



ST. CHRISTOPHER AND NEVIS

CHAPTER 22.10

SOCIAL SECURITY ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2017

This is a revised edition of the law, prepared by the Law Commission under the authority of the Law Commission Act, Cap. 1.03.

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SOCIAL SECURITY ACT

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CHAPTER 22.10
SOCIAL SECURITY ACT

AN ACT TO ESTABLISH A SYSTEM OF SOCIAL SECURITY THAT IS TO PROVIDE PECUNIARY PAYMENTS BY WAY OF VARIOUS BENEFITS TO INSURED PERSONS AND SOCIAL ASSISTANCE BY WAY OF NON-CONTRIBUTORY OLD AGE PENSIONS TO INSURED AND OTHER PERSONS WHO DO NOT QUALIFY FOR BENEFIT; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Social Security Act.

Interpretation.

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

“Act” includes any regulations made thereunder;

“actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries of Great Britain or a Fellow of the Society of Actuaries of the United States of America or a person who in the opinion of the Minister is qualified as an actuary;

“appointed day” in relation to any provision of this Act or to any class of insured persons means the day appointed under section 1 in respect of that provision or class;

“assistance” means assistance payable under Part V;

“award” means an award of benefit or assistance;

“beneficiary” means a person entitled to benefit or, as the case may be, assistance;

“benefit” means benefit payable under Part IV;

“the Board” means the Social Security Board established under section 3;

“claimant” means a person claiming benefit, or, as the case may be, assistance or whose right to be excepted from liability to pay, or to be credited with, a contribution is in question;

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

“contribution” means a contribution payable to the Fund pursuant to this Act;

“contribution period” means the prescribed period in respect of which a contribution is payable;

“Director” means the Director appointed under section 14 and any person appointed to act in his place;

“employed person” means, subject to subsection (2) of section 19, any person in an employment specified in the First Schedule;

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly except in the expression “employed person”;

“employer” includes—

- (a) any managing agent of an employer;
- (b) the personal representative of a deceased employer;
- (c) in relation to a person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under a contract of bailment (other than a hire purchase agreement), the said owner;
- (d) in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the Manager or where the club is managed by a committee, the members of the managing committee of the club;

“employer’s contribution” means a contribution payable by a person otherwise than as an insured person;

“Fund” means the Social Security Fund established by subsection (1) of section 40;

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

“insured person” means a person insured under this Act for the benefits set out in subsection (1) of section 26;

“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 actual loss of function);

(Inserted by Act 7 of 1985)

“managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer;

“mariner” means—

- (a) a master or member of the crew of a vessel; or
- (b) a person employed in any other capacity on board a vessel whose employment on such vessel is that of an employed person under paragraph 2 of the First Schedule;

“master” when used in relation to a vessel means any person except a pilot having charge or command of the vessel;

“member” means a member of the Board;

“member of the crew” in relation to a vessel or aircraft means every person (except a master or pilot) employed or engaged in any capacity on board the vessel or aircraft;

“Minister” means the Minister responsible for Social Security;

“Part” means a Part of this Act;

“prescribed” means prescribed by regulations under this Act;

“regulations” means regulations made by the Minister under this Act;

“resources” means all property whether of a capital nature or not, available to a claimant for assistance except such disregarded resources as may be prescribed;

“voluntarily insured person” means an insured person whose insurance under this Act is continued voluntarily pursuant to section 22;

“wages” includes salary or any other pecuniary remuneration as may be prescribed.

(2) Where it is a condition for title to benefit or assistance that—

- (a) a woman is the widow of an insured person, the Board may treat a single woman or widow, who was living with a single man or widower as his wife at the date of his death as if she were in law his widow; or
- (b) a man is the widower of an insured person, the Board may treat a single man or widower who was living with a single woman or widow as her husband at the date of her death as if he were in law her widower,

if the insured person has nominated the woman or the man as the case may be as beneficiary for the purpose of entitlement to benefit, and the Board is satisfied that in all the circumstances he or she should be so treated.

(3) Where the question of marriage or re-marriage or of the date of marriage or re-marriage arises in regard to the title or cessation of title to benefit the Board shall, in the absence of the subsistence of a lawful marriage, or where there is any impediment to lawful marriage, decide whether or not the person concerned ought to be treated as if he or she were married or as if he or she had re-married, as the case may be, and if so from what date, and in determining the question the Board shall have regard to the provisions of subsection (4).

