perform the functions of an inspector under this Act;

“**insurable employment**” means any employment except such employment as are exempt under this Act;

“**insured person**” means a person registered and insured for any benefit payable under this Act;

“**Investment Committee**” means the Investment Committee established under section 20;

“**long term benefit**” includes retirement, invalidity, disablement and survivor’s benefit and any other benefit prescribed as such;

“**loss of faculty**” means the partial or total loss of the normal use of an organ or part of the body or the destruction or impairment of any bodily or mental function, including disfigurement whether or not accompanied by any disablement;

“**medical treatment**” includes medical, surgical or rehabilitative treatment; any course of diet or other

regimen; and the supply of medical and surgical appliances;

“**Minister**” means the Minister responsible for the National Insurance Corporation;

“**National Provident Fund Board**” means the Board established under the repealed National Provident Fund Act, 1970;

“**national insurance card**” means a national insurance card duly numbered and issued to an insured person; or a card substituted for the national insurance card;

“**national insurance number**” means the national insurance number assigned to an insured person under this Act;

“**pensionable age**” means the age of 60 years or such other age as may be fixed by the Minister under section 58(4);

“**prescribed**” means as provided for by this Act or by a statutory instrument made under this Act;

“**public service pension scheme**” means any pension or provision for the pension of any member of the civil service or of any statutory body whether contributory or not, provided for by law or otherwise;

“**salary**” has the same meaning as the expression “wages” in this Act;

“**short term benefit**” includes sickness and maternity benefit; and any other benefit prescribed as such;

“**survivor**” means any person who on the death of an insured person may be entitled to a benefit under this Act;

“**wages**” mean remuneration in money paid to an employee under a contract of service or apprenticeship as the case may be, and whether or not agreed to be paid at fixed or determined intervals of time in respect of—

- (a) fixed periods of work to be performed by the employee;
- (b) the number of tasks completed by the employee where payment is calculated in relation to any tasks; or

(c) the volume of work completed by an employee, where payment is calculated in relation to the volume of work done; and

any allowance payable by the employer to the employee whether directly, indirectly or by implication;

“**work**” includes piece work.

- (2) For the purpose of this Act, a person is considered to be over or under any age mentioned according to whether he or she has or has not attained the mentioned age, and a person shall be deemed to be between 2 ages mentioned if he or she has attained the first mentioned age but has not attained the second mentioned age.

## **PART 2**

### **ESTABLISHMENT AND ADMINISTRATION OF THE NATIONAL INSURANCE FUND AND THE NATIONAL INSURANCE CORPORATION**

#### **3. ESTABLISHMENT OF NATIONAL INSURANCE FUND**

- (1) There shall be established a Fund to be called the National Insurance Fund into which shall be paid—
- (a) all contributions;
  - (b) all rents, interest, dividends or other income derived from the assets of the Fund;
  - (c) all sums recovered under this Act as fines, fees, penalties, surcharges or costs;
  - (d) all sums properly accruing to the Fund under this Act, including the repayment of benefit;
  - (e) such other sums as may be provided by Parliament for the purposes of this Act or as may be received and accepted by the Board on behalf of the Fund;
  - (f) all assets and all other funds held in trust or otherwise by the National Provident Fund Board;
  - (g) any sums transferable to the Fund from any exempted scheme under this Act.
- (2) There shall be paid out of the Fund—

- (a) all benefits;
- (b) refunds of contributions;
- (c) all salaries, rents, expenses and allowances properly incurred in the administration of this Act;
- (d) all liabilities incurred by the National Provident Fund Board;
- (e) any expenditure considered by the Director to be necessary for the training or welfare of the officers or employees, including loans, and facilities for leisure or recreation;
- (f) any sums expended for carrying out any surveys or research for the purpose of gathering any data which the Director considers necessary for the performance of the functions of the Corporation under this Act;
- (g) such sums as the Board may apportion out of the income from its investments for giving assistance to the aged, disabled or needy persons, although such persons are not contributors under this Act;
- (h) any fees, subscriptions or sums for membership, affiliation or contribution to or in any local, regional or international body concerned with national insurance,
- (i) all other moneys which the Director may consider to be reasonable and necessary for the proper and efficient performance of the functions of the Corporation;
- (j) any other payments authorised under this Act.

#### **4. ESTABLISHMENT OF NATIONAL INSURANCE CORPORATION**

- (1) The body corporate constituted under section 4(1) of the repealed National Insurance Act, 1978, as the National Insurance Board is preserved and continues in existence as a body corporate for the purposes of this Act but is to be known on the coming into force of this Act, as the National Insurance Corporation.
- (2) The corporate identity and the rights and obligations of the body corporate are not affected by the change of name.
- (3) The Corporation shall take over, manage, maintain and discharge all assets, liabilities and obligations including all

actionable claims held or incurred by the National Provident Fund Board.

- (4) The Corporation shall be a body corporate with perpetual succession and a common seal and shall in the corporate name be capable of entering into contracts, of suing and of being sued, of purchasing or otherwise acquiring, holding, leasing, charging, alienate real or personal property, of lending or borrowing money, and of doing or performing all such acts as bodies corporate may by law do or perform.
- (5) The Corporation shall have a Head Office in the City of Castries and may establish other offices within the State as they consider desirable.
- (6) Service on the Corporation of any notice, order or other document shall be executed by delivering or by sending the same by registered post addressed to the Director, at the Head Office of the Corporation.
- (7) All deeds and agreements relating to the property assets or monies of the Fund shall be signed and sealed by the Board under a resolution and shall be authenticated by the signature of the chairperson and Director or of such other person as the Board may appoint.
- (8) The Seal of the Corporation shall be kept in the custody of the Director and shall not be affixed to any instrument except by a resolution of the Board, and the sealing of any instrument shall be authenticated in the manner described in subsection (7).
- (9) The Corporation shall be responsible for administering the Fund in accordance with this Act.

## **5. NATIONAL INSURANCE BOARD**

- (1) There shall be a National Insurance Board which shall be the governing body of the Corporation with authority, in the name of the Corporation, to exercise and perform the functions conferred on the Corporation under this Act.
- (2) Schedule 1 has effect as regards the constitution and proceedings of the Board.

- (3) The members of the Board shall be paid out of the Fund such remuneration, expenses and allowances as the Minister may approve.

## **6. MINISTER'S POWERS AND BOARD'S DUTY TO GIVE ADVICE AND SUBMIT ANNUAL REPORTS**

- (1) The Board shall consider and advise the Minister on all matters referred to it by him or her and shall give him or her such information as he or she may require regarding the operations of the Corporation.
- (2) The Minister may give to the Board such general directions with regard to the Board's functions under this Act as appear to him or her to be requisite in the public interest and the Board shall give effect to any such directions.
- (3) The Board shall render annual reports to the Minister who shall, as soon as possible thereafter, lay a copy before Parliament.

## **7. COMMITTEES OF THE BOARD**

- (1) The Board may appoint a committee to examine and report to the Board on any matter arising out of any of its functions under this Act.
- (2) A committee appointed under subsection (1) shall include not fewer than 2 members of the Board, and may include persons who are not members of the Board.
- (3) Subject to this Act, the composition and functions of a committee of the Board shall be determined by the Board.
- (4) The Board may delegate to any member or Committee of the Board or to the Director or any officer of the Board, the power to carry out on its behalf, such functions under this Act as the Board may determine.
- (5) Every delegation under this section shall be revocable by the Board and no such delegation shall prevent the exercise by the Board of any delegated function.

## **8. VALIDITY OF BOARD'S ACTIONS AND PROTECTION OF MEMBERS**

- (1) The validity of any act done or proceedings taken under this Act shall not be questioned on the ground of—
  - (a) the existence of any vacancy in the membership, or of any defect in the constitution of the Board;
  - (b) the contravention by a member of the Board of paragraph 15 of Schedule 1; or
  - (c) any omission, defect or irregularity not affecting the merits of any act done by the Board.
- (2) Personal liability shall not attach to any member of the Board in respect of anything done or omitted in good faith under the provisions of this Act; and any sum of money, damages or costs which may be recovered against any such member in respect of any act or thing done or omitted in good faith under this Act shall be paid out of the funds and resources of the Fund.
- (3) The actions outlined in Schedule 4 and taken by the Board prior to the commencement of this Act which said actions had the express or implied effect of causing a variation to any provision under the repealed Act, and were taken for the purpose of maintaining the viability of the Fund, is deemed to have been of valid legal effect.

## **9. POWER OF BOARD TO ENTER INTO ARRANGEMENTS WITH PUBLIC AUTHORITIES**

- (1) The Board may with the consent of Cabinet enter into any arrangement with any government department or any statutory or public body for the registration of insured persons or for the issue or substitution of national insurance cards or for the payment of any benefits or for the performance of any of the Board's functions under this Act.
- (2) Subject to this Act the Board shall have power by resolution to provide for all matters of administration and procedure in the exercise of its functions under this Act.

**10. APPOINTMENT, DUTIES AND POWERS OF DIRECTOR**

- (1) The Board shall with the approval of the Minister appoint a fit and proper person to be the Director of the Fund, who shall be the Chief Executive Officer of the Fund and who shall, subject to this Act, and the general direction of the Board, be responsible for the management of the staff of the Board and for the administration of the Fund and in particular—
  - (a) the assessment of contributions under this Act and for the collection and payment of contributions and other moneys into the Fund;
  - (b) the payment out of the Fund of the various benefits under this Act, and of the expenditure necessary for the proper administration of the Fund;
  - (c) accounting for all moneys collected, paid or invested under this Act;
  - (d) the investment of surplus monies in the Fund as directed by the Board on the advice of the Investment Committee.
- (2) The Director may, in relation to any matter or class of matters under this Act, by writing under his or her hand delegate to any employee of the Corporation any of his or her functions under this Act except his or her power of delegation under this section.
- (3) Every delegation under this section shall be revocable at any time and shall not prevent the performance by the Director of any such delegated function.

