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SCHEDULE*Insurable and Excepted Employments*

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CHAPTER 47

NATIONAL INSURANCE AND SOCIAL SECURITY

An Act to establish a system of national insurance and social security for Barbados providing payments by way of sickness benefit, maternity benefit, invalidity benefit, funeral grant, old age contributory grant or pension, non-contributory old age pension and survivors' benefit and such other benefits as may be specified in the Act; to substitute for the Workmen's Compensation Act, 1963, a system of insurance against personal injury caused by accident arising out of and in the course of a person's employment and against prescribed diseases and injuries due to the nature of a person's employment; to establish for the administration thereof a National Insurance Board and a National Insurance Fund; and for purposes connected with the matters aforesaid.

1966—15.
1967—32.
1970—3.
1971—1.
1971—36.
1973—51.
1976—4.
L.N. 168/
1967.
1979—32.
1981—18.¹
1981—54.
1982—7.
1983—33.
1984—18.
1984—22.
1985—24.
1986—14.

[4th July, 1966] Commence-
ment.

1. This Act may be cited as the *National Insurance and Social Security Act*. Short title.

2. For the purposes of this Act, the expression
"beneficiary" means a person entitled to any benefit;
"benefit" means any benefit under this Act;
"the Board" means the National Insurance Board established
by section 3;
"chairman" means chairman of the Board;
"contract of service" means any contract of service or appren-
ticeship, whether written or oral and whether expressed or
implied; .

Inter-
pretation.

¹ Act (1981—18) Cap. 109A has not been proclaimed.

"contribution week" means the period of 7 days commencing from midnight between Sunday and Monday;

"deputy chairman" means deputy chairman of the Board;

"domestic worker" means a person employed, otherwise than for the purpose of a trade or business, in such capacity as may be prescribed for the comfort or convenience of a member of a household or in or about a dwelling-house or such other premises as may be prescribed;

"employed person" means any person who is insured under this Act by virtue of subsection (1) of section 12;

"employer's contribution" means a contribution payable by a person otherwise than as an insured person;

"employment" includes any trade, business, profession, office or vocation and "employed" shall be construed accordingly except in the definition of "employed person";

"employment injury benefit" means any benefit payable by virtue of subsection (3) of section 21;

"functions" includes powers and duties;

"the Fund" means the National Insurance Fund established by section 30;

"incapable of work" means incapable of work by reason of some specific disease or bodily or mental disablement, or deemed, in accordance with regulations, to be so incapable;

1967—32. "inspector" means any person appointed by the Board pursuant to section 38 to perform the functions of an inspector under this Act;

"insured person" means a person insured under this Act;

"member" means member of the Board;

"the Minister" means the Minister responsible for Health and Social Security;

"pensionable age" means the age of 65;

"perform" in relation to functions includes exercise;

"self-employed person" means a person gainfully occupied in employment in Barbados who is not an employed person.

PART I

The National Insurance Board

3. (1) There shall be established for the purposes of this Act a body to be called the National Insurance Board which shall consist of not more than nine members to be appointed by the Minister by instrument in writing.

Establishment and constitution of National Insurance Board.

(2) A member shall, subject to this section, hold office for such period not exceeding three years, as the Minister may direct in the instrument appointing such member.

(3) The Minister may by instrument in writing appoint some suitable person as a member to act temporarily in the place of any member in the absence or inability to act of such member.

(4) A member may at any time resign his office as such by instrument in writing addressed to the chairman, who shall forthwith cause the same to be forwarded to the Minister, and upon the date of the receipt by the chairman of such instrument such member shall cease to be a member.

(5) The Minister shall appoint two of the members to be respectively chairman and deputy chairman.

(6) Subject to this section, the chairman and deputy chairman shall hold and vacate office as such in accordance with the terms of the instrument by which they were respectively appointed.

(7) The chairman or deputy chairman may at any time resign his office as such by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

(8) Where the chairman or deputy chairman ceases to be a member, he shall also cease to be chairman or deputy chairman, as the case may be.

(9) The Minister may by instrument in writing at any time revoke the appointment of the chairman, deputy chairman or any member if he thinks it expedient so to do.

(10) A member who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for re-appointment.

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(11) The appointment, removal, death or resignation of the chairman, deputy chairman or any member shall be notified in the *Official Gazette*.

Incor-
poration.

4. (1) The Board shall be a body corporate having perpetual succession and a common seal.

(2) The Board may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Board of any notice, order or other document of whatsoever kind shall be executed by delivering the same to or sending it by registered post addressed to the Secretary of the Board at the principal office of the Board.

Affixing of
seal and
authentic-
ation of
documents.

5. (1) The seal of the Board shall be kept in the custody of the chairman or deputy chairman or such officer of the Board as the Board may approve, and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the chairman or deputy chairman and one other member.

(2) The seal of the Board shall be authenticated by the signature of the chairman or deputy chairman and such other member, and such seal shall be officially and judicially noticed.

Remunera-
tion of
members.

6. The Board shall pay to each member, in respect of his office as such, such remuneration and allowances (if any) as the Minister may determine and, to the chairman and to the deputy chairman in respect of his office as such, such remuneration and allowances (if any) in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member, as may be so determined.

Meetings of
Board and
procedure.

7. (1) 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 and times and on such days as the Board may determine.

(2) The chairman, or, in the event of his being absent from the Island or for any reason whatsoever unable to act, the deputy chairman, may at any time call a special meeting of the Board and shall call a special meeting within seven days

of a requisition for that purpose addressed to him in writing by any four members.

(3) The chairman, or in his absence the deputy chairman, shall preside at all meetings of the Board.

(4) The chairman, or in his absence the deputy chairman, and four other members shall form a quorum.

(5) The decision of the Board shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the chairman or deputy chairman presiding at the meeting shall have a casting vote.

(6) Minutes in proper form of each meeting shall be kept by the secretary or such officer as the Board may appoint for the purpose and shall be confirmed by the Board at the next meeting and signed by the chairman or the deputy chairman as the case may be.

(7) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board in any matter with which the Board is dealing, but no co-opted person shall have the right to vote.

(8) Where any person is co-opted under subsection (7) or where any person, not being a member of the Board, is a member of a committee appointed under section 8, the Board may by resolution declare the remuneration and allowances of such person and such sums shall properly be payable out of the Fund.

(9) Subject to this Act, the Board shall have the power to regulate its own proceedings.

8. (1) Subject to this Act and of any regulations, the Board may appoint such committees of the Board as the Board thinks fit: Power to appoint committees.

Provided that any committee so appointed shall include not less than two members.

(2) Subject to this Act and of any regulations, the constitution and functions of a committee of the Board shall be determined by the Board.

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Power to
delegate.

9. Subject to this Act and of any regulations, the Board may delegate to any member or committee of the Board the power to carry out on its behalf such functions as the Board may determine.

Protection
of Board and
its members.