(4) The determination of the Board under subsections (2) or (3) shall, unless the context otherwise requires, have the effect of extending (as regards title or cessation of title to benefit payable to a man or to a woman) the meaning of the word “marriage” to include an association between a single man or widower and a single woman or widow in the circumstances described in subsection (2) and for that purpose the words “wife”, “husband”, “widow”, “widower” and “spouse” shall be construed accordingly.

(5) In subsection (2) “single man” means a man who has never married, or whose marriage has been dissolved by a decree absolute of divorce or declared a nullity, and “single woman” shall be construed accordingly.

(6) The expression “the husband” or “the wife” in relation to a person who has been married more than once refers only to the last husband or wife respectively.

(7) For the purposes of this Act—

- (a) a person shall be deemed to be over or under any age therein mentioned if he or she has or has not attained that age;
- (b) a person shall be deemed to be between two ages therein mentioned if he or she has attained the first mentioned age but has not attained the second mentioned age.

PART II

THE SOCIAL SECURITY BOARD

*Establishment and Constitution of Social Security Board***Social Security Board.**

3. (1) For the purposes of this Act, there shall be and there is hereby established a Board to be known as the Social Security Board which, for those purposes and subject to the provisions of this Act shall have and may exercise the rights, powers, authorities and functions conferred, and shall be charged with and perform the duties and obligations imposed upon it by this Act and by any other Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document or notice and shall presume that it was duly affixed.

(4) The head office of the Board shall be established at such place in the town of Basseterre as the Minister on the recommendation of the Board may appoint and for the efficient and proper performance of its functions and duties the Board may establish branch offices in any part of the State.

Composition of Board.

4. (1) The Board shall consist of not less than six nor more than twelve members.

(2) One of the members shall be appointed to be Chairperson and one shall be appointed to be Deputy Chairperson.

(3) The Board shall be appointed by the Minister.

(4) Two members representing employers shall be appointed after consultation with such association of employers or persons or bodies as are likely to produce representation for employers generally throughout the State.

(5) Two members representing employees shall be appointed after consultation with such association of trade unions or individual trade unions as appear to the Minister to be representative of workers generally throughout the State.

(Section 4 amended by Act 3 of 2009 and corrected by S.R.O. 26/2015)

Terms of office of members.

5. (1) Subject to this Act, the period for which a member of the Board first appointed under this Act shall hold office shall be in the case of the Chairperson five years and in the case of the Deputy Chairperson, four years and in the case of the remaining members three years.

(2) After the appointment of the members first appointed, each further appointment shall be for a period of three years.

(3) If a member ceases to hold office before the termination of the period of his or her appointment, another member may be appointed in his or her place for the remainder of that period.

(4) Each person who is appointed a member shall, upon the expiration of the term for which he or she was appointed, be eligible for re-appointment.

Remuneration of members.

6. The members shall be paid from the Fund such remuneration and travelling and other allowances as may be approved by the Minister.

Absence of Chairperson.

7. (1) In the case of the absence of the Chairperson, whether through illness or otherwise, the Deputy Chairperson, if present, shall act as Chairperson.

(2) In the case of the absence of both the Chairperson and the Deputy Chairperson, whether through illness or otherwise, the members present may appoint one of their number to act as Chairperson but the Minister may, if he or she thinks fit, appoint a person to act as Chairperson for such period as the Minister specifies.

Illness or absence of members.

8. In the case of the absence, whether through illness or otherwise, of any other member, the Minister may, if he or she thinks fit, appoint a person to perform the functions of that member during his absence.

Conditions of leave of absence of members.

9. The Minister may grant leave of absence to any member upon such conditions as to remuneration or otherwise as the Minister thinks fit.

Termination of a member of the Board.

10. (1) Subject to subsection (2) of this section the Minister may terminate the appointment of the Chairperson, Deputy Chairperson or any member of the Board, if he or she thinks it desirable or expedient so to do.

(2) In the case of a member of the Board representing employers or employees the Minister may terminate their services only in accordance with the advice of the employers or trade unions as provided in section 4(4) and (5) of this Act.