**11. TERMINATION OF DIRECTOR'S APPOINTMENT AND RESIGNATION**

- (1) The Board may with the approval of the Minister, terminate the appointment of the Director for inability to exercise the functions of his or her office (whether arising from infirmity of mind or body or from any other cause) or for misconduct.
- (2) The Director may resign his or her office by giving to the Board 3 months notice in writing or such shorter period as the Board may in its discretion agree to accept, of his or her intention so to do and at the expiration of such period, the Director shall be deemed to have resigned his or her office.



**12. DEPUTY DIRECTOR**

- (1) The Board may appoint a fit and proper person to be Deputy Director.
- (2) The Deputy Director shall assist the Director in the performance of his or her duties under this Act.
- (3) On the occurrence of a vacancy in the office of Director (whether caused by death, resignation or otherwise) and in the case of illness, absence or temporary incapacity of the Director (from whatever cause arising) and so long as such vacancy, illness, absence or temporary incapacity continues, the Deputy Director shall have and exercise all the functions of the Director.
- (4) Where the Deputy Director exercises any functions as aforesaid it shall be sufficient evidence of authority so to do and a person shall not inquire whether the occasion has arisen requiring or authorising him or her to do so.

**13. BOARD TO APPOINT SECRETARY**

- (1) The Board shall appoint a fit and proper person to be Secretary to the Board.
- (2) The Secretary shall perform such duties as are normally assigned to and consistent with the post of a Corporate Secretary.

**14. INSPECTORS**

- (1) The Board may appoint or designate such officers in its service as it thinks fit to be inspectors for the purpose of this Act.
- (2) The Director and the Deputy Director shall have the powers of and may perform the functions of an inspector.
- (3) Every inspector shall be furnished with an identification card and on entering any premises or place of business for the purposes of this Act, shall produce the identification card.
- (4) An inspector shall, for the purposes of this Act, have power to—

- (a) enter at all reasonable hours, any premises or places where he or she has reasonable grounds for believing that any persons are employed;
  - (b) make such examination, inspection, and inquiry as may be necessary for ascertaining whether the provisions of this Act are being or have been complied with in any such premises or places;
  - (c) require the production of any document relating to contributions or liability to make contributions;
  - (d) examine either alone or in the presence of any other person any matters under this Act, every person whom he or she finds in any such premises or places or whom he or she has reasonable cause to believe can give information regarding the subject matter of the enquiry, (and require such person to be examined) and for the purpose of such examination may summon any such person to attend at a given time at any office of the Corporation.
- (5) The occupier of any such premises or place liable to inspection under this section and any other person who is or has been employing any person and the servants or agents of any such occupier or other person and any employed person shall furnish an inspector with all such information and shall produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are payable or have been duly paid by or in respect of any person or whether any benefit is or was payable to or in respect of any person.
- (6) A person shall not be required under this section to answer questions or give evidence tending to incriminate himself or herself.
- (7) This section does not authorise entry of any premises or place occupied by a department or office of the Government without prior permission by the Head of the department or office concerned.

## 15. APPOINTMENT OF OTHER OFFICERS

- (1) The Director may, with the approval of the Board appoint on such terms and conditions as he or she sees fit such other officers as are necessary for the administration of this Act.

- (2) Every person appointed under this section shall perform such duties as may be assigned to him or her by the Director.

## **16. APPOINTMENT OF LEGAL, MEDICAL OFFICERS AND OTHER ADVISORS**

The Board may appoint upon such terms and conditions as it considers fit, a legal advisor, a medical officer or any other advisor or person whom the Board considers necessary for the purpose of this Act.

## **17. TRANSFERS FROM THE PUBLIC SERVICE AND VICE VERSA**

- (1) The Public Service Commission may approve the transfer of any officer from the Public Service to the service of the Corporation and vice versa.
- (2) The Board may approve the transfer of any officer in its service to the service of any other statutory authority and vice versa.
- (3) Where a transfer has been approved under this section, arrangements shall be made by the Minister, the Corporation or the statutory body as the case may be, to pay to the body receiving the service of such officer, such contributions as may be provided for by regulations or otherwise in respect of pensions and gratuities and any such regulations may provide for different categories of officers.
- (4) When an officer of the Corporation is on transfer from the Public Service, the Corporation shall make arrangements with the Government for the preservation of the pension rights of such officers.
- (5) Arrangements made under subsection (4) shall in appropriate cases include the payment from the Fund into the general revenue of the State such amounts as in the opinion of the Minister approximately represent the accruing liability for the sums which will become payable out of moneys provided by Parliament for the relevant pension benefits.
- (6) For the purpose of the Pensions Act service with the Corporation shall be deemed to be "other public service" as though the Corporation were one of the Scheduled Governments listed in Schedule 1 to the Pensions Regulations.

**18. DECLARATION OF SECRECY**

- (1) Every person employed or having any official duty under this Act shall regard and deal with all documents and information pertaining in any manner to the affairs of the Fund and the Corporation as secret and confidential and shall, if so required by the corporation, make and subscribe to a declaration of secrecy in the form prescribed, before a magistrate.
- (2) Except as otherwise provided herein the provisions of section 18(1) of the Interpretation Act shall apply to every person appointed under this Part.

**19. PRESENT EMPLOYEES RETAINED**

The persons appointed or employed by the National Provident Fund Board and the National Insurance Board on the day of the coming into force of this act shall retain their respective appointments and shall be subject to the provisions of this Act.

**PART 3  
FINANCE****20. INVESTMENT COMMITTEE**

- (1) There shall be for the purposes of this Act an Investment Committee which shall consist of 5 members to be appointed by the Minister as follows—
  - (a) an officer of the Ministry of Finance nominated by the Minister which officer shall be appointed chairperson;
  - (b) an employee of the Corporation other than the Director;
  - (c) two other members who appear to the Minister to be experienced in finance, accountancy, business administration, industrial relations and other related subjects; and
  - (d) the Director.
- (2) The Investment Committee shall have a quorum of 3 members.
- (3) The Investment Committee shall meet at such times and places as the chairperson shall appoint, or upon the request of any 2 members of the Committee.

- (4) The Investment Committee shall appoint its own deputy chairperson and regulate its procedure at its meetings.
- (5) The members of the Investment Committee shall hold office for a term not exceeding 3 years and shall be eligible for re-appointment.
- (6) In the absence of the Director, the Deputy Director shall attend any meeting and in such a case he or she shall be deemed to be a member of the Investment Committee.

## **21. INVESTMENT OF SURPLUS MONEYS**

- (1) The Investment Committee shall have power to give general or specific directions to the Board, on the investment of moneys in the Fund which are surplus to current needs; and the Director shall give to the Investment Committee any information necessary for the proper discharge of its functions.
- (2) Subject to any general or specific direction of Cabinet the surplus moneys in the Fund may be invested in any of the following—
  - (a) the acquisition and development of land;
  - (b) the purchase, construction and rental of buildings;
  - (c) loans,
  - (d) government bonds and securities;
  - (e) shares and debentures in bodies corporate.
- (3) The Investment Committee shall submit to the Board at the end of every quarter a report of its activities over the preceding quarter.

## **22. ACCOUNTS AND FINANCIAL STATEMENTS**

- (1) Accounts shall be kept of all moneys in the Fund in accordance with international accounting standards and shall be audited annually by independent, qualified and experienced auditors appointed by the Board.
- (2) Within 3 months of the end of the financial year, the Director shall submit to the Board a report of the following in respect of the financial year—
  - (a) an account of the income and expenditure of the Fund;

- (b) an account of contributions received and benefits paid;
  - (c) a statement of assets and liabilities of the Fund;
  - (d) a statement of account of the securities in which moneys forming part of the Fund are invested;
  - (e) the auditors report and recommendations.
- (3) Not later than 2 months prior to the end of the financial year, the Director shall submit to the Board, estimates of the Board's expenditure for the succeeding financial year.

### **23. BOARD TO SUBMIT FINANCIAL STATEMENT FOR LAYING BEFORE HOUSE**

The Board shall submit to the Minister not later than 3 months after its receipt a copy of the accounts and reports under section 22, together with a report by the chairperson of the activities of the Corporation for the same period, and the Minister shall, within 3 months of its receipt, lay the same before the House of Assembly.

### **24. ACTUARIAL REVIEW**

- (1) The Board shall, with the assistance of an actuary approved by the Minister, review the operations of this Act at the end of the year 2000 and thereafter not later than every fifth year, and, in such review, make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of the contributions payable under this Act to support the benefits payable thereunder, having regard to other liabilities under this Act.
- (2) The Minister shall, as soon as possible after receiving any report made under the preceding subsection, lay a copy of it before the House of Assembly.

### **25. APPROVAL OF BORROWING BY MINISTER AND OF THE HOUSE FOR GUARANTEE OF ANY BORROWING**

- (1) Subject to the approval of the Minister of Finance the Corporation may borrow money for any of its functions under this Act.

- (2) With the approval of the House of Assembly, signified by a resolution, the Minister of Finance may guarantee any approved borrowing by the Corporation.
- (3) A borrowing guaranteed under this section shall in default of payment by the Corporation be charged on the Consolidated Fund.