10. (1) No act done or proceedings taken under this Act shall be questioned on the ground—

- (a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

(2) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member in respect of any act done *bona fide* in pursuance of or execution or intended execution of this Act.

(3) Where any member is exempt from liability by reason only of this section, the Board shall be liable to the extent that it would be if the said member was a servant or agent of the Board.

Staff.
Cap. 21.
1967-32.

11. The Minister shall, by order under section 2 of the Civil Establishment Act, establish the offices which shall constitute the offices on the Board's establishment, which offices shall for all purposes be deemed to be offices in the public service.

PART II

Insured Persons and Contributions

Insurance
of persons
employed
under
contracts of
service in
respect of
benefits
under section
21(1).

12. (1) Subject to this Act, every person who, on or after the appointed day,¹ being over the age of sixteen years and under pensionable age, is gainfully occupied in employment in the Island, being employment under a contract of service, shall be insured under this Act in respect of the several contingencies in relation to which benefits are provided under subsection (1) of section 21 and there shall be payable to or in

¹ The appointed day was 5th June, 1967. (See L.N. 59/1967.)

respect of any such person, in the prescribed circumstances, any benefit payable by virtue of the said subsection.

(2) Notwithstanding subsection (1), any person or class of persons to whom this subsection applies shall be exempt from the requirement to be insured under this Act in respect of the contingencies in relation to which sickness benefit is provided under paragraph (a) and unemployment benefit under paragraph (g) of subsection (1) of section 21; and, there shall not be payable to or in respect of any such person or class of person any benefit payable by virtue of those paragraphs.

(3) The persons or class of persons to whom subsection (2) refers are

(a) a judge or any person employed by or under the Crown, 1982—7. being a person who is the substantive holder of a public office;

(b) all persons (other than temporary or casual employees but including teachers employed under special contracts) employed by the Governing Body of a Secondary School as defined in the *Teachers (Secondary Schools) Pensions* Cap. 56. Act;

(c) all employees (other than temporary or casual employees) of:

(i) the National Housing Corporation, and

(ii) any board specified in the Schedule to the *Statutory Boards (Pensions) Act*. Cap. 384.

(4) Notwithstanding subsection (2), where a person to whom that subsection applies was, immediately before the date on which that subsection became applicable to him, insured pursuant to subsection (1) in respect of the contingency in relation to which sickness benefit is provided under paragraph (a) of subsection (1) of section 21, he shall be deemed to continue to be so insured during the 6 contribution weeks immediately after that date; but in computing the average insurable weekly earnings of such person for the purposes of sickness benefit his insurable weekly earnings for that period of 6 contribution weeks shall not be taken into account.

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(5) Where the employment of a person to whom subsection (2) applies is for any reason terminated and that person becomes employed otherwise than as is mentioned in subsection (3), he shall be deemed to have been insured in respect of the contingency in relation to which sickness benefit is payable under paragraph (a) of subsection (1) of section 21 during his employment as a person mentioned in subsection (3) notwithstanding any enactment to the contrary, and the insurable earnings of such person during such employment shall be taken into account in computing his average insurable earnings for the purposes of sickness benefit.

(6) Provision may be made by regulations

(a) for treating as employment as an employed person

(i) any category of employment which, though it is not employment under a contract of service, is subject to such conditions as to make it similar to employment under a contract of service;

(ii) employment outside Barbados in continuation of any employment as an employed person;

(iii) employment outside Barbados of a person domiciled or having a place of residence outside Barbados, being employment as a member of the diplomatic or consular service of Barbados or as a domestic worker employed by a member of such service;

(b) for treating as not being employment as an employed person or for disregarding

(i) employment which is of a subsidiary nature or in which the insured person is engaged only to an inconsiderable extent;

(ii) employment in the service, or for the purposes of the trade or business, or as partner, of the insured person's husband or wife;

(iii) employment by a relative in the common home of the insured person and the employer;

(iv) such employment in the service of, or in the service of a person employed with, such international organisa-

tions or countries (other than Barbados) as may be specified in regulations;

- (c) for treating a person's employment as continuing during periods of holiday, incapacity for work and in such other circumstances as may be prescribed.

12A. (1) Subject to subsection (2) and without affecting section 12, any person who is employed

Certain persons employed abroad.

- (a) as a member of staff of a diplomatic mission or a consulate of Barbados, not being a person entitled to diplomatic or consular immunities and privileges; or

1984—18.

- (b) as a member of an overseas office of the Barbados Industrial Development Corporation, the Barbados Board of Tourism or any other statutory board of Barbados,

and who does not contribute to a social security scheme of the government of the country in which he is employed shall be insured under this Act.

(2) A person to whom subsection (1) relates is exempt from the requirement to the insured in respect of the contingencies in relation to which

- (a) sickness benefit under paragraph (a) of subsection (1),
- (b) maternity benefit under paragraph (b) of subsection (1),
- (c) unemployment benefit under paragraph (g) of subsection (1), and

(d) employment injury benefit under subsection (3) of section 21, are provided.

13. Provision may be made by regulations for the insurance under this Act of self-employed persons in respect of any of the several contingencies in relation to which benefits are provided under subsection (1) of section 21, and any such regulations may provide for such modification of this Act or of any regulations or for such other provision as may be necessary for the purpose of giving effect to this section.

Insurance of self-employed persons.

13A. Provision may be made by regulations for the insurance under this Act of persons ordinarily resident in Barbados who are temporarily employed outside Barbados.

Insurance of persons temporarily employed outside Barbados. 1976—4.

Insurance
for employ-
ment injury
benefit.

14. (1) Subject to this Act, all persons employed in insurable employment shall be insured in manner provided by this Act against personal injury caused on or after the appointed day¹ by accident arising out of and in the course of such employment, and there shall be payable in the prescribed circumstances to or in respect of any such person the appropriate description of benefit prescribed by subsection (3) of section 21.

Schedule.

(2) For the purpose of this section, every employment specified in Part I of the Schedule is an insurable employment unless it is an excepted employment, that is to say, an employment specified in Part II of the Schedule:

Provided that Parts I and II of the Schedule shall have effect subject to the provision made by Part III thereof for preventing anomalies.

Source of
funds.

15. (1) For the purpose of providing the funds required for paying the benefits payable under this Act and for making any other payments which under this Act are to be made out of the National Insurance Fund established under this Act, weekly contributions shall, subject to this Act, be payable as from the appointed day¹ by insured persons and by employers.

S.I. 1971
No. 1.

(2) Subject to subsections (3) and (4), provision shall be made by regulations for fixing the rates of contributions to be paid by the different categories of insured persons and employers.

(3) The contribution in respect of any person towards benefit payable under subsection (3) of section 21 shall be payable wholly by the employer of such person.

1971—1.

(4) In relation to persons in insurable employment under section 14 but not under section 12, the contributions to be paid under the foregoing provisions of this section by the employer shall be determined by the Board by reference to the work actually done by the insured person or by a group of persons of whom he is one, or by reference to remuneration paid to him or to such a group, instead of by reference to the weeks in which the insured person is employed.