(Substituted by Act 18 of 1983)

Vacation of office.

11. A member shall be deemed to have vacated his or her office—

- (a) if his or her appointment is terminated by the Minister under this Act;
- (b) if he or she becomes bankrupt or compounds with his or her creditors or makes any assignment of his or her remuneration for their benefit or takes advantage of any provision of any Act relating to bankruptcy;
- (c) if he or she becomes of unsound mind;
- (d) if he or she resigns his or her office by writing under his or her hand addressed to the Minister and the resignation is accepted by the Minister; and
- (e) if he or she absents himself or herself, except with leave granted by the Minister, from three consecutive meetings of the Board.

Meetings of the Board.

12. (1) The Board shall hold such meetings as, in the opinion of the Chairperson or at least three other members, are necessary for the efficient conduct of its affairs.

(2) At meetings of the Board two-thirds of the membership thereof shall constitute a quorum.

(3) Any question arising at any meeting of the Board shall be determined by a majority of the votes of the members present, and the Chairperson shall have a deliberative vote, and, if there is an equality of votes, a second or casting vote.

(4) The Director shall be present at all meetings of the Board unless he or she has obtained leave of absence from the Board or from the Chairman or is incapacitated by sickness or other cause; but if the Board so directs, he or she shall temporarily retire from any meeting.

Delegation of powers by Board.

13. (1) The Board may in relation to any particular matters or class of matters or to any particular part of the State, by writing under its seal, delegate to any officer or employee or other prescribed person all or any of its powers under this Act, except this power of delegation, so that the delegated powers may be exercised by him or her with respect to the matters or class of matters or the part of the State specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Board.

Appointment of officers and employees.

14. (1) The Board shall appoint a Director, who shall be the chief executive officer of the Board, a Secretary and such other officers and employees as it thinks necessary, but the Director and the Secretary may be one and the same person.

(2) The terms and conditions of employment of persons appointed or engaged under this section including conditions with respect to punishment for breaches of discipline shall be as determined by the Board, but it shall be a condition for the appointment of the Director that he or she shall be present at all meetings of the Board unless he or she has obtained leave of absence from the Board or from the Chairperson or is incapacitated by sickness or other cause.

(3) The rate of salary payable to the Director shall be subject to the approval of the Minister.

(4) Where an officer or employee appointed in pursuance of this section was, immediately before his or her appointment, an officer in the public service of the State, his or her service as an officer or employee of the Board shall, for the purpose of determining his or her existing and accruing rights, be taken into account as if it were service in the public service with the Government and any public officer so appointed shall in relation to pension, gratuity or other allowances and in relation to other rights as a public officer be treated as continuing in the service of the Government.

Temporary and casual employees.

15. The Board may appoint such temporary or casual employees as it thinks fit, on such terms and conditions as the Board determines.

Committees of the Board other than Investment Committee.

16. (1) Subject to the provisions of this Act the Board may appoint such committees to assist the Board in relation to a matter as the Board thinks fit.

(2) A committee appointed under this section shall consist of such persons whether members of the Board or not, as the Board thinks fit but any committee so appointed shall include not less than two members of the Board.

(3) A member of a committee shall be paid, in respect of attendance at meetings of the committee or while engaged with the approval of the Board on business of the Board, such fees, expenses and allowances as may be prescribed.

(4) A committee shall make such inquiries and furnish to the Board such reports with respect to the matter in relation to which it has been appointed as the Board may direct.

Investment Committee and investments.

17. (1) The Board shall establish an Investment Committee whose function it shall be, subject to subsection (6) of section 40, to determine the investment policy of the Board.

(2) The Investment Committee shall consist of—

- (a) the Chairperson of the Board, who shall be the Chairperson of the Committee;
- (b) one person nominated by the Minister of Finance;
- (c) a member of the Board nominated by the Minister after consultation with employers as provided for in section 4(4);
- (d) a member of the Board nominated by the Minister after consultation with trade unions as provided for in section 4(5); and
- (e) the chief accounting officer of the Board by whatever name called.

Protection of Board and its members.

18. No act done or proceedings taken under this Act shall be questioned on the ground of any omission, vacancy in the membership of the Board, defect or irregularity not affecting the merits of the case.