## **PART 4**

### **INSURED PERSONS AND CONTRIBUTIONS**

#### **26. PERSONS INSURED**

- (1) Subject to this Act a person who—
  - (a) is between the ages of 16 and 60;
  - (b) is engaged in insurable employment;
  - (c) is registered in the prescribed manner under this Act;
  - (d) has fulfilled such conditions as may be prescribed as to domicile or residence in Saint Lucia; or
  - (e) is in employment outside Saint Lucia under such conditions as shall be prescribed,

is an insured person in respect of the several contingencies in relation to which benefits are provided under this Act, and shall remain so insured until he or she satisfies the conditions for retirement.
- (2) A person who on the appointed day was a member of the National Provident Fund, established under the repealed National Provident Fund Act, 1970, is an insured person under this Act.
- (3) The Minister may make regulations to provide for the treating of the following categories as insurable employment—
  - (a) any category of employment which, though not employment under a contract of service, is subject to such conditions as to make it similar to employment under a contract of service;
  - (b) any employment outside Saint Lucia in continuation of any insurable employment;

- (c) employment outside Saint Lucia of a person domiciled or having a place of residence in Saint Lucia, being employment as a member of the diplomatic or consular service of the diplomatic or consular service of Saint Lucia or as a domestic worker employed by a member of such service.
- (4) The following categories shall be treated as insurable employment unless otherwise provided in regulations—
  - (a) employment which is of a casual or subsidiary nature or in which the person concerned is engaged only to an inconsiderable extent;
  - (b) employment as a relative or partner in the service of or for the purpose of trade or business, of the employer or person concerned;
  - (c) such employment in the service of, or in the service of a person employed with such international organisations or countries (other than Saint Lucia) as may be prescribed.
- (5) The Minister may make regulations to provide for treating a person's employment as continuing during periods of holiday, incapacity for work or such other circumstances as may be prescribed.

## **27. REGULATIONS FOR PERSONS NOT FALLING UNDER SECTION 26**

- (1) The Minister may make regulations to provide for treating as an insured person under this Act—
  - (a) a person under 16 years of age;
  - (b) a person over 60 years of age;
  - (c) a self-employed person;
  - (d) a person who though not liable under this Act to pay contributions, wishes to do so voluntarily.
- (2) Any such regulations may provide for such modifications of this Act as may be necessary for the purpose of giving effect to this section.



**28. LIABILITY TO MAKE DEDUCTIONS AND CONTRIBUTIONS**

- (1) Subject to this Act, both employers and insured persons are liable to pay contributions.
- (2) An employer shall deduct from the wages of an insured person employed by him or her for the relevant contribution period and shall also make a contribution, in respect of such wages in the manner specified in Schedule 2.

**29. EXCEPTIONS FROM LIABILITY TO MAKE CONTRIBUTION**

Section 28 does not impose liability on an employer to pay into the Fund in respect of an employee included in any of the categories listed in Schedule 3.

**30. REGULATIONS FOR CONTRIBUTIONS AND EXEMPTIONS**

The Minister may on the advice of the Board by regulations provide for—

- (a) the fixing of the rates of contributions to be paid by insured persons and employers, including the rates of contributions to be paid by different categories of insured persons and employers as prescribed;
- (b) exempting insured persons from liability to pay contributions for such periods as he or she considers necessary and in particular for periods—
  - (i) of incapacity for work, or
  - (ii) of full-time unpaid apprenticeship;
- (c) crediting contributions to insured persons for periods for which such persons are exempted under paragraph (b) and for such other periods as he or she may consider necessary;
- (d) fixing the maximum salary or wages on which deduction may be made in Schedule 3;
- (e) fixing the prescribed conditions for any benefit under this Act or the regulations;

**31. LIABILITY OF PERSON PROVIDING EMPLOYEES TO OTHERS**

Where any person agrees with another person to provide employees to such other person for any lawful purpose, such employees shall, unless the Director otherwise decides, be deemed for the purpose of this Act to be in the employment of the first mentioned person.

**32. DEDUCTIONS FROM WAGES**

- (1) Subject to this Act any deductions from wages shall be made at the time when the wages are paid to an employee.
- (2) Subject to such conditions as may be prescribed, where for any reason the employer fails to deduct an employee's contributions at the time of payment of such wages, he or she may, within 6 months thereafter, make any deductions in one amount or by instalments as the employee may agree over any period not exceeding 6 months, in respect of the amount which was omitted to be deducted.
- (3) Where an employee dies during a contribution period, no contribution shall be payable from his or her wages or by an employer for the contribution period and any such contribution if deducted and paid to the Fund shall be dealt with as decided by the Director.
- (4) Where an employer deducts contributions from the wages of employees under this section, the contribution is held by the employer in trust for the purpose of this Act and the failure of the employer to pay the contributions to the Fund is an offence.
- (5) This section does not authorise an employer to deduct or recover the employer's contribution from the wages of any employee, and despite any contract to the contrary any such deductions or recovery by an employer is an offence.
- (6) The Protection of Wages Act or any other enactment, does not affect any deduction from the wages of an employee under this Act.

**33. PAYMENT OF CONTRIBUTIONS**

- (1) Subject to this Act, every employer shall pay to the Fund in respect of each employee at the end of each contribution period,

as contributions for the relevant period the several amounts for employers and employees set out in Schedule 2.

- (2) Except where regulations otherwise provide, an employer liable to make deductions and to pay contributions in respect of the wages of an insured person employed by him or her is liable to pay into the Fund on behalf of such person any deductions and contributions payable in respect of such person for the relevant contribution period and for the purposes of this Act, any contributions so paid by an employer on behalf of such person are contributions paid by such person.

#### **34. SURCHARGE FOR LATE PAYMENT**

- (1) Where any contributions which an employer is liable to pay under this Act are not paid within the time prescribed, the employer is liable to pay a surcharge on the total amount of the contribution not so paid to the Fund at the rate of 1.25% or such other rate as may be prescribed in respect of each month or part of a month after the expiration of the date when payment should have been made.
- (2) Despite subsection (1), the Director may in any case in which he or she thinks fit, remit in whole or in part, the payment of any surcharge due under this Act.

#### **35. CREDITING OF UNPAID CONTRIBUTIONS**

- (1) Where an employer fails to pay any contributions which he or she is required to pay under this Act, the Director may, if satisfied that such failure was not due to the consent or connivance of the employee, credit to the employee the amount of the contributions which should have been paid in respect of that employee and shall charge the amount so credited to the general expenditure of the Fund.
- (2) Subsection (1) does not prejudice the right of the Director to recover the amount of such contributions together with any surcharge due under this Act from the employer, and any such amount is recoverable as a debt owed by the employer to the Fund and when so recovered shall be credited to the general revenue of the Fund.

**36. EMPLOYMENT BY MORE THAN ONE EMPLOYER**

When an employee is employed successively or concurrently in a contribution period by more than one employer, each employer is liable to pay, to the Fund, contributions with respect to the wages paid by each employer to the employee.

**37. CONTRIBUTIONS AND OTHER PAYMENTS WHERE BENEFIT DRAWN**

Nothing contained herein shall relieve an employer from—

- (a) liability to continue to contribute to the Fund in respect of any employee who has previously or who is in receipt of a benefit from the Fund, and who is under pensionable age;
- (b) the obligation to pay any salary to an employee who is in receipt of a benefit under this Act, where the employee's wage agreement provides for such payment during periods of incapacity for work.

**38. CONTRIBUTIONS OR BENEFITS TO BE INALIENABLE**

- (1) Subject to this Act, no contribution to the Fund nor any benefits paid or payable out of the Fund, nor any rights of any insured person shall be assignable or transferable or liable to be attached, seized, sequestered or levied upon for or in respect of any debt or claim whatsoever and any security or pledge or assignment given before or after the coming into force of this Act in respect of contributions paid by or benefits due to an insured person shall be void.
- (2) The bankruptcy of an employee or employer shall not affect the deductions of contributions due under this Act.

**39. REGULATIONS RELATING TO PAYMENT AND COLLECTION OF CONTRIBUTIONS**

The Minister may make regulations to provide for—

- (a) the registration of employers and employees;
- (b) the issue of national insurance cards, their substitution and numbers;
- (c) the payment and collection of contributions;

- (d) treating, for the purpose of any right to benefit, contributions paid after the due dates, as paid on such dates as may be prescribed or as not having been paid;
- (e) treating for the purpose of any right to benefit, contributions payable by an employer on behalf of an insured person as paid, where the failure to pay is shown not to have been with the consent or connivance of or attributable to any negligence on the part of such person;
- (f) for the return of contributions paid in error;
- (g) the maintenance by employers of records of the payment of contributions;
- (h) treating any prescribed person as the employer where an insured person works under the general control or management of some person other than his or her immediate employer, including the adjustment of any rights or liabilities amongst the prescribed employer, the immediate or other employer and the insured person;
- (i) for any other matters incidental to the collection and payment of contributions under this Act.

#### **40. CONTRIBUTIONS EXEMPT FROM INCOME TAX ACT**

Contributions paid under this Act by employees and employers shall be allowable deductions under the Income Tax Act.

### **PART 5 BENEFITS**

#### **41. BENEFITS**

Benefits under this Act comprise—

- (a) sickness benefit;
- (b) invalidity benefit;
- (c) maternity benefit, comprising:
  - (i) maternity grant, and
  - (ii) maternity allowance;
- (d) hospitalisation and medical treatment;

- (e) survivors benefit including:
  - (i) widow's allowance,
  - (ii) widower's allowance,
  - (iii) widow's pension,
  - (iv) widower's pension;
  - (v) survivor's grant;
- (f) retirement benefit including:
  - (i) retirement grant,
  - (ii) retirement pension;
- (g) funeral grant;
- (h) employment injury benefit, including disablement benefit and medical expenses.

#### **42. ENTITLEMENT TO BENEFIT**

- (1) Entitlement to any of the benefits described in section 41 depends on the fulfilment of the prescribed conditions, including payment of the prescribed contributions; nevertheless, the Director may grant to an insured person any benefit where it appears to the Director to be expedient to do so, although the prescribed conditions have not been fulfilled.
- (2) In respect of persons insured under section 26(2), the prescribed conditions relating to retirement and invalidity benefits are considered to commence from their date of membership under the repealed National Provident Act, 1970.
- (3) Except where regulations provide otherwise, an insured person not entitled to more than one benefit at any one time.