(5) Without prejudice to any other provisions of this Act or of any regulations made thereunder relating to the collection of contributions, the Board may, for the purposes of this section

¹ The appointed day for the purposes of this section was 5th June, 1967. (See L.N. 59/1967.)

make such arrangements as it considers expedient for the collection of contributions payable in respect of persons referred to in subsection (4).

(6) Any employer or insured person who fails to pay any contribution which he is liable under this Act to pay shall be liable on summary conviction to a fine of \$100.

15A. (1) The Government may pay money into the Fund for the purposes of section 21A. Payments to Fund by Government. 1981-54.

(2) The Board is authorised to receive money paid into the Fund pursuant to subsection (1).

16. In relation to the insurance of employed persons under this Act, regulations may provide for Exceptions for liability for, and crediting of, contributions.

(a) excepting insured persons from liability to pay contributions for periods

(i) of incapacity for work;

(ii) of full-time unpaid apprenticeship,

and for such other periods as may be prescribed;

(b) crediting contributions to insured persons for periods for which they are excepted from liability to pay them by virtue of paragraph (a) and for such other periods as may be prescribed.

17. (1) Any insured person who is not liable to pay contributions under this Act shall be entitled on making application to the Board within such time and in such manner as may be prescribed to receive a certificate of voluntary insurance if he has satisfied the prescribed conditions.

Voluntary
contributions.

(2) An insured person holding a certificate of voluntary insurance granted under this section may pay, within such time and in such manner as may be prescribed, a weekly contribution at the prescribed rate for any week for which he is not liable to pay a contribution as an employed or self-employed person.

(3) Regulations may prescribe the circumstances in which such a certificate may be cancelled in default of payment of contributions within the prescribed time.

18. (1) Except where regulations otherwise prescribe, an employer liable to pay a contribution in respect of a person employed by him shall, in the first instance, be liable to pay also, on behalf of and to the exclusion of that person, any contribution as an employed person payable by that person for the same contribution week, and for the purposes of this Act contributions paid by an employer on behalf of an employed person shall be deemed to be contributions by the employed person.

Contributions
of employed
persons and
employers.

(2) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the wages or other remuneration of a person employed by him, or otherwise to recover from such a person, the employer's contribution in respect of that person.

(3) Any employer who deducts or attempts to deduct the whole or any part of the employer's contribution in respect of any person from his wages or other remuneration shall be liable on summary conviction to a fine of two hundred dollars.

(4) An employer shall be entitled, subject to and in accordance with regulations, to recover from an employed person the amount of any contribution paid or to be paid by him on behalf of that person, and, notwithstanding anything in any enactment, regulations under this subsection may authorise recovery by deductions from the employed person's wages or remuneration:

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Provided that any such regulations shall provide that—

- (a) where the employed person does not receive any wages or other pecuniary remuneration in respect of his employment, either from the employer or from any other person, the employer shall not be entitled to recover the amount of any such contribution from him; and
- (b) where the employed person does receive any such wages or remuneration from the employer, the employer shall not be entitled to recover any such contribution otherwise than by deductions from the wages or remuneration.

General provisions as to payment and collection of contributions, etc.

19. (1) Regulations may provide—

- (a) for any matters incidental to the payment and collection of contributions under this Act;
- (b) for treating, for the purposes of any right to benefit, contributions paid after the due dates as paid on those dates or on such later dates as may be prescribed or as not having been paid and for treating, for the purpose aforesaid, contributions payable by an employer on behalf of an employed person but not paid, 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, the employed person;
- (c) for treating contributions of the wrong class or at the wrong rate as paid on account of the contributions properly payable;
- (d) for the return of contributions under this Act paid in error;
- (e) (without prejudice to any other remedy) for the recovery, on prosecutions brought under this Act, of contributions under this Act.

(2) Where under regulations made by virtue of subsection (1) contributions under this Act are payable by means of adhesive stamps, these stamps (hereinafter in this Act referred to as "insurance stamps") shall be prepared in such manner as the Minister may direct, and the Minister may—

- (a) provide for the sale of insurance stamps through the Post Office; and
- (b) by regulations, provide for applying with the necessary adaptations, as respects insurance stamps, all or any of the provisions (including fiscal provisions) of the *Stamp Duty Act*, or any other enactment relating to stamps. Cap. 91.

(3) Regulations made by virtue of this section providing for the payment of contributions, at the option of the persons liable to pay, either

- (a) by means of insurance stamps; or
- (b) by some alternative method the use of which involves greater expense in administration on the Board than would be incurred if the contributions were paid by means of insurance stamps,

may include provision for the payment into the Fund by any person who adopts any alternative method, and for the recovery by the Board, of the prescribed fees in respect of the difference in the expense of administration.

20. In relation to persons who

Persons to be
treated as
employers.

- (a) are employed by more than one employer in any contribution week; or
- (b) work under the general control or management of some person other than their immediate employer,

and in relation to any other cases for which it appears to the Minister that special provision is needed, regulations may provide that for the purposes of this Act the prescribed person shall be treated as their employer; and regulations made by virtue of paragraph (b) may provide for adjusting the rights between themselves of the person prescribed as the employer, the immediate employer and the persons employed.

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PART IIA

Health Service Contribution

Health
Service
Contribution.
1982—7.

20A. There is payable in respect of every person to whom sections 12, 13, 13A and 14 relate a contribution known as a "Health Service Contribution" at such rate as may be prescribed in the regulations.

Collection
and disposal
of Health
Service
Contribution.
1984—22.

20B. (1) All contributions payable under section 20A shall be collected in the same manner as other contributions payable under this Act; and, notwithstanding anything contained in this Act or in the regulations, are payable in respect of every week in respect of which an employed person or a self-employed person, regardless of age, receives remuneration.

(2) Contributions collected under this Part and owing as from 1st April, 1984 shall be made to the National Health Service Fund established under Section 9 of the *National Health Service Board Act*.

Recovery
of Health
Service
Contributions.
1984—18.
Commence-
ment of
Part IIA.
1984—18.

20C. All contributions that are due and payable under this Part are recoverable in the manner specified in section 43 as if the contributions were national insurance contributions.

20D. This Part shall be deemed to have come into operation on the 5th day of October, 1981.

PART III

Benefits

Description
of benefits.