(Amended by Act 18 of 1983)

PART III

INSURED PERSONS AND CONTRIBUTIONS

Description and classification of insured persons.

19. (1) For the purposes of this Act, insured persons shall be either—

- (a) employed persons;
- (b) self-employed persons; or
- (c) voluntarily insured persons.

(Amended by Act 18 of 1996)

(2) Provision may be made by regulations for modifying the said classification in relation to cases where it appears to the Minister desirable by reason of the nature or circumstances of a person's employment or occupation or otherwise.

(3) Subject to the provisions of this Act, every person who on or after the appointed day, being over the age of sixteen years and under the age of sixty-two years, is an employed person shall be insured under this Act.

(4) Subject to the provisions of this Act every person who on or after the appointed day, having been insured under this Act by virtue of subsection (3) and not having attained the age of sixty-two years, ceases to be so insured, may become insured as a voluntarily insured person under this Act.

(5) Subject to the provisions of this Act, every person who, being over the age of sixteen years and under the age of sixty-two years, is a self-employed person, shall be insured under this Act.

(Inserted by Act 18 of 1996)

Source of funds.

20. (1) For the purpose of providing the funds required for paying benefit, and for making any other payments which under this Act are to be made out of the Fund contributions shall be payable by insured persons and by employers.

(2) Subject to the provisions of this Act and of any regulations, no person shall be entitled to pay any contribution thereunder other than a contribution which he or she is liable to pay.

(3) Regulations shall provide for fixing from time to time the rates of contribution to be paid by such different classes of insured persons and by employers as may be prescribed.

Exceptions from liability for and crediting of contributions.

21. Regulations may provide for—

- (a) excepting insured persons from liability to pay contributions for periods—
 - (i) of incapacity for work;
 - (ii) of full time unpaid apprenticeship;
 - (iii) when they are not in receipt (or are deemed in accordance with regulations not to be in receipt) of an income exceeding a prescribed annual sum,

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 contributions under paragraph (a).

Voluntarily insured persons.

22. A voluntarily insured person may pay within such time and in such manner as may be prescribed a prescribed rate of contribution for any period in which he or she is not liable to pay a contribution as an employed person.

(Amended by Act 18 of 1983)

Contributions of employed persons and employers.

23. (1) Except where regulations otherwise prescribe, an employer liable to pay contributions in respect of a person employed by him or her shall, in the first instance, be liable to pay also, on behalf of and to the exclusion of that person any contribution as an insured person payable by that person for the same contribution

period and for the purposes of this Act, contributions paid by an employer on behalf of an insured person shall be deemed to be contributions by the insured person.

(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 her, or otherwise to recover from such person, the employer's contribution in respect of that person.

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from an insured person employed by him or her the amount of any contribution paid or to be paid by him or her on behalf of that person, and, notwithstanding anything in any enactment, such regulations may authorise recovery by deductions from the insured persons wages or remuneration.

General provisions as to registration and as to payment and collection of contributions.

24. Regulations may provide for—

- (a) the registration for the purposes of the system of social security of every employer, of every self-employed person, of every employed person and of every voluntarily insured person;
(Amended by Act 18 of 1996)
- (b) the payment and collection of contributions under this Act;
- (c) any matters incidental to the payment and collection of contributions under this Act;
- (d) 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 insured person, but not paid, as paid where the failure to pay is shown not have been with the consent or connivance of, or attributable to any negligence on the part of, the insured person;
- (e) treating contributions of the wrong class or at the wrong rate as paid on account of the contributions properly payable;
- (f) the return of contributions paid in error.

Persons to be treated as employers.

25. (1) In relation to persons who—

- (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.

(2) Regulations made by virtue of paragraph (b) of subsection (1) may provide for adjusting the rights between themselves of the person prescribed as the employer, the immediate employer and the persons employed.

PART IV

BENEFIT

Descriptions of benefit and contribution conditions.