#### **43. CONTRIBUTION CREDITS DURING RECEIPT OF SHORT-TERM BENEFIT**

Regulations may provide for crediting contributions to an insured person during the period such a person is in receipt of a short-term benefit, to enable him or her to satisfy the prescribed conditions for entitlement to any benefit at a later or subsequent date.

#### ***SICKNESS BENEFIT***

**44. CONDITIONS FOR SICKNESS BENEFIT**

- (1) Subject to this section, an insured person who satisfies the prescribed conditions shall be entitled to sickness benefit in respect of any day of temporary incapacity for work, which forms part of a period of interruption of employment caused otherwise than by employment injury.
- (2) A person claiming for sickness benefit shall make the claim in the prescribed manner and shall satisfy the Director that—
  - (a) he or she is under pensionable age on the day in question;
  - (b) he or she is engaged in insurable employment immediately prior to the day on which incapacity commenced;
  - (c) he or she has paid not less than the prescribed contributions; and
  - (d) he or she has been employed in insurable employment during the prescribed contribution period immediately preceding the month in which the day of the continuous period of incapacity for work occurred.
  - (e) he or she has been certified by a registered medical practitioner as being temporarily incapable of work.
- (3) For the purpose of subsection (2)(e) temporary incapacity for work includes any period during which a person is required to abstain from work because he or she is under medical observation.
- (4) An insured person shall not be entitled to receive sickness benefit for the first 3 days of any period of interruption of employment.
- (5) The Director may for the purposes of this section require the claimant to attend for and submit himself or herself to examination by one or more registered medical practitioners nominated by the Director from a panel of registered medical practitioners approved by the Board.
- (6) Sickness benefit shall be paid for each day as long as the incapacity for work continues, subject to such maximum period as may be prescribed; however, any 2 or more periods of incapacity for work not separated by more than 2 months or such other period as may be prescribed, shall be treated as one

continuous period of incapacity for work starting on the first day of such periods.

- (7) For the purpose of subsection (6) Sunday or such other days in each month (or week) as may be determined by the Director in any particular case or class of cases shall not be treated as a day of incapacity for work and shall be disregarded in computing any period of consecutive days.
- (8) The rate of sickness benefit shall be such percentage of the insured person's relevant earnings as shall be prescribed.
- (9) An insured person who is in receipt of sickness benefit shall be disqualified from receiving such benefit for such period as the Director may decide if—
  - (a) the claimant has become incapable of work through his or her own misconduct;
  - (b) the claimant fails, without good cause, to comply with a notice in writing by the Director requiring him or her to attend for and submit himself or herself to medical examination;
  - (c) the claimant fails, without good cause, to—
    - (i) refrain from any conduct which is likely to retard his or her recovery,
    - (ii) remain at his or her place of residence,
    - (iii) refrain from doing any work for which remuneration is ordinarily payable.

## ***INVALIDITY BENEFIT***

### **45. CONDITIONS FOR INVALIDITY BENEFIT**

- (1) Subject to this section, where, in respect of any period of incapacity for work, not caused by employment injury, an insured person is entitled to sickness benefit, he or she shall cease to be entitled to such sickness benefit for any subsequent period of incapacity for work, if he or she is appropriately certified by a registered medical practitioner to be an invalid; but is entitled to an invalidity pension or grant as the case may be, for so long as the invalidity continues.



- (2) For the purpose of this section, an insured person, who has been certified as an invalid, shall be granted an invalidity pension if he or she—
  - (a) has contributions to his or her credit for the prescribed period prior to becoming an invalid;
  - (b) has not attained pensionable age; and
  - (c) no longer qualifies for sickness benefit.
- (3) If an insured person does not satisfy the conditions under subsection (2), but has been appropriately certified as an invalid, he or she shall receive an invalidity grant.
- (4) The invalidity grant shall be a lump sum payment, equal to the total amount standing to his or her credit in the Fund.
- (5) Invalidity pension shall be at such rate as shall be prescribed of his or her final average salary for so long as the invalidity continues.
- (6) If the invalidity ceases, the contribution taken into account for the purpose of an invalidity grant shall not be applied towards the satisfaction of the contributions for any subsequent claim to benefit of any description except funeral grant.
- (7) All claims to invalidity benefit shall be accompanied by an appropriate medical certificate from a registered medical practitioner or medical board stating the nature of the incapacity, and that the incapacity for work is likely to be permanent; however, the Director may, for such purpose, require the claimant to attend for and submit himself or herself to examination by one or more medical practitioners nominated by the Director from a panel of registered medical practitioners approved by the Board.
- (8) An insured person entitled to receive invalidity pension or grant shall be disqualified from receiving such benefit for such period as the Director may decide, if the claimant fails without good cause—
  - (a) to comply with a notice in writing by the Director requiring him or her to submit himself or herself to medical examination; or
  - (b) to refrain from behaviour calculated to worsen his or her condition or to answer any reasonable enquiries by an

officer of the Corporation, directed to ascertain whether he or she is doing so.

- (9) For the purposes of this section “**sickness benefit**” includes maternity allowance.

#### **46. CALCULATION OF DAY OF INCAPACITY FOR WORK**

For the purpose of any provision of this Act relating to sickness or invalidity benefit a day shall not be treated in relation to any person as a day of incapacity for work—

- (a) unless on that day he or she is deemed, in accordance with the regulations, to be incapable of work by reason of some specific disease or bodily or mental disablement; or
- (b) where in the normal course of his or her employment (which has not been terminated) he or she would not work on that day.

#### **47. REGULATIONS FOR SICKNESS AND INVALIDITY BENEFITS**

The Minister may make regulations to provide for—

- (a) the days which are or are not to be counted for the purpose of sickness benefits, or invalidity benefits, as days of incapacity for work;
- (b) the respective circumstances in which, for the purposes of section 46—
  - (i) employment which has not been terminated may be treated as if it had been terminated, or
  - (ii) a day which falls in a period when a person’s employment is suspended but does not fall to be so treated and which apart from the regulations would not fall to be treated as a day of incapacity for work, may be treated as such a day;
- (c) the period over which average salary shall be computed for payment of invalidity pension;
- (d) the proper and effective administration of sickness and invalidity benefits and related matters.

### ***MATERNITY BENEFITS***

**48. MATERNITY GRANT AND ALLOWANCE**

- (1) A woman is entitled to a maternity grant or allowance in the prescribed sum if she has been confined and either she or her husband satisfies the prescribed contribution conditions.
- (2) In subsection (1), the reference to a woman's husband includes a widow's late husband in the case of a posthumous child.
- (3) Regulations may provide for a woman confined of twins or of a greater number of children to receive a maternity grant for each child.

**49. ENTITLEMENT TO MATERNITY ALLOWANCE**

- (1) A woman is entitled to a maternity allowance in the prescribed sum if she is pregnant and has reached a stage in her pregnancy which is not more than 6 weeks before the week in which it is expected that she will be confined (in this section referred to as the "expected week of confinement").
- (2) Subject to this section, the period for which a maternity allowance is payable shall be the period of 13 weeks, beginning with the 6<sup>th</sup> week before the expected week of confinement, and this shall be the maternity allowance period for the purposes of this section and the relevant contribution conditions.
- (3) A day for which a woman is entitled to a maternity allowance shall be deemed, for the purposes of this Part of the Act to be for her, a day of incapacity for work.
- (4) Maternity allowance shall not be payable in respect of a woman who dies before the beginning of the maternity allowance period, and if she dies after the beginning, but before the end of that period, the allowance shall not be payable for any week subsequent to her death.
- (5) A claim for maternity benefit shall be accompanied—
  - (a) in the case of a claim made prior to the date of confinement, by a certificate issued by a registered medical practitioner as to the expected week of confinement; or
  - (b) in the case of a claim, made subsequent to the date of confinement, by a certificate of a registered medical

practitioner or a registered midwife, obtained not later than one month after the actual date of confinement.

- (6) Despite subsection (5) the Director may accept such other evidence in support of such claims as in his or her opinion the special circumstances of the particular case so justifies.
- (7) An insured person entitled to payment of maternity benefit shall be disqualified from receiving such benefit for such period as the Director may decide if during the maternity allowance period—
  - (a) she does any work in employment as an employed or self-employed earner;
  - (b) she fails, without good cause, to observe any prescribed conditions;
  - (c) she fails, without good cause, to take due care of her health, or to answer any reasonable inquiries by an officer of the Corporation, directed to ascertain whether she is doing so; or
  - (d) she fails, without good cause, to comply with a notice in writing by the Director before her confinement, requiring her to attend for or to submit herself to medical examination by a registered medical practitioner.

## 50. REGULATIONS FOR MATERNITY ALLOWANCE

The Minister may make regulations to provide—

- (a) that a woman who has become entitled to a maternity allowance shall cease to be so entitled if her pregnancy is terminated otherwise than by confinement;
- (b) for extending the maternity allowance period;
- (c) for modifying section 49(2)(b) in relation to cases where a woman has been confined and either—
  - (i) she has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), or
  - (ii) she has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but the date of that

confinement was more than 2 weeks before the expected week of confinement;

- (d) for all other matters appertaining or incidental to maternity benefits.

## 51. CALCULATION OF DAILY RATE OF MATERNITY ALLOWANCE

- (1) Where, for the purpose of this Part or of regulations under this Act, it is necessary to calculate the daily rate of maternity allowance—

- (a) Sunday or such other day in each week as may be prescribed shall be disregarded; and
- (b) the amount payable by way of that allowance for any other day shall be taken as  $\frac{1}{6}$  of the weekly rate of the allowance.