21. (1) Subject to this Act, the benefits which may be paid to or in respect of persons insured pursuant to section 12 shall be as follows

- (a) sickness benefit, that is to say, periodical payments to an insured person who is rendered incapable of work;
- (b) maternity benefit, that is to say, periodical payments in the case of the pregnancy or confinement of an insured woman;
- 1985—24. (c) maternity grant, that is to say, a payment in the case of the pregnancy or confinement of a woman who
 - (i) is not an insured person; or
 - (ii) is an insured person that does not satisfy the conditions specified under the *National Insurance and Social Security (Benefit) Regulations, 1967* for the receipt of maternity benefit,
 but whose spouse is an insured person;
- S.I. 1967/45. (d) invalidity benefit, that is to say, a payment or periodical payments to an insured person who is permanently incapable of work;
- 1967—32. (e) funeral grant, that is to say, a payment on the death of an insured person;
- 1985—24. (f) old age contributory grant or pension, that is to say, a payment or periodical payments to an insured person who has reached pensionable age;
- (g) survivors' benefits, that is to say, a payment or periodical payments made in respect of an insured person who dies otherwise than by way of employment injury; and
- (h) unemployment benefit, that is to say, a payment or periodical payments to an insured person who is temporarily unemployed but such benefit shall not come into operation until 6th July, 1981.
- 1981—54. (2) Notwithstanding paragraph (a) of subsection (1), no
- 1970—3. sickness benefit shall, subject to subsections (4) and (5) of section 12, be paid to any insured person to whom subsection (2) of that section applies.
- (3) Subject to this Act, employment injury benefit may be paid to or in respect of persons insured pursuant to section 14 and such benefit may be in the nature of
 - (a) an injury benefit payable where the insured person is rendered incapable of work;

- (b) a disablement benefit payable where the insured person suffers loss of physical or mental faculty;
- (c) a death benefit payable where the insured person dies as a result of the injury;
- (d) funeral grant, that is to say, a payment on the death of 1971—1. an insured person who dies as a result of the injury;
- (e) medical expenses, that is to say, a payment or payments for such medical expenses as may be prescribed.

(4) In this Act references to loss of physical faculty shall be construed as including references to disfigurement, whether or not accompanied by any actual loss of faculty.

(5) Subject to the provisions of Part VI relating to persons on ships and aircraft, employment injury benefit shall not be payable in respect of an accident happening while the insured person is outside Barbados.

(6) For the purposes of this Act, an accident arising in the course of an insured person's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

(7) For the purposes of paragraph (c) of subsection (1), 1985—24. "spouse" includes a single man who is living together with a single woman for a period of not less than 2 years immediately preceding any application made by that woman in respect of a grant payable under that subsection; and "single man" and "single woman" shall include a widower and a widow respectively.

(8) Notwithstanding subsection (7), the Director may treat a man who is living together with a woman to whom paragraph (c) of subsection (1) refers, for a period of less than 2 years as a spouse within the meaning of that paragraph, if he is satisfied that in all the circumstances he should be so treated.

21A. Notwithstanding anything in this Act, a non-contributory old age pension is payable in accordance with the regulations.

Non-contributory old age pension. 1981—4.

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Accidents
happening
while acting
in breach
of regula-
tions, etc.

22. An accident shall be deemed to arise out of or in the course of an insured person's employment notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

Accidents
happening
while
travelling in
employer's
transport.

23. (1) An accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if

- (a) the accident would have been deemed so to have arisen had he been under such an obligation; and
- (b) at the time of the accident, the vehicle
 - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
 - (ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle includes references to a ship, vessel or aircraft.

Accident
happening
while
meeting
emergency.

24. An accident happening to an insured person in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, in an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possible to be, injured or imperilled, or to avert or minimise serious damage to property.

25. Regulations shall make provisions for the following

- (a) the rates or amounts of the several benefits or descriptions of benefits set out in sections 21 and 21A and the variation of such rates or amounts in different or special circumstances;
- (b) the conditions subject to which and the periods for which any such benefit or description of benefit may be granted;
- (c) the date as from which each of the several benefits or descriptions of benefit is to be provided;
- (d) the time within which and the manner in which the several benefits and descriptions of benefit shall be claimed and paid and the information and evidence to be furnished by beneficiaries when applying for payment;
- (e) the circumstances in which and the time for which a person shall be disqualified for or disentitled to the receipt of benefit or a benefit may be forfeited or suspended, including the prevention of the receipt of two benefits for the same period and the adjustment of benefits in the case of any special circumstances; and
- (f) such other matters as may be necessary for the proper administration of benefits, including the obligations of persons claiming any benefit, beneficiaries and employers.

Rates of
benefits, etc.

1981—54.

26. Every assignment of, or charge on, benefit and every agreement to assign or charge benefit shall be void, and, on the bankruptcy of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

Benefits to
be inalien-
able.

27. (1) Where an employer has failed or neglected—

- (a) to pay any contributions which under this Act he is liable to pay on behalf of any employed person in his employment; or
- (b) to comply, in relation to any such person, with the requirement of any regulations relating to the payment and collection of contributions,

Proceedings
by employee
for benefit
lost by
employer's
default.

and by reason thereof that person has lost, in whole or in part, any sickness benefit or maternity benefit to which he or she would have been entitled, that person shall be entitled to recover summarily from the employer as a civil debt a sum equal to the amount of the benefit so lost.

(2) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Act in respect of the same failure or neglect.

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

PART IV

Extension of Insurance to Diseases, etc.

28. (1) Subject to this Part, a person who is under this Act insured against personal injury caused by accident arising out of and in the course of his employment shall be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of the employment and developed on or after the appointed day.

Industrial
diseases, and
industrial
injuries not
caused by
accident.

(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

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(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) Regulations prescribing any disease or injury for the purposes of this Part may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force but not before the appointed day, shall be treated for the purposes of this Part, subject to any prescribed modification, as if the regulations had been in force when he developed the disease or injury.

(4) Provision may be made by regulations for 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, where the person in question has previously suffered therefrom, to be treated as having recrudesced or having been contracted or received afresh.

(5) Nothing in this Part shall affect the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Act, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

Application
to prescribed
diseases and
injuries of
provisions as
to benefits
and claims.

29. (1) The benefit payable under this Part in respect of a prescribed disease or injury, and the conditions for receipt of such benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject, however, to the power to make different provision by regulations as respects any matter which is to be prescribed and to the following provisions of this Part.

(2) Regulations may provide, in relation to prescribed diseases and injuries, for modifying the provisions of this Act relating to employment injury benefit and for adapting

references in this Act to accidents and shall provide for applying, in relation to claims for benefit under this Part in respect of a prescribed disease or injury and in relation to questions arising in connection therewith, Part III, subject to any prescribed additions or modifications.

(3) Such regulations may in particular include provision—

(a) for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;

(ii) not to be due to the nature of a person's employment unless he was employed in some prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;

(b) for the establishment of special medical boards and the appointment of medical officers for the purposes of the regulations;

(c) for such matters as appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of this section.

PART V

Finance, Administration and Legal Proceedings

30. (1) For the purposes of this Act, there shall be established, under the control and management of the Board, a fund called the National Insurance Fund.

Establish-
ment of
National
Insurance
Fund.
1967-32.