26. (1) Benefit shall be of the following descriptions—

- (a) sickness benefit, that is to say periodical payments to an insured person who is rendered incapable of work otherwise than as a result of employment injury;
- (b) maternity benefit, that is to say—
 - (i) to an insured woman a maternity allowance by means of periodical payments or a grant in the case of her pregnancy and confinement;
 - (ii) to the wife of an insured man a grant in the case of her confinement;
- (c) invalidity benefit, that is to say, periodical payments to an insured person who is likely to remain permanently incapable of work otherwise than as a result of employment injury;
- (d) age benefit, that is to say, a payment or periodical payments to an insured person who has attained the age of sixty-two years;
- (e) employment injury benefit means a payment or periodical payment, more specifically described in sub-section (3), made in respect of an insured person who suffers a personal injury which is caused by an accident arising out of and in the course of employment, or develops any prescribed disease being a disease due to the nature of such employment;
(Inserted by Act 7 of 1985)
- (f) funeral grant, that is to say, a payment on the death of an insured person, or of a person in such a relationship to an insured person as may be prescribed;
- (g) survivor's benefit, that is to say, a payment or periodical payments, more particularly described in subsection (2) made in respect of an insured person who dies, otherwise than by way of employment injury.

(2) For the purposes of this section,

“employment injury” means a personal injury caused by an accident arising out of and in the course of employment or any disease being a disease due to the nature of employment suffered by an insured person after the first day of January, 1986 in terms of the provisions of this Act and the Regulations made thereunder.

(Substituted by Act 7 of 1985)

“survivor's benefit” means—

- (a) widow's benefit or pension payable in prescribed circumstances to the widow of the deceased for the life of the widow or until such time as may be prescribed;

- (b) widower's benefit payable in prescribed circumstances to the widower of the deceased for the life of the widower or until such time as may be prescribed;
 - (c) child's allowance payable in respect of a child of the deceased;
 - (d) orphan's allowance payable in respect of a child of the deceased where such child has by reason of the death of the deceased been rendered an orphan;
 - (e) parent's pension, payable to a parent of the deceased where at the date of death of the deceased the parent was being wholly or mainly maintained by him or her.
- (3) Employment injury benefit includes—
- (a) injury benefit, that is to say in addition to such free medical care and attention as may be prescribed, a periodical payment to an insured person who suffers personal injury which is caused by an accident arising out of and in the course of employment or who develops any prescribed disease, being a disease due to the nature of such employment;
 - (b) disablement benefit, that is to say in addition to such free medical care and attention as may be prescribed, a payment or a periodical payment to an insured person, who as a result of an injury or disease such as is referred to in paragraph (a) of this subsection, suffers loss of faculty;
 - (c) death benefit, that is to say a payment or periodical payments in respect of an insured person who dies as a result of such injury or disease as referred to in paragraph (a) of this subsection.

(Inserted by Act 7 of 1985)

Rates of benefits.

27. Regulations shall provide for—

- (a) the rates or amounts of benefit and the variation of such rates or amounts in different or special circumstances;
- (b) prescription of diseases having regard to the causes and the degrees of disablement;
(inserted by Act 7 of 1985)
- (c) matters relating to prescribed diseases and the appointment and the payment to medical officers and Boards;
(Inserted by Act 7 of 1985)
- (d) the conditions subject to which and the periods for which benefit may be granted; and
- (e) the date as from which benefit is provided.

Regulations with respect to payment of benefit.

28. Regulations may provide for—

- (a) the time and manner of paying benefit and as to the information and evidence to be furnished by persons when applying for payment and without prejudice to the generality of the foregoing for—