- (2) In this Part—

“**confinement**” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and “**confined**” shall be construed accordingly; and

“**date of the confinement**” refers, where labour began on one day results in the issue of a child on another day, to the date of the issue of the child or last child, if more than one.

## 52. UNMARRIED WOMAN AND MAINTENANCE UNDER AFFILIATION ACT

This Act does not debar a woman from claiming maternity benefits only by reason that she is not married to the father of her child; and the fact that the mother of a child born out of wedlock is entitled to receive maternity benefit shall not be taken into consideration by any court in Saint Lucia in making any order for maintenance under the Affiliation Act or any other enactment.

## ***HOSPITALISATION AND MEDICAL TREATMENT***

**53. HOSPITALISATION GRANT**

- (1) Subject to this Act an insured person who satisfies the prescribed conditions shall be entitled to a hospitalisation grant in the prescribed sum for the payment of medical treatment obtained by him or her as a patient at an approved hospital.
- (2) Except where regulations otherwise provide, a hospitalisation grant is not payable for medical treatment obtained outside Saint Lucia.

**54. SCHEME OF MEDICAL INSURANCE**

- (1) The Minister may by regulations establish a scheme of medical insurance providing for such medical treatment as he or she may prescribe.
- (2) Regulations under this section may contain such modification of the provisions of this Act as may be necessary for putting into effect any scheme established under subsection (1).

***SURVIVOR'S BENEFIT*****55. SURVIVOR'S BENEFIT**

- (1) A widow or widower is entitled to a survivor's benefit if—
  - (a) the survivor is under pensionable age at the time when his or her late spouse dies;
  - (b) the survivor's late spouse's death was not due to employment injury; and
  - (c) the late spouse satisfied the prescribed contribution conditions for a survivor's benefit; or was at the time of his or her death in receipt of a pension under this Act.
- (2) A survivor's benefit shall be payable to a widow or widower for such period as is prescribed following his or her spouse's death; however, this benefit shall not be payable for any period during which he or she cohabits with another person as his or her spouse.

**56. SURVIVOR'S PENSION AND GRANT**

- (1) A person who has been widowed is entitled to a survivor's pension at the prescribed rate if—
  - (a) the late spouse satisfied the prescribed contribution conditions for a survivor's pension; or was at the time of his or her death, in receipt of a pension under this Act;
  - (b) he or she was married to his or her late spouse for at least 3 years prior to his or her death;
  - (c) he or she was, at the time of the spouse's death over the age of 55; or
  - (d) he or she was under the age of 55 and had the care of his or her children (with his or her late spouse) under the age of 16 or 18 if the children are in receipt of a full-time education.
- (2) Where a widow or widower dies leaving any children specified in subsection (1)(d) the survivor's pension shall be payable to such children or to a guardian on their behalf as determined by the Director, until they attain the age specified in the said paragraph.
- (3) A survivor's pension shall continue for life or until such time as the widow or widower remarries or co-habits with another person as his or her spouse.
- (4) Where an insured person has not fulfilled the prescribed conditions for a survivor's pension the Director may pay to his or her survivor, a survivor's grant in the prescribed sum.

**57. REGULATIONS RELATING TO SURVIVOR'S BENEFITS**

The Minister may make regulations to provide for all other matters concerning survivor's benefits.

***AGE PENSIONS AND GRANTS*****58. MATTERS AFFECTING ENTITLEMENT TO AGE PENSION**

- (1) For the purposes of this Act a person's working life is the period between the year in which he or she attained the age of

16 and the year in which he or she attained the pensionable age or died before that age.

- (2) A person shall not be entitled for the same period to more than one age pension; but where under reciprocal arrangement as provided under Part 9, a person would otherwise be entitled to more than one such pension, he or she shall be entitled (whichever he or she may apply for) to whichever one is most favourable to him or her.
- (3) Subject to this Act, an insured person of pensionable age is entitled to receive during his or her lifetime an age pension if he or she has satisfied the prescribed contribution conditions.
- (4) The Minister may, by order published in the Gazette, fix the pensionable age to be an age other than 60 years.

## **59. ENTITLEMENT TO AGE GRANT**

Subject to this Act, an insured person who has—

- (a) not satisfied the contribution conditions; and
- (b) attained the pensionable age,

is entitled to an age grant in the prescribed sum.

## **60. REGULATIONS CONCERNING AGE PENSIONS AND GRANTS**

The Minister may make regulations to make further provisions relating and appertaining to age pensions and age grants.

## ***FUNERAL BENEFIT***

### **61. FUNERAL GRANT**

- (1) Subject to this Act there shall be paid on the death of any insured person for the purpose of defraying funeral expenses, a funeral grant in the prescribed sum.
- (2) Payment may be made to the personal representative of the deceased or to any person appearing to the Director to have a valid claim to such payment for the purpose stated in subsection (1).



- (3) The Minister may make regulations to provide for all other matters relating to funeral benefits.

## ***EMPLOYMENT INJURY***

### **62. EMPLOYMENT INJURIES**

- (1) Subject to this Act, where an insured person has become incapable of working as a result of employment injury, he or she is entitled to payment of an employment injury benefit for such period as may be prescribed.
- (2) Where the death of an insured has resulted from an employment injury, there shall be paid to his or her survivor such lump sum or periodical sums for such period as shall be prescribed.

### **63. PRESUMPTIONS REGARDING EMPLOYMENT INJURY**

- (1) Employment injury arises out of and in the course of the employment of an employee if—
  - (a) the accident which caused the injury was done for the purposes of or in connection with the employer's trade or business;
  - (b) the accident occurred while an employee was with the express or implied permission of his or her employer travelling as a passenger by any vehicle operated by or on behalf of his or her employer to or from his or her place of work, although he or she is under no obligation to his or her employer to travel by that vehicle;
  - (c) the accident occurred in or about any premises at which he or she is employed for the purposes of his or her employer's trade or business if it happened while he or she was taking steps, in an actual or supposed emergency at those premises to rescue, succour or to protect persons who are or are thought to be or possibly to be injured or imperilled, or to avert or minimize serious damage to property.
- (2) A disease or injury may be prescribed for the purposes of this Part in relation to any insured persons if the Minister is satisfied that—

- (a) it ought to be treated, having regard to its cause and incidence and any other relevant considerations, as a risk of their occupation and not as a risk common to all persons; and
  - (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.
- (3) In this section a reference to a vehicle includes reference to a ship, vessel or aircraft.

#### **64. CONDITIONS WHERE EMPLOYMENT INJURY BENEFIT NOT PAYABLE**

Subject to this Act, employment injury benefit shall not be payable in respect of—

- (a) an accident which occurred outside Saint Lucia;
- (b) a prescribed disease contracted whilst an uninsured person was engaged in a prescribed occupation outside Saint Lucia;
- (c) any injury sustained wholly through the negligence of the claimant; however, such a claimant shall not be precluded from applying for any other benefit under this Act in respect of medical treatment required by him or her.

#### **65. REGULATIONS FOR EMPLOYMENT INJURY**

The Minister may make regulations to provide for—

- (a) classifying employment injuries relative to degrees or forms of disablement or loss of faculty or other injury and the scale of benefit applicable to them respectively;
- (b) the conduct of inquires regarding employment injury;
- (c) the places or occupations or circumstances or times in or during which injury suffered by an insured person shall be deemed an employment injury;
- (d) determining the time at which a person is to be treated for the purposes of this Act as having developed any disease or injury prescribed for the purposes of this Part and the circumstances in which any such disease or injury is, or

where the person in question has previously suffered such disease or injury, to be treated as a continuing situation or as having been contracted afresh;

- (e) all other matters relating to employment injury benefit.

## **PART 6**

### **PUBLIC OFFICERS AND EMPLOYEES OF STATUTORY BOARDS**

#### **66. REGULATIONS FOR TREATING PUBLIC SERVANTS AS INSURED PERSONS**

The Minister may make regulations to provide for—

- (a) treating persons employed by or under the Crown in like manner as if such persons were insured persons in the employment of a private person;
- (b) classifying any employment under the Crown as being or not being insurable employment for the purposes of this Act;
- (c) applying the provisions of this Act relating to contributions and benefits to any insurable employment classified under paragraph (b);
- (d) matters, necessary for the effective implementation of section 6(9) of the Pensions Act.

#### **67. MODIFICATION OR REPEAL OF PUBLIC SERVICE PENSION SCHEME**

- (1) The Minister shall, in relation to a public service pension scheme, (in this Part called a scheme) have power to make provisions for the modification or winding up or repeal of any enactment relating to such a scheme in order to give effect to this Act.
- (2) The powers of the Minister under this section shall be exercisable by means of an order—
  - (a) directly modifying the scheme (without regard in the case of a scheme contained in, or made under the powers conferred by an enactment, to the terms of the enactment or any other of its provisions);

- (b) modifying an enactment under which the scheme was made or by virtue of which it has effect; or
- (c) directing that the scheme be wound up or the enactment providing for the scheme be repealed and including directions with respect to the manner and time of the winding up or repeal,

and any such order shall contain such incidental, supplementary and transitional provisions as the Minister considers to be required for the purpose of the order, including provisions adapting, amending and repealing any such enactments as are referred to in paragraphs (a), (b) or (c).

- (3) Despite subsections (1) and (2), an order made under this section shall not contain pensions or benefits which are less favourable to any person than those previously provided under any enactment or scheme.