(2) There shall be paid into the Fund—

(a) all contributions payable under this Act by employers and insured persons;

(b) all rent, interest on investments or other income derived from the assets of the Fund;

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- (c) all sums recovered under this Act or regulations as fines, fees, penalties or costs;
 - (d) all sums properly accruing to the Fund under this Act or the regulations, including, without prejudice to the generality of the foregoing, the repayment of benefit;
 - (e) such other sums as may from time to time be provided by Parliament for any of the purposes of this Act or as may from time to time be received and accepted by the Board on behalf of the Fund.
- 1967-32. (3) There shall be paid or met out of the Fund—
- (a) all claims for benefits;
 - (b) refunds of contributions paid in error;
- 1973-5. (c) all expenses properly incurred in the administration of this Act or the regulations;
- (d) such sums as the Board, with the approval of the Minister, may write off as losses;
- 1970-3. (e) refunds to employers of insured persons to whom subsection (2) of section 12 applies of such part of the contributions paid in respect of those insured persons as may be agreed on by the Board and such employers.
- (4) Accounts of the Fund shall be prepared in such form, in such manner and at such times as the Auditor-General may direct and the Auditor-General shall examine and certify every such account.
- 1970-3. (5) Any moneys forming part of the Fund may be invested by the Board in such manner and in such securities as the Minister responsible for Finance may direct.

Defrayment
of initial
expenditure
and meeting
of temporary
insufficiency
in Fund.
L.N. 168/
1967.

31. (1) The initial expenditure incurred in bringing this Act into force shall be defrayed out of such sums as Parliament may provide for the purpose.

(2) Any temporary insufficiency in the assets of the Fund to meet the liabilities of the Fund under this Act shall be met from such sums as Parliament may vote for the purpose by way of an advance.

(3) Any sums voted by Parliament pursuant to subsection (2) shall be repaid out of the Fund as soon as may be practicable.

32. There shall be paid into the Consolidated Fund out of the Fund at such times and in such manner as the Minister may direct, such sums as the Minister may estimate to be the amount of the expenses of the Post Office in carrying this Act into effect. Expenses of Post Office.

33. (1) The Board shall

(a) in each year prepare a report on its activities in the last preceding year and shall furnish such report to the Minister not later than the thirtieth day of June; Report and accounts to be submitted to Minister.

(b) submit to the Minister every account, certified by the Auditor-General pursuant to section 30, together with the report of the Auditor-General thereon, within one month of such certification; and

(c) submit annually to the Minister an account of the securities in which moneys forming part of the Fund are for the time being invested.

(2) The Minister shall cause a copy of every report of account submitted to him pursuant to this section to be laid on the table of both Houses.

34. (1) The Board shall, with the assistance of an actuary approved by the Minister, review the operation of this Act during the period ending with the 31st March, 1971, and thereafter during the period ending with the thirty-first day of March in every third year and, on each 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 benefit payable thereunder having regard to its other liabilities under this Act: Review of operation of Act.

(2) Notwithstanding subsection (1), the Minister may at any time direct that the period to be covered by the review and report under this subsection shall be reduced and that the making of that and subsequent review and reports under this subsection shall be accelerated accordingly.

(3) The Minister shall cause a copy of every report made to him under this section to be laid on the table of both Houses.

Deter-
mination of
claims and
question.
1981—18.

35. (1) Regulations may provide for the determination by the Board, or by such persons appointed or constituted in accordance with the regulations, of any question arising under or in connection with this Act, including any claim to benefit.

Cap. 109A.

(2) An appeal shall lie to the Administrative Appeal Tribunal as provided by the *Administrative Appeal Tribunal Act* in respect of any question or claim to benefit determined by the Board, or by such persons as are appointed or constituted in accordance with subsection (1)

(a) provision shall be made by rules of court for regulating references and appeals to the High Court under this subsection and for limiting the time within which appeal may be brought thereunder;

(b) notwithstanding anything in any enactment, the decision of the High Court on a reference or appeal under this subsection shall be final and on any such reference or appeal the court may order the Board to pay the cost of any other person, whether or not the decision is in favour of the Board and whether or not the Board appears on the reference or appeal.

(3) Subject to this section, regulations may, in relation to the determination of questions in accordance with the regulations, include provision

(a) as to the procedure which is to be followed, form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;

(b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence;

- (c) for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses,

and, except so far as it may be applied by regulations under this subsection, the *Arbitration Act* shall not apply to any Cap. 110. proceedings under this section.

It is hereby declared that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not.

36. (1) Regulations may provide

- (a) for the payment of benefits through the Post Office;
- (b) notwithstanding anything in this Act, for adjusting the commencement and termination of benefit or of changes in the rate of benefit, so that, except in the case of sickness benefit or injury benefit payable by virtue of paragraph (a) of subsection (3) of section 21, payments shall not be made in respect of periods less than a week or at different rates for different parts of a week;
- (c) for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within six months, or such shorter period as may be prescribed, from the time at which that sum is receivable in accordance with the regulations.

Adminis-
tration of
benefits.

(2) Regulations may also provide

- (a) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary;
- (b) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment or distribution of benefit to or amongst persons claiming as his personal repre-

1979—32. sentative, legatees, next-of-kin or creditors and for dispensing with strict proof of the title of persons 'so claiming.

Interim
payments,
arrears and
repayments.

37. (1) Regulations may make provision as respects matters arising

(a) pending the determination under this Act (whether in the first instance or on an appeal or reference and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or to the receipt thereof or any person's liability for contributions; or

(b) out of the revision on appeal or review of any decision under this Act on any such claim or question.

(2) Regulations made under subsection (1) may include provision

(a) for the suspension of benefit where it appears to the Board that there is, or may be, a question whether the conditions for receipt thereof in accordance with an award are or were fulfilled or whether the award ought to be revised;

(b) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;

(c) for treating any benefit paid to any person under an award or by virtue of any provision of 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 for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;

(d) for treating benefit paid to one person in respect of another as being a child of the family, or the wife or husband or an adult dependant of the first-mentioned person, as having been properly paid for any period, notwithstanding that under regulations relating to overlapping benefits it is not payable for that period by reason of a subsequent decision either

(i) that the said other person is himself entitled to benefit for that period; or

(ii) that a third person is entitled to benefit for that period in respect of the said other person in priority to the first-mentioned person,

and for reducing or withholding accordingly any arrears payable for that period by virtue of the subsequent decision.

38. (1) For the purposes of this Act, the Board may appoint as inspectors such persons holding offices on the Board's establishment as the Board may from time to time determine. *Inspectors.*
1967—32.

(2) Any inspector so appointed shall, for the purposes of the execution of this Act, have power to do all or any of the following things, namely

(a) to enter at all reasonable times any premises or place liable to inspection under this section;

(b) to make examination and enquiry as may be necessary for ascertaining whether this Act is being or has been complied with in any such premises or place, or for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for benefit was or may have been received or contracted; 1971—1.

(c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act on which he may reasonably require information, every person whom he finds in any such premises or place or whom he has reasonable cause to believe to be or to have been an insured person or employed by the employer of any insured person and to require every such person to be so examined; 1971—1.

(d) to exercise such other powers as may be necessary for carrying this Act into effect.