- (i) adjusting the commencement and the termination of benefits so that, except in the case of sickness benefit payments shall not be made in respect of periods less than a contribution period or at different rates for different parts of a contribution period; and
- (ii) 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 such sum is receivable in accordance with regulations;
- (b) the prevention of the receipt for the same period of two amounts of benefit;
- (c) the adjustment of benefit in the case of any special circumstances;
- (d) the circumstances in which and the time for which a person shall be disqualified from or disentitled to receive benefit;
- (e) the circumstances in which benefit may be forfeited or suspended and, without prejudice to the generality of the foregoing, for the suspension of payment of benefit to or in respect of any person during any period when he or she is—
 - (i) absent from the State; or
 - (ii) undergoing imprisonment or detention in legal custody, and for the circumstances in which and the manner in which payment of the whole or of any part of any benefit may instead of being so suspended be made during any such period to or for the maintenance of such persons as may be specified in the regulations, being persons nominated by the person entitled to the benefit or who in the opinion of the Board are dependants of that person;
- (f) enabling a person to be appointed to exercise on behalf of—
 - (i) a claimant or beneficiary who is a minor; or
 - (ii) a claimant or beneficiary who may be unable to act; or
 - (iii) a claimant or beneficiary who may become unable to act,any right or power that the claimant or beneficiary may be entitled to exercise under this Act;
- (g) authorising a person appointed in pursuance of regulations under paragraph (f) to receive and to deal with any sum payable by way of benefit on behalf of the claimant or the beneficiary;
- (h) enabling a claim for benefit to be made or proceeded with in the name of a deceased person where the claim arises in connection with the death of that person; and—
 - (i) for authorising payment or distribution of benefit to or amongst persons claiming as personal representative, legatee, next of kin or creditor of such deceased person; or
 - (ii) in a case where the deceased was illegitimate to or amongst others;
- (i) dispensing with the strict proof of the title of persons claiming in pursuance of regulations made under sub-paragraph (i) or (ii) of paragraph (h);

- (j) such other matters as may be necessary for the proper administration of benefits, including the obligations of persons claiming any benefit, beneficiaries and employers.

Repayment of benefit improperly received.

29. (1) If it is found that any person by reason of the non-disclosure or misrepresentation by him or her of a material fact, whether the non-disclosure or misrepresentation was or was not fraudulent, has received any sum by way of benefit while he or she was not entitled to that benefit, he or she shall be liable to repay the sum so received by him or her.

(2) Where any person is liable to repay any sum received by him or her by way of benefit, that sum may be recovered, without prejudice to any other remedy, by means of deductions from benefit or assistance to which he or she thereafter becomes entitled.

Benefits to be inalienable.

30. 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 the creditors.

PART V

ASSISTANCE

Description of assistance and persons entitled.

31. (1) Subject to the provisions of subsection (2), assistance to be awarded under this Act shall be of the following kind only—

- (a) old age non-contributory pension, that is to say, periodical payments to a person who has attained the age of 62 years and is not in a gainful occupation;
- (b) non-contributory invalidity assistance, that is to say, periodical payments to persons of the age 16 to 62 years and who are rendered permanently incapable of work otherwise than as a result of employment injury.

(Inserted by Act 10 of 1988)

(2) Assistance of the kind described in subsection (1) may be awarded subject to a prescribed test of resources and only to such persons as may be prescribed.

(3) Assistance under the provisions of this section shall be payable out of the Fund from such date as the Minister may determine.

Rates of assistance.

32. Regulations shall provide for—

- (a) the rates or amounts of assistance and the variation of such rates in different or special circumstances;
- (b) the conditions subject to which and the periods for which assistance may be granted; and

- (c) the date as from which assistance may be provided.

Repayment of assistance improperly received.

33. If it is found that any person by reason of non-disclosure or misrepresentation by him or her of a material fact, whether the non-disclosure or misrepresentation was or was not fraudulent, has received any sum by way, of assistance while he or she was not entitled to that assistance, he or she shall be liable to repay the sum so received by him or her.

Assistance to be inalienable.

34. Every assignment of or charge on assistance and every agreement to assign or charge assistance shall be void and on the bankruptcy of the beneficiary the assistance shall not pass to any trustee or other person acting on behalf of the creditors.

PART VI

ADMINISTRATION, FINANCE AND LEGAL PROCEEDINGS

Administration

Designation and powers of inspectors.

35. (1) The Board may designate such officers in its service as it thinks fit to be inspectors for the purpose of giving effect to the provisions of this Act.

(2) An inspector shall for the purposes of the execution of this Act have power to do all or any of the following things—

- (a) to enter at all reasonable times any premises or place liable to inspection under this section;
- (b) to make such examination and enquiry as may be necessary for ascertaining whether the provisions of this Act are being or have been complied with in any such premises or place;
- (c) to make enquiries, either alone or in the presence of any other person as he or she thinks fit, with respect to any matters under this Act on which he or she may reasonably require information, from every person whom he or she finds in any such premises or place, or whom he or she has reasonable cause to believe to be or to have been an insured person, and to require every such person to answer such enquiries;
- (d) to exercise such other powers as may be necessary for the administration of this Act.