## **PART 7**

### **MARINERS AND AIRCRAFT PERSONNEL**

#### **68. REGULATIONS FOR MARINERS AND AIRCRAFT PERSONNEL**

The Minister may make regulations modifying this Part of the Act, in such manner as he or she thinks proper in its application to persons who are or have been employed on board any ship, vessel, or aircraft, and such regulations may in particular provide for—

- (a) this Part to apply to such persons, although it would not otherwise apply;
- (b) exempting such persons from the application of this Part when they are neither domiciled nor have a place of residence in Saint Lucia;
- (c) requiring the payment of contributions in respect of such persons, whether or not they are (within the meaning of this Act) insured persons;
- (d) taking of evidence, for the purposes of any claim to benefit in a country or territory outside Saint Lucia, by a consular official or such other person as may be prescribed;

- (e) enabling persons who are or have been so employed to authorise the payment of the whole or part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed;
- (f) withholding any benefit that may be payable to a mariner or aircraft personnel for any period during which the owner of the ship or vessel is under a statutory or contractual obligation to pay his or her wages;
- (g) treating as accidents arising out of and in the course of the employment of a mariner or aircraft personnel, accidents happening while he or she is proceeding to or from a ship, vessel or aircraft or in any other prescribed circumstances;
- (h) the payment of employment injury benefit to or in respect of mariners and aircraft personnel from accidents happening and prescribed diseases developed while they are outside Saint Lucia; and
- (i) treating as insured persons under this Act, persons who are or have been employed on board a ship, vessel or aircraft although they do not fulfil the prescribed conditions for entitlement to benefit under this Act.

#### **69. REGULATIONS RE WIVES OR WIDOWS OF MARINERS AND AIRCRAFT PERSONNEL**

The Minister may make regulations to provide—

- (a) for granting any benefit under this Act to a married person whose spouse sustains injuries or fatalities whilst working on board any ship, vessel or aircraft;
- (b) for modifying the provisions of this Act in their application to persons who are or have been outside Saint Lucia at any prescribed time or in any prescribed circumstances;
- (c) that where an insured person is throughout any contribution period outside Saint Lucia and is not in that period an insured person he or she is not liable to pay any contributions as an insured person for such period.

## **PART 8**

### **REGISTRATION OF BENEFICIARIES**

#### **70. APPLICATION FOR REGISTRATION**

- (1) An insured person may at any time apply to the Director in the prescribed form for registration of his or her survivor under this Act.
- (2) Although a valid marriage subsists in respect of an insured person, registration under this section of a person shall exclude all other persons as his or her survivor.
- (3) The registration of a person as a survivor under this section may be revoked or altered upon application by an insured person in the prescribed form.
- (4) A survivor registered under this section shall in every case be the spouse or the person living with the insured person in the prescribed form.
- (5) Where no registration of a person as a survivor is made, the Director—
  - (a) may treat a single man who lived with a single woman as if they were married in law and reference to a husband or wife shall be applied respectively to them;
  - (b) shall treat the wife or husband as the case may be of an insured person as his or her survivor.
- (6) For the purpose of subsection (5), a single man or woman includes a married man or woman living respectively apart from his wife or her husband.
- (7) Where an insured person has remarried, the survivor shall be taken to be such later spouse although no application has been made for revocation of the registration of an earlier spouse as survivor.
- (8) The Minister may make regulations to provide for treating any children or relative of an insured person as his or her survivor.

## **PART 9**

### **AGREEMENTS WITH FOREIGN GOVERNMENTS**

#### **71. RECIPROCAL AGREEMENTS WITH OTHER COUNTRIES**

- (1) For the purpose of giving effect to any agreement with the Government of any country outside Saint Lucia, providing for reciprocity in matters relating to any benefits or payments under this Act, Cabinet may by regulations modify or adapt this Act in its application to cases affected by the agreement.
- (2) The modification or adaptation of this Act made under subsection (1) may include provisions for—
  - (a) securing that events having any effect for the purpose of law of the country in respect of which the agreement is made shall have a corresponding effect for the purpose of this Act but not so far as to confer a right to double benefit;
  - (b) determining in cases where rights accrue both under this Act and under the law of that country which of those rights shall be available to the person concerned;
  - (c) making provision as to administration and enforcement contained in this Act applicable also for the law of the said country;
  - (d) making any necessary financial adjustment by payment into or out of the Fund.

## **PART 10**

### **EXEMPTED SCHEMES**

#### **72. REGULATIONS FOR EXEMPTED SCHEMES**

- (1) The Minister may by regulations provide for—
  - (a) the discontinuance of any exempted scheme including the date upon which such discontinuance shall take effect;
  - (b) the procedure to be followed in the take-over by the Corporation, of any exempted schemes;
  - (c) such modifications of this Act as he or she considers necessary for the purpose of conferring any benefit

payable under this Act upon any person included in any such exempted scheme.

- (2) A person included in an exempted scheme which has been taken into the Fund shall be an insured person under this Act.

## **PART 11**

### **ADJUDICATION AND LEGAL PROCEEDINGS**

#### **73. ADJUDICATION AND APPEALS**

- (1) If any question arises as to the liability of any person to pay contributions or as to the right of any person to any benefit under this Act, the question shall be determined by the Director, subject to a right of appeal to the Board.
- (2) The Minister may make regulations to provide for—
- (a) the constitution and appointment of an Appeal Tribunal for the purpose of determining any further appeal from a decision of the Board under subsection (1);
  - (b) a reference to the High Court from a decision on any question of law only arising out of any determination by the Appeal Tribunal;
  - (c) the procedure to be followed and the forms to be used for appeals to the Board or to the Appeal Tribunal;
  - (d) the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;
  - (e) the time to be allowed for making any claim or appeal or for raising any question with a view to obtaining any decision or for producing any evidence;
  - (f) summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses;
  - (g) the representation of a person at any hearing or a case, by another whether having legal qualifications or not;
  - (h) matters pending determination under this Act whether at first instance or on appeal or reference, of any claim for benefit or assistance or of any question affecting the right of any person to benefit or assistance or to the receipt of



- any benefit or assistance or of the liability of any person for contribution; and
- (i) any matter arising out of a decision on appeal or reference under this Act on any claim or question.
- (3) The decision of the High Court on a reference on a point of law or of the Appeal Tribunal shall be final.
- (4) Despite subsection (2), regulations made under that subsection may include provisions—
- (a) for the suspension of benefit or assistance where it appears that there is or may be a question whether the conditions for receipt thereof were fulfilled;
- (b) as to the date from which any decision on a reference or appeal is to have effect;
- (c) for treating any benefit paid to any person under the regulations, which it is subsequently decided was not payable as properly paid or as paid on account of any other benefit which it is decided was payable to him or her or for the repayment of any such benefit and the recovery thereof by deduction from any other benefit or otherwise;
- (d) for treating any benefit paid to one person in respect of another person (being a child of or the wife or husband or an adult dependant of the first mentioned person) as having been properly paid for any period, although under regulations relating to benefits it is not payable for that period by reason of a subsequent decision either—
- (i) that such other person is himself or herself entitled to benefit for that period, or
- (ii) that a third person is entitled to benefit or assistance for that period in respect of such other person in priority to the first mentioned person, and
- (iii) for reducing or withholding accordingly any arrears payable for the period by virtue of a subsequent decision.
- (5) There shall be paid out of the Fund to the members of an Appeal Tribunal appointed under regulations made under this section, such remuneration and allowances, as the Board, with the prior approval of the Minister, may determine.

**74. UNPAID CONTRIBUTIONS TO RANK AS PRIVILEGED DEBT**

(1) Where—

- (a) any execution has been levied against the property whether movable or immovable, of an employer, in respect of a judgement against him or her, and any such property has been seized or sold or otherwise realised under such execution; or
- (b) on the application of a secured creditor, the property, whether movable or immovable, of an employer has been sold,

any sums due as contributions by such employer shall rank as a privileged debt *pari passu* with state taxes without the necessity for their registration.

(2) For the purpose of this section, employer includes any company in liquidation.

**75. JOINT LIABILITY OF FIRM AND OFFICERS**

Where an offence under this Act has been committed by a body corporate, firm, society, or other body of persons, any person, who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or other body of persons or was purporting to act in such capacity shall, as well as such body corporate, firm, society or other body of persons be said to have committed that offence, unless he or she proves that the offence was committed without his or her consent or connivance, and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.

**76. CERTIFIED COPY AS EVIDENCE**

A copy of an entry in the accounts of the Fund and of other extracts from the records of the Fund, shall when certified under the hand of the Director, be received in all courts as *prima facie* evidence of such entry having been made, and of the truth of its contents.

**77. CIVIL PROCEEDINGS**

- (1) Despite any provision of this Act, a contribution to the Fund may be recoverable by action as a debt owing to the Fund at any time 40 years from the date when the contribution becomes due.
- (2) Any action for the recovery of contributions under this section may be instituted by the Director of the Fund or by any other person authorised in that behalf by the Director, and where the action is instituted in a district court, any person authorised by this subsection may appear and conduct such proceedings.
- (3) For the purpose of this section, “contribution” includes any surcharge imposed under this Act.

**78. EXECUTION AND ENFORCEMENT OF JUDGEMENT IN CERTAIN CIRCUMSTANCES**

Where a judgement is obtained in any court against a person in respect of sums due to the Fund, an inspector or other officer authorised in that behalf by special or general direction of the Corporation may proceed to execute and enforce that judgement and exercise all the remedies for the satisfaction of the judgement despite any enactment or rule of law to the contrary relating to—

- (a) the powers or duties of a receiver;
- (b) the effect of a winding up order under the Companies Act; or
- (c) the effect of a receiving order for bankruptcy under Title 9 of the Commercial Code.

**79. GARNISHMENT**

- (1) Where the Corporation is satisfied that any person is indebted to or liable to make a payment to another person and that other person is indebted to the Fund under this Act, the Director may deliver to the first mentioned person a demand for payment as set out in Form DN 1 appearing in Schedule 5, stating—
  - (a) the name of the person indebted to the Fund;
  - (b) the amount of the debt due to the Fund including any surcharge on the debt; and
  - (c) where the first mentioned person is the employer of the person indebted to the Fund, the amount demanded for

each pay period, being an amount not exceeding  $\frac{1}{3}$  of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration.