(3) The occupier of any premises or place liable to inspection under this section and any person who is or has been employing any person and the servants and agents of any such occupier or other person and any insured person shall furnish to an

inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable or have been duly paid, by or in respect of any person or whether benefit is or was payable to or in respect of any person.

(4) Any person who

(a) wilfully delays or obstructs an inspector in the exercise of any power under this section; or

(b) refuses or neglects to answer any question or to furnish any information or to produce any documents when required so to do under this section,

shall be liable on summary conviction to a fine of one hundred dollars in the case of a first offence under this subsection and of five hundred dollars in the case of a second or subsequent such offence:

Provided that no one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself.

(5) Every inspector shall be furnished with a certificate of his appointment and on applying for admission to any premises or place for the purposes of this Act shall, if so required, produce the said certificate.

(6) The premises and places liable to inspection under this section are any premises or places where an inspector has reasonable grounds for supposing that any persons are employed except that they do not include any private dwelling-house not used by or by permission of the occupier for the purposes of a trade or business.

General
provisions
as to offences
and penalties.

39. (1) Any person who

(a) buys, sells or offers for sale, takes or gives in exchange or pawns or takes in pawn any insurance card or any used insurance stamp;

(b) affixes any used insurance stamp to any insurance card;
or

(c) for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any other purpose connected with this Act

(i) knowingly makes any false statement or false representation; or

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

shall be liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of six months, or to both such fine and such imprisonment.

(2) Regulations may provide for the recovery on summary conviction of monetary penalties in respect of any offence under this Act, being a contravention of or failure to comply with regulations, so however, that such penalties shall not exceed one hundred dollars for each offence or, where the offence consists of continuing any such contravention or failure after conviction thereof, one hundred dollars together with a further one hundred dollars for each day on which it is so continued.

(3) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) For the purposes of this section the expression "insurance card" means any card issued under regulations for the purpose of the payment of contributions by affixing insurance stamps thereto; and in any proceedings under subsection (1) with respect to used stamps, a stamp shall be deemed to have been used if it has been affixed to an insurance card or cancelled or defaced in any way whatsoever and whether it has actually been used for the purpose of payment of a contribution or not.

(5) Nothing in this section shall be construed as preventing the Board from recovering by means of civil proceedings any sums due to the Fund.

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Pretending
to act under
authority of
Board.
1970-3.

40. (1) Any person, not being an officer of or otherwise authorised by the Board, who

(a) for the purpose of obtaining admission to any premises or place or of doing any act which he is not by law entitled to do of his own authority in any way pretends to be an officer of the Board or to be otherwise authorised by the Board; or

(b) in any other way personates an officer of the Board or any person acting under the authority of the Board,

shall be liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months or to both such fine and imprisonment.

(2) For the purposes of this section, the expression "officer of the Board" means any person holding or acting in an office on the Board's establishment.

General
provisions
as to
prosecutions
under Act.

41. (1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Board or by an inspector or other officer authorised in that behalf by special or general directions of the Board.

(2) Any such inspector or other officer may, although not an attorney-at-law, prosecute or conduct before a court of summary jurisdiction any such proceedings as aforesaid.

(3) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Board to justify a prosecution for the offence, comes to its knowledge, or within the period of twelve months, after the commission of the offence, whichever period last expires.

(4) For the purposes of subsection (3), a certificate, purporting to be signed on behalf of the Board as to the date on which such evidence as aforesaid came to the knowledge of the Board, shall be conclusive evidence thereof.

(5) In any proceedings for an offence under this Act, the wife or husband of the accused shall be competent to give evidence, whether for or against the accused; but the wife or

husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused.

42. (1) In any case where any person has been convicted of the offence under Part II of failing to pay a contribution, he shall be liable to pay to the Fund a sum equal to the amount which he failed to pay. Recovery of contributions on prosecutions under Act.

(2) In any case where

(a) any person is convicted of an offence under paragraph (b) of subsection (1) of section 39 or of an offence under any provision of the *Stamp-Duty Act*, or of any other enactment relating to stamps as applied by regulations or of an offence under regulations; and Cap. 91.

(b) the evidence on which such person is convicted shows that such person, for the purpose of paying any contribution which he was liable to pay, has affixed to any insurance card any used insurance stamp within the meaning of the said paragraph (b),

such person shall be liable to pay to the Fund a sum equal to the amount of the contribution in respect of which the stamp was affixed.

(3) On any such conviction as is mentioned in subsection (1) or (2), if notice of intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the person concerned to pay other contributions during the two years preceding the date of the offence and on proof of such failure the person concerned shall be liable to pay to the Fund a sum equal to the total of all the contributions he is so proved to have failed to pay.

(4) Where any person is charged with any such offence as is mentioned in subsection (1) or subsection (2) and a probation order is made under the *Probation of Offenders Act*, subsections (1) to (3) shall apply as if the making of the order were a conviction. Cap. 146.

(5) Any sum ordered to be paid to the Fund under this section shall be recoverable as a penalty.

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(6) Any sum paid by an employer under subsections (1) to (3) shall be treated as a payment in satisfaction of the unpaid contributions and the insured person's portion of those contributions shall not be recoverable by the employer from the insured person.

(7) If an employer, being a body corporate, fails to pay to the Fund any sum which the employer has been ordered to pay under this section, that sum or such part thereof as remains unpaid, shall be a debt due to the Fund jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contribution or contributions in question.

(8) Nothing in this section shall be construed as preventing the Board from recovering any sums due to the Fund by means of civil proceedings.

Civil proceedings to recover sums due to Fund. 1984—14.

43. (1) All sums due and payable as national insurance contributions under this Act are recoverable as debts due to the Board and, without prejudice to any other remedy, may be recovered summarily as a debt due to the Board in civil proceedings.

(2) In the recovery of unpaid sums in pursuance of subsection (1), the Director, National Insurance may certify, in relation to the person who owes those sums, in a certificate called an unpaid national insurance certificate, the sums due and payable by that person.

(3) An unpaid national insurance certificate may be filed by the Director, National Insurance in the High Court or in a magistrate's court for District 'A'; and it shall be registered in the court in which it is filed.

(4) Subject to subsection (6), a certificate referred to in this section has, after the expiration of 7 days from the date on which it is filed, the same force and effect as a judgment of the court in which it is registered in favour of the Board against the person named in the certificate for the sum specified in the certificate and also for

(a) interest on that sum at the rate of 1 percent per month calculated for each month during which any amount of

national insurance contributions remained unpaid on the largest amount of national insurance contributions that were due and unpaid during any time in that month; and

- (b) all reasonable costs and charges upon the registration of the certificate.

(5) Proceedings may be taken on an unpaid national insurance certificate as if it were a judgment of the court in which it was registered.

(6) Where an unpaid national insurance certificate is filed by the Director, National Insurance in the High Court or in a magistrate's court for District 'A', the Director, National Insurance shall, without delay, deliver a copy of the unpaid national insurance certificate to the person to whom that certificate relates and, if the copy of the certificate is not so delivered within seven days from the date of the filing, then subsections (4) and (5) cease to have effect with respect to that certificate.