(3) Subject to subsection (4) 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 or assistance is or was payable to or in respect of any person.

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

(5) The premises and places liable to inspection 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.

(6) No person shall be required under this section to answer any questions or give any evidence tending to incriminate himself or herself.

Determination of claims and questions.

36. (1) Regulations may provide for the determination by the Board, by the Director, or by a person or tribunal appointed or constituted in accordance with the regulations, of any question arising under or in connection with this Act including any claim to benefit or assistance and, subject to the provisions of the regulations, the decision in accordance therewith of any such question shall be final.

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may in relation to the determination of questions in accordance with the regulations include provision—

- (a) as to the procedure to be followed, the form of any document, the evidence 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;
- (d) as to the representation of one person at the hearing of a case by another person whether having professional qualifications or not.

(3) Regulations under subsection (1) may provide for—

- (a) the reference to the High Court of any question of law arising in connection with the determination of any question under the regulations;
- (b) appeals to the High Court from the decision of the Board or of a person or tribunal on any such question of law.

(4) 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 appeals may be brought thereunder.

(5) Notwithstanding anything in any enactment the decision of the High Court in a reference or appeal under this section shall be final, and the Court may order the Board to pay the costs of any person whether or not the decision is in favour of the Board and whether or not the Board appears on the reference or appeal.

Interim payments arrears and repayments.

37. (1) Regulations shall provide as respects matters arising—

- (a) pending the determination under this Act (whether in the first instance or on appeal or on review) of any claim for benefit or of any question affecting the right of any person to benefit or to the receipt thereof; or
 - (b) out of the revision or appeal or review of any decision of any such claim or question.
- (2) Without prejudice to the generality of subsection (1) regulations thereunder shall include provision—
- (a) for the suspension of benefit or assistance where it appears to the Director that there is or may be a question whether the conditions for the receipt thereof are or were fulfilled or whether the award ought to be revised;
 - (b) as to the date from which any decision on review is to have effect;
 - (c) for treating any benefit or assistance paid to any person which it is subsequently decided was not payable as properly paid, or as paid on account of any other benefit or assistance which it is decided was payable to him or her, or for the repayment of any such benefit;
 - (d) for treating benefit or assistance paid to a person in respect of a child as properly payable for any period notwithstanding that by reason of a subsequent decision another person is entitled to benefit or assistance in respect of that child for that period, and for reducing or withholding accordingly any arrears payable for that period by virtue of that subsequent decision.

Payment of persons and tribunal appointed or constituted under section 36.

38. There shall be paid out of the Fund to a person appointed under regulations made under subsection (1) of section 36 and to a member of a tribunal constituted in accordance with such regulations, such remuneration and allowances, if any, and such amounts in respect of expenses incurred in connection with his or her work as such, as the Board with the prior approval of the Minister may determine.

Review of operation of Act.

39. (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 thirty-first day of December, 1980 and thereafter during the period ending with the thirty-first day of December in every third year, and on each such review shall make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of contributions to support benefits and assistance, having regard to its other liabilities under the Act; but the Minister may at any time direct that the period to be covered by any review and report under this subsection shall be reduced and that the making of that review and subsequent reviews shall be accelerated accordingly.

(Amended by Act 18 of 1983)

(2) The Minister shall, as soon as possible after receiving any report in accordance with subsection (1), lay a copy thereof before the House of Assembly.

(3) The Board may at any time, with the approval of the Minister, seek actuarial advice on matters pertinent to the financial condition of the Fund.

(Inserted by Act 18 of 1983)

FINANCE

Social Security Fund.

40. (1) For the purpose of this Act there shall be established under the control and management of the Board a fund called “the Social Security Fund”.

(2) There shall be paid into that Fund—

- (a) all contributions;
- (b) all rent, interest or investments or other income derived from the assets of the Fund;
- (c) all sums recovered for the fund under this Act; and
- (d) all sums properly accruing to the Fund under this Act including, without prejudice to the generality of the foregoing, the repayment of benefit or assistance.

(3) There shall be paid or met out of the Fund—

- (a) all claims for benefits or assistance;
- (b) all refunds of contributions paid in error;
- (c) all