- (2) A person who receives a demand for payment under subsection (1) relating to one of his or her employees shall pay to the Corporation at the same time as he or she would pay that employee, the amount demanded by the Director, or the amount of the employee's indebtedness to the Fund whichever is the lesser, and shall continue to do so on each occasion that the employee is entitled to be paid until the employee's indebtedness to the Fund is satisfied.
- (3) A person who receives a demand for payment under subsection (1) relating to a person other than one of his or her employees shall, if he or she is indebted to or liable to make payment to that other person, pay to the Corporation the amount of his or her indebtedness which he or she is liable to pay to that person or the amount of that person's indebtedness to the Fund whichever is the lesser.
- (4) A person who has discharged any liability to a person indebted to the Fund under this Act after receiving a demand for payment under subsection (1) without complying with subsection (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
- (5) The payment of an amount to the Corporation under subsection (2) or (3) operates as a discharge of any liability of the person making the payment to the person to whom the payment would, but for this section, have been paid, to the extent of the amount paid to the Corporation.

## **80. JOINT LIABILITY OF THIRD PARTIES IN CIVIL PROCEEDINGS**

- (1) Despite any enactment or rule of law to the contrary a director, manager, accountant, liquidator or receiver of a body corporate, may be joined as a party to an action for the recovery of contributions and surcharge owed to the Fund by such body corporate and if found to have failed to deduct, retain or become accountable in any way for any amounts due and owing, such person is personally liable whether jointly or

severally to pay in whole or in part such amounts owing to the Fund.

- (2) A person is not liable for a failure under subsection (1) if the court is satisfied that such person exercised a degree of care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent the failure.

## **81. RECOVERY BY WAY OF DISTRESS WARRANT**

- (1) Despite any provision of this Act any contribution due and owing to the Fund may be recoverable by way of a warrant as set out in Form NI/DW of Schedule 5 issued by the Director and directed to the Registrar of the High Court, setting out in such warrant or in a Schedule to the warrant, the several sums due on account of contributions and surcharge from the persons and bodies against whom the warrant is directed.
- (2) Despite subsection (1) a warrant shall not be issued under this section unless the Director has given at least 30 days notice in writing in the form set out as Form DN2 in Schedule 5, to the person or persons against whom the warrant is directed.
- (3) The Registrar of the High Court shall on receipt of the warrant issued under subsection (1) proceed to levy upon the goods, chattels and lands of the person or persons against whom the warrant is directed and to sell so much of such goods, chattel and land as may be required, to satisfy the sums due on account of the contributions owed to the Fund.
- (4) Every sale carried out under subsection (2) shall be conducted by public auction and shall be held at a place and time to be determined by the Registrar of the High Court.
- (5) A sale shall not be conducted under this section unless a notice of such sale is published in the Gazette.
- (6) The proceeds of sale shall be applied to the payment of the contributions due and the expenses of the levy and sale.

## **82. OFFENCES AND PENALTIES**

- (1) A person who—

- (a) fails to pay at or within the time prescribed for the purpose, any contribution or surcharge which he or she is liable to pay under this Act;
- (b) for the purpose of evading payment of any contribution or surcharge by himself or herself or some other person—
  - (i) makes any false statement or representation, or
  - (ii) produces or furnishes or causes, or allows to be produced or furnished any document or information which he or she knows to be false in a material particular;
- (c) for the purpose of obtaining any benefit for himself or herself or some other person—
  - (i) makes any false statement or representation,
  - (ii) produces or furnishes or causes to be produced or furnished any document or information which he or she knows to be false in a material particular;
- (d) wilfully delays or obstructs or refuses admission to the Director or any inspector, in the exercise of any functions under this Act;
- (e) refuses or neglects without reasonable cause to answer any questions or to furnish any information or to produce any document when required to do so under this Act;
- (f) being an employer deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contribution of the employer in respect of any insured person;
- (g) misrepresents or fails to disclose any material facts;
- (h) fails or neglects to deduct any contributions under this Act;
- (i) being or having been (an auditor of the books and records of the Fund) or a member, employee or agent of the Corporation, directly or indirectly communicates or reveals to any person any matter relating to the business of the Corporation or the Fund which becomes known to him or her in his or her capacity as auditor, member, employee or agent, except as may be required for the due discharge of his or her duty as such auditor, member,

employee or agent or as may be permitted by the Corporation;

- (j) procures any member, employee or agent of the Corporation, or any person who has been such member, employee or agent to communicate or reveal any such matter as is set out in paragraph (i),

commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment.

- (2) A person who commits an offence under this Act for which no punishment is provided is liable, on summary conviction, to a fine not exceeding \$500 or to imprisonment for 3 months.

### **83. RECOVERY OF CONTRIBUTIONS IN PROCEEDINGS UNDER THIS ACT**

- (1) In any case, where any person has been charged with an offence under this Act for failing to pay a contribution, he or she is liable to pay to the Fund a sum equal to the amount which he or she failed to pay, together with any surcharge as the case may be.
- (2) On any such charge as is mentioned in subsection (1), if notice of intention so to do has been served with the summons or warrant, evidence may be given at any stage of the proceedings—
  - (a) of the failure on the part of the person charged to pay within the time prescribed on behalf or in respect of the same insured person other contributions under this Act during the 3 years immediately preceding the date of the offence; and
  - (b) in the case of any such charge as is mentioned in subsection (1) of the failure on the part of the said person charged to pay on behalf or in respect of any other person employed by him or her, any contributions under this Act on that date or during the past 3 years,

and on proof of such failure, the person charged is liable, on conviction, to pay to the Fund a sum equal to the total of all the contributions under this Act which he or she is so proved to

have failed to pay and which remain unpaid at the date of the conviction.

- (3) If an employer, being a body corporate, firm, society or other body of persons fails to pay to the Fund any sum which they have been ordered to pay, then every director or partner as the case may be of the body corporate, firm or society who knew or could reasonably be expected to have known of the failure to pay the contribution or contributions in question is liable jointly and severally to the same penalties or where applicable, to the same punishment as a single unincorporated employer.
- (4) Where any person is liable to repay any sum received by him or her by way of benefits, that sum may be recovered without prejudice to any other remedy, by means of deductions from any payment or benefit to which he or she may thereafter become entitled.
- (5) Despite any fine or conviction under this Act, an employer or employee shall remain liable to pay to the Fund any contribution, surcharge and interest due and payable under this Act.

#### **84. PROCEEDINGS AGAINST EMPLOYER FOR BENEFIT LOST BY DEFAULT**

- (1) Where an employer has failed or neglected to—
  - (a) pay any contribution which under this Act he or she is liable to pay in respect of or on behalf of any insured person in his or her employment; or
  - (b) comply in relation to any insured person, with the requirements of this Act relating to the payment and collection of contributions, and by reason thereof that person to whom a benefit under this Act may have been payable has lost in whole or in part the benefit to which he or she would have been entitled, that person is entitled to recover in a district court, from the employer as a civil debt, a sum equal to the amount of the benefits so lost, irrespective of the amount.
- (2) Proceedings may be taken under this section, although proceedings have been taken under any other section of this Act in respect of the same failure or neglect.



- (3) Proceedings under this section, may, despite any enactment to the contrary, be brought at any time within 10 years after the date on which the insured person, but for the neglect or failure of the employer, would have been entitled to receive the benefit lost.

#### **85. DISCLOSURE OF INFORMATION BY INLAND REVENUE DEPARTMENT**

- (1) An obligation as to secrecy imposed by statute or otherwise on persons employed in the Inland Revenue Department shall not prevent information relating to the assessment or collection of income tax from being disclosed to the Director where such information relates to the collection of contributions, or the payment of benefit under this Act.
- (2) Subsection (1) extends only to disclosure by or under the authority of the Comptroller of Inland Revenue and information which is the subject of disclosure to any person by virtue of the subsection shall not be further disclosed to any person, except where the further disclosure is made—
  - (a) to a person to whom disclosures could otherwise have been made by or under the authority of the Comptroller of Inland Revenue; or
  - (b) for the purpose of any proceedings (civil or criminal) in connection with the operations of any enactment relating to the calculation or collection of contributions, or the payment of benefit under this Act.

#### **86. PROCEEDINGS TO BE IN DIRECTOR'S NAME OR PERSON AUTHORISED**

Proceedings for any offence under this Act shall be taken in the name of the Director or any person authorised by him or her in writing and shall be commenced not later than 3 years after the complaint arose.

## **PART 12**

### **MISCELLANEOUS PROVISIONS**

#### **87. MEMBERS OF BOARD, TRIBUNAL OR INVESTMENT COMMITTEE NOT DISQUALIFIED FROM MEMBERSHIP OF PARLIAMENT**

Despite any law to the contrary, a person is not disqualified from becoming a member of Parliament by reason only that such person is chairperson or a member of the Board or of the Investment Committee or of the Appeal Tribunal or receives any remuneration by virtue of his or her membership of any of the institutions specified in this section.

#### **88. EXEMPTION FROM TAXES**

- (1) Stamp duty is not payable on any receipt, contract, instrument or other document given or executed by the Director on behalf of the Corporation, or by any person in respect of benefits or refund of contributions under this Act.
- (2) Subsection (1) does not exempt any person from liability to pay stamp duty on any power of attorney or on any document otherwise liable under the Stamp Duty Act.
- (3) Despite anything contained in any enactment, the Corporation is not liable for payment of any income tax or customs duty or any other duties or taxes whatsoever.