(7) Proceedings for the summary recovery of national insurance contributions may, notwithstanding anything in any Act to the contrary, be brought at any time within 3 years from the time when the matter complained of arose.

43A. Where a judgment 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 directions of the Board may proceed to execute and enforce that judgment and exercise all the remedies attached thereto for the satisfaction of the judgment notwithstanding any enactment or rule of law to the contrary relating to

Execution and enforcement of judgments in certain circumstances. 1983—33.

- (a) the powers and duties of a receiver;
- (b) the effect of a winding up order under the *Companies Act*; or
- (c) the effect of a receiving order under the *Bankruptcy Act*.

Cap. 308.

Cap. 303.

Garnis-
ment.
1986—14.

43B. (1) Where the Board believes 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, National Insurance may deliver to the first-mentioned person a demand for payment stating

- (a) the name of the person indebted to the Fund; and
- (b) the amount of the debt due to the Fund including the rate of interest thereon; 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 one-third of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration.

(2) Every person who receives a demand for payment under subsection (1) relating to one of his employees shall pay to the Board at the same time as he would pay that employee the amount demanded by the Director, National Insurance 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) Every person who receives a demand for payment under subsection (1) relating to some person other than one of his employees shall, if he is indebted to or liable to make a payment to that other person, pay to the Board the amount of his indebtedness or the amount which he is liable to pay to that person or the amount of that person's indebtedness to the Fund whichever is the lesser.

(4) Every 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) is liable to pay to the Board an amount equal to the liability discharged or which he was required under subsection (2) or (3) to pay to the Board whichever is the lesser.

(5) The payment of an amount to the Board 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 Board.

(6) This section is effective notwithstanding the *Protection of Wages Act*. Cap. 351.

PART VI

Miscellaneous and General

44. This Act shall apply to persons employed by or under the Crown, subject to any special provisions made by or by virtue of any other section thereof, in like manner as if the Crown were a private person, with such modifications as may be made therein by regulations for the purpose of adapting this Act to the case of such persons: Crown servants.

Provided that regulations may provide that any employment under the Crown shall not be an insurable employment.

45. (1) Without prejudice to the generality of any other power to make regulations, the Minister may make regulations, modifying this Act in such manner as he thinks proper in its application in relation to persons who are or have been employed on board any ship, vessel or aircraft.

Persons employed on board ships, vessels or aircraft.

(2) Regulations made under subsection (1) may in particular provide—

- (a) for the insurance pursuant to section 12 of persons who are or have been employed on or after the appointed day on board ships, vessels or aircraft, notwithstanding that they do not fulfil the conditions of the said section;
- (b) for excepting from insurance under this Act or from liability to pay contributions as employed persons any persons employed as aforesaid who neither are domiciled nor have a place of residence in the Island;
- (c) for the taking of evidence for the purpose of any claim to benefit in any place outside the Island;
- (d) for enabling persons on board ships, vessels or aircraft to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed;
- (e) for the payment of employment injury benefit to or in respect of mariners and airmen in respect of accidents happening, and prescribed diseases and injuries contracted or received, while they are outside the Island;
- (f) for treating as accidents arising out of and in the course of the employment of a mariner or airman accidents happening while he is proceeding to or from his ship, vessel or aircraft or in any other prescribed circumstances; and
- (g) for withholding any benefit that may be payable to a mariner for any period during which the owner of his ship or vessel is under a statutory obligation to pay him wages.

46. (1) Without prejudice to the generality of any other power to make regulations, the Minister may make regulations modifying this Act in such manner, subject to subsection (2),

Insured persons outside the Island.

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as he thinks proper, in its application in relation to persons who are or have been outside the Island while insured under this Act.

(2) Regulations under this section shall provide that an insured person who is throughout any contribution week outside the Island and is not in that week an employed person shall not be liable to pay any contribution as an insured person for that week.

Accidents in
course of
illegal
employment,
etc.

47. (1) Where a claim for employment injury benefit is made under this Act in respect of any accident or of any prescribed disease or injury or an application is made thereunder for a declaration that any accident was an industrial accident or for a corresponding declaration as to any prescribed disease or injury, the Minister may direct that, for the purposes of this Act, the relevant employment shall, in relation to that accident, disease or injury, be treated as having been insurable employment, notwithstanding that, by reason of a contravention of or non-compliance with some provision contained in or having effect under any enactment passed for the protection of persons in employment or any class of such persons, the contract purporting to govern the employment was void or the person employed was not lawfully employed therein at the time when or in the place where the accident happened or the disease or injury was contracted or received.

(2) For the purposes of this section, the expression "relevant employment" means, in relation to an accident, the employment out of and in the course of which the accident arises and, in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

Reciprocal
agreements
with other
parts of
Common-
wealth.

48. (1) For the purpose of giving effect to any agreement with the government of any other part of the Commonwealth, or the government of any foreign country, providing for reciprocity in matters relating to payments in respect of interruption of employment by sickness or invalidity or payments in respect of the confinement of women, widowhood, orphanhood, retirement, old age or death or the payment of compensation or benefit to persons in employment in respect of industrial or similar injuries, it shall be lawful for the Governor-

General by order published in the *Official Gazette* to make provision for modifying or adapting this Act in its application to cases affected by the agreement.

(2) The modification of this Act which may be made by virtue of subsection (1) shall include provision—

- (a) for securing that acts, omissions and events, having any effect for the purposes of the law of the country in respect of which the agreement is made, shall have a corresponding effect for the purposes of this Act (but not so far as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Act and under the law of the said country, which of these rights shall be available to the person concerned;
- (c) for making provisions as to administration and enforcement contained in this Act or in any regulations applicable also for the law of the said country;
- (d) for making any necessary financial adjustments by payments into or out of the Fund.

49. (1) For the purposes of this Act, the expression “the appointed day” means, subject to this section, such day as the Minister may by order published in the *Official Gazette* appoint and different days may be appointed for different provisions or different purposes of this Act and for the same provision for the same purpose in relation to different cases or classes of case.

Provisions
as to com-
mencement
of insurance
under this
Act.

(2) Any order under subsection (1) may contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the orderly implementation of the different provisions and purposes of this Act.

50. (1)* Except in so far as this Act otherwise provides, any power conferred thereby to make regulations or an order shall be vested in the Minister and may be exercised—

General
provisions
as to
regulations
and orders.

- (a) either in relation to all cases to which the power extends or in relation to all those cases subject to specified

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exceptions or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised, or different provisions as respects the same case or class of case for different purposes of this Act;

(iii) any such provision either unconditionally or subject to any specified conditions.

(2) Without prejudice to any specific provision in this Act, any regulations or order under this Act may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations or order.

(3) All regulations shall be subject to negative resolution.

Workmen's compensation to cease to be payable.

51. Workmen's compensation¹ shall not be payable in respect of any employment on or after the appointed day.

Measure of damages in action by injured person or dependants against employer. 1971-36.