#### **89. PRIVATE SCHEMES**

- (1) This Act does not prevent any employer from operating any private scheme whether contributory or not, providing benefits to any person employed by him or her, similar to or greater than those provided under this Act.
- (2) Despite subsection (1), a private scheme is not a substitute for the benefits provided under this Act.

#### **90. ASSESSMENT OF DAMAGES AGAINST EMPLOYER**

In assessing an award of damages in an action against an employer for personal injuries suffered by an insured person there shall be

taken into account against any loss of earnings or profit the value of any benefits or rights due to or which will accrue to such insured person under this Act.

## 91. REGULATIONS

- (1) The Minister may make regulations to provide for—
  - (a) the forms to be used for the purposes of this Act;
  - (b) the rates or amounts of any benefit and the variation of such rates or amounts in different or special circumstances;
  - (c) the periods of time during which any benefit shall be payable, including the day of commencement and termination thereof;
  - (d) the issue of exit certificates to persons leaving the State or such other measures deemed necessary to prevent the evasion by such persons of any contributions due under this Act;
  - (e) any matters contained in any Schedule under this Act;
  - (f) any prescribed matter or thing;
  - (g) the conditions under which payment of any benefit under this Act may be suspended or discontinued altogether;
  - (h) payment to a prescribed person or beneficiary where payment of a benefit has been suspended or discontinued under paragraph (g);
  - (i) the period within which any claim for a benefit shall be made and the documents or information necessary in support of any such claim;
  - (j) authorising payment in case of death of an insured person, to a person who appears to the Director to be the beneficiary and for dispensing with strict proof of title thereto;
  - (k) the conditions under which and the amounts which may be paid to the aged, disabled and needy persons who are not contributors under this Act;
  - (l) the qualification for benefits by a widower, under circumstances similar to those providing for a widow's entitlement;

- (m) the control of the payment of benefits to persons who it is considered are liable to squander grants received under section 59;
  - (n) the protection of interest of spouses who might be abandoned by an insured person and adversely affected by action taken under section 70;
  - (o) fixing the maximum penalty for any offence under this Act;
  - (p) amending the Schedules to this Act;
  - (q) all other matters pertaining or incidental to the purposes of this Act.
- (2) Regulations made under this Act may include the imposition by a district court of fines not exceeding \$5,000 or imprisonment not exceeding 6 months for contravention of any of the provisions thereof.

## 92. POWER TO REMOVE DIFFICULTIES

If any difficulty arises in giving effect to any of the provisions of this Act the Minister may by order published in the Gazette, make such provisions not inconsistent with this Act as appears to him or her to be necessary for removing the difficulty.

## 93. SAVINGS

- (1) Any statutory instrument or notice made under the repealed National Insurance Act, 1978 remains in force until revoked under this Act.
- (2) The rights and obligations of the National Insurance Board, in particular its rights, obligations, claims, privileges and advantages under the repealed National Insurance Act, 1978 continue with the National Insurance Corporation.

## SCHEDULE 1

(Section 5)

### *Constitution and Procedure of National Insurance Board*

1. The National Insurance Board shall consist of 7 members appointed by the Minister as follows—
  - (a) two members who shall represent Government;
  - (b) two members who shall represent employers;
  - (c) two members who shall represent employees;
  - (d) the Director.
2. The members representing Government shall be appointed on the advice of Cabinet.
3. The members representing employers shall be appointed on the recommendation of such associations of employers or persons or bodies likely to represent the interests of employers generally throughout the State.
4. The members representing employees shall be appointed on the recommendation of such associations of trade unions or individual trade unions as appear to be representative of employees generally throughout the State.
5. The Minister shall appoint the chairperson and deputy chairperson of the Board from amongst the members who shall with the other members hold office for a period not exceeding 3 years. Any member of the Board shall be eligible for re-appointment.
6. The Minister may at any time, if he or she is of the opinion that a member is unfit to continue in office or is incapable of performing his or her duties, revoke the appointment of such member.
7. Any member of the Board other than the chairperson, may at any time resign his or her office by notice in writing addressed to the Minister and transmitted through the chairperson and from the date of the receipt by the Minister of such notice such member shall cease to be a member of the Board.
8. The chairperson may at any time resign his or her office by giving notice in writing addressed to the Minister and such

resignation shall take effect as from the date of the receipt of such notice by the Minister.

9. If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to this Schedule, hold office for the remainder of the period for which the previous member was appointed.
10. The names of all members of the Board as first constituted and every change in the membership of the Board shall be published in the Gazette.
11. The Minister shall convene the first meeting of the Board, and thereafter the Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places as the chairperson may require.
12. The quorum for a meeting of the Board shall be 4 members.
13. Minutes of every meeting of the Board shall be kept in proper form by the Secretary and shall be confirmed as soon as practicable thereafter either by circulating the same or at a subsequent meeting.
14. A member shall not communicate or reveal to any person any matter which has been brought under his or her consideration or shall become known to him or her as a member of the Board except as may be required for the due discharge of his or her duties as such.
15. A member shall not participate in the deliberations of the Board on any matter in which he or she has or may have any interest.

## **SCHEDULE 2**

(Section 28(2))

For a contribution period of one month or one fortnight or one week the employer's and employee's contribution shall each be 5% of the total salary or wages or such other rate as may be fixed by the Minister in accordance with section 30.

### SCHEDULE 3

(Section 29)

1. Employees whose remuneration is in excess of \$60,000 per annum or such other maximum limit as may be fixed in accordance with section 30(d), are exempted in respect of that portion in excess of \$60,000 or such other limit so fixed.
2. Employees whether belonging to this State or not, whose written terms of service or engagement wherever executed provide that they are subject to service for any period of not less than one year outside the State.
3. Persons who in their official capacity are accorded diplomatic status and similar status arising from the grant of immunities and privileges.
4. Any employee who is not a citizen of Saint Lucia who is employed in this State for a period not exceeding 2 years at one time.
5. Paragraphs 3 and 4 shall not apply to any employee unless his or her employer has satisfied the Director that the employee is liable to contribute to, or is prospectively entitled to benefit from the social security scheme of any country other than this State or any benefit scheme by virtue of his or her employment on terms that would provide the employee with benefits substantially not less favourable than the benefits to which he or she would have been entitled under this Act.

**SCHEDULE 4**

(Section 8(3))

**TABLE**

Policy decisions of the Board implemented over the years without the requisite legislative amendments.

1. Minimum pension—  
Introduced in 1990—  
1990—1992—EC\$100  
1992—1999—EC\$125
2. Maternity grant increased in 1992 to EC\$450
3. Funeral grant increased in 1992 to EC\$1,500
4. Introduction of the payment of funeral grant upon death of dependent child or spouse of an insured person.
5. Maximum annual insurable earnings increased as follows—  
1993—to date—EC\$36,000



**SCHEDULE 5**

**FORMS**

**FORM DN 1**

**National Insurance Corporation Act**

**GARNISHEE ORDER NO. ....**

**NATIONAL INSURANCE CORPORATION**

**DATE .....**

**DEMAND ON THIRD PARTIES**

- 1. WHEREAS it is believed that you are about to become indebted or liable to make a payment to .....
- 2. And Whereas the debtor is indebted to the National Insurance Fund in the amount of \$..... under the provisions of the National Insurance Corporation Act.
- 3. Now Therefore you are hereby required under section 79 of the National Insurance Corporation Act to pay to the Director an amount sufficient to discharge the said liability or the amount for which you are or may become liable to the said debtor, whichever is the less.
- 4. Remittances in favour of the Director of the National Insurance Corporation should be clearly identified as payments made with respect to the demand and should be forwarded to the National Insurance Corporation either in Castries, Soufrière or Vieux Fort.
- 5. Receipts will be issued in respect of sums paid under this demand. Such receipts will serve as a good and sufficient discharge to you of your original liability to the debtor to the extent of the payment.
- 6. Discharge of any present or future liability to the debtor after receipt of this demand without complying with the requirements of it amounts to an offence under section 78(4) and carries a fine of \$5,000 or 12 months imprisonment or both.

***DIRECTOR***

**NATIONAL INSURANCE CORPORATION**

**National Insurance Corporation Act**

**FORM DN 2**

(Section 81)

**DEMAND NOTICE**

.....  
*INSERT DATE*

.....  
*NAME OF EMPLOYER*

.....  
*ADDRESS*

Dear

**RE: NATIONAL INSURANCE CONTRIBUTIONS**

I hereby demand payment from you/your company in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) being the amount due and owing by you/your company as at \_\_\_\_\_.

TAKE NOTICE that if payment of the above amount is not made within 30 days of the date hereof then a distress warrant will be issued to levy on your/the Company's goods, chattels or land in order to obtain the same in accordance with section \_\_\_\_\_ of the National Insurance Corporation Act.

If settlement is not reached by the time specified, any further cost in collecting the amount will be added to the above liability.

Dated                      this                      day of

.....

**DIRECTOR  
NATIONAL INSURANCE CORPORATION**

**National Insurance Corporation Act**

**FORM NI DW**

(Section 81)

**DISTRESS WARRANT**

**TO: The Registrar of the High Court**

I, \_\_\_\_\_ Director of the National  
PRINT NAME OF DIRECTOR

Insurance Corporation by virtue of the power vested in me by section \_\_\_\_\_ of the National Insurance Corporation Act, hereby authorise you to collect and recover the several sums respectively due for contributions from the persons specified in the Schedule hereto together with the additional sum for surcharge and also the cost and charges of and incidental to the taking and keeping of such distress on goods, chattels and land of the person from whom the contributions or sum are due and owing.

**SCHEDULE**

<b>NAME</b>	<b>AMOUNT</b>
	Contribution .....
	Surcharge .....
	Total .....

Given under my hand this \_\_\_\_\_ day of

.....  
**DIRECTOR  
NATIONAL INSURANCE CORPORATION**