52. Where personal injury is caused to an insured person in such circumstances as to entitle him or his dependants to an action against his employer, in assessing damages there shall be taken into account against any loss of earnings or profit which has accrued or probably will accrue to the insured person from the injury—

(a) the value of any rights which have accrued or probably will accrue to him therefrom in respect of employment injury benefit; and

¹ Workmen's compensation continues to be payable in respect of certain cases of employment before the appointed day. The Minister was empowered to make provision to wind up the workmen's compensation scheme. See National Insurance Social Security Act, 1966-15, section 51(2) and Second Schedule, not reprinted in this edition of the *Laws of Barbados*.

- (b) one-half the value of any rights which have accrued or probably will accrue to him therefrom in respect of any other benefit,

for the period of five years beginning with the time when the cause of action arose.

53. (1) Where personal injury is caused to an insured person in such circumstances as to entitle him or his dependants to an action against a person other than his employer, the insured person or his dependants, if entitled to any benefit as a result of that injury, may bring the action and claim the benefit if the person bringing the action gives written notice to the Board of his intention to bring the action.

Action by injured person or dependants against persons other than employer. 1971-36.

(2) Where the insured person or his dependants or any of them have claimed benefit as is mentioned in subsection (1), all his rights and remedies with respect to the whole or any part of his claim against the person other than his employer shall be transferred to and vest in the Board.

(3) In the circumstances mentioned in subsection (2) it shall not be obligatory upon the Board to sue for or require payment of damages unless it thinks fit to do so and the Board may, in its discretion, compromise the cause of action or release its claim thereon if it does not think it fit to sue for damages.

(4) A compromise settlement of an action or cause of action by the insured person or his dependants at an amount less than the value of any rights which have accrued or probably will accrue to him from the injury in respect of any benefit for the period of five years beginning with the time when the cause of action arose shall be of no effect unless it is made with the written approval of the Board.

(5) For the purposes of this section, on an action for damages for personal injury there shall not be taken into account in assessing those damages any rights which have accrued or probably will accrue to the insured person therefrom in respect of any benefit.

54. For the purposes of sections 52 and 53—

- (a) the expression "personal injury" includes any disease and any impairment of a person's physical or mental condition;

Interpretation for purposes of sections 52 and 53. 1971-36.

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- (b) references to assessing the damages for personal injury shall in any case where the damages otherwise recoverable are—
- (i) subject to reduction under the law relating to contributory negligence, or
 - (ii) limited by or under any enactment or by contract; be construed as referring to the total damages which would have been recoverable apart from the reduction or limitation;
- (c) any gratuity by way of disablement benefit referred to in paragraph (b) of subsection (3) of section 21 shall be treated as benefit for the period taken into account by the assessment of the extent of disablement made in accordance with the Employment Injury (Benefit) Regulations, 1970 in respect of which it is payable.

SCHEDULE

Insurable and Excepted Employments

PART I

Insurable Employments

1. Employment in the Island under any contract of service or apprenticeship, whether written or oral and whether express or implied (in this Schedule referred to as a "contract of service").

2. (1) Employment under a contract of service either as master or a member of the crew of any ship or vessel to which this paragraph applies or in any other capacity on board any such ship or vessel where—

- (a) the employment in that other capacity is for the purposes of the ship or vessel or her crew or of any passengers or cargo or mails carried thereby; and
- (b) the contract is entered into in the Island with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

and any other prescribed employment as master or a member of the crew of any such ship or vessel, being a fishing vessel, where the person employed is remunerated in whole or in part by a share in the profits or gross earnings of the fishing vessel.

(2) This paragraph applies, with such exceptions as may be prescribed—

- (a) to all ships and vessels belonging to the Crown;
- (b) to all ships and vessels whose port of registry is a port in the Island;
- (c) to all other British ships and vessels of which the owner (or managing owner if there is more than one owner) or the manager resides or has his principal place of business in the Island.

(3) For the purposes of this paragraph, the expression "manager" means, in relation to any ship or vessel, the ship's husband or other person to whom the management of the ship or vessel is entrusted by or on behalf of the owner; and references in this paragraph to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be construed as referring to the person for the time being entitled as charterer to possession and control of the ship or vessel by virtue of the demise or any sub-demise.

3. (1) Employment under a contract of service either as pilot, commander, navigator or member of the crew of any aircraft to which this paragraph applies or in any other capacity on board any such aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried thereby; and
- (b) the contract is entered into in the Island with a view to its performance (in whole or in part) while the aircraft is in flight.

(2) This paragraph applies, with such exceptions as may be prescribed, to all aircraft belonging to the Crown and to all aircraft registered in the Island of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in the Island.

(3) In this paragraph references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

4. Employment in the Island under the Interim Commissioner for Local Government.

5. Employment in the Island in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.

PART II

Excepted Employment

1. Employment under a contract of service—

- (a) as a master or member of the crew of any ship or vessel, being neither a ship or vessel to which paragraph 2 of Part I applies nor a ship or vessel which is employed exclusively in the Island; or

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(b) in any other capacity on board any ship or vessel where the employment in that other capacity is for the purposes of the ship or vessel or her crew or of any passengers or cargo or mails carried thereby and is employment under a contract of service entered into with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and either—

(i) the ship or vessel is not one to which the said paragraph 2 applies nor one which is employed exclusively in the Island; or

(ii) the said contract was entered into outside the Island.

2. Employment under a contract of service—

(a) as pilot, commander, navigator or member of the crew of any registered aircraft, not being an aircraft to which paragraph 3 of Part I applies; or

(b) in any other capacity on board any registered aircraft where the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried thereby and is employed under a contract of service entered into with a view to its performance (in whole or in part) while the aircraft is in flight, and either—

(i) the aircraft is one to which the said paragraph 3 does not apply; or

(ii) the said contract was entered into outside the Island.

3. Employment of a casual nature, not being employment—

(a) for the purposes of the employer's trade or business; or

(b) as a pilot on board a ship or vessel; or

(c) for the purposes of any game or recreation where the persons employed are engaged or paid through a club.

4. Employment in the service of the husband or wife of the person employed.

5. Employment of a person by a member of his family in so far as the employment—

(a) is employment in a private dwelling house in which both the person employed and the employer reside;

(b) is not employment for the purposes of any trade or business carried on there by the employer.

6. Employment of any class prescribed for the purposes of this paragraph where the person employed is employed therein to no greater extent than such as may be so prescribed as being inconsiderable.

PART III

Where it appears to the Minister—

- (a) that the nature and other circumstances of the service rendered or the work performed in any employment which is insurable employment and in any employment which is not insurable employment (whether by reason of the fact that it is an excepted employment or otherwise) are so similar as to result in anomalies in the operation of this Act; and
- (b) either—
 - (i) that the first-mentioned employment can conveniently be included among the excepted employments; or
 - (ii) that the second-mentioned employment can conveniently be included among the insurable employments,

the Minister may by regulations provide that the employment shall be included.

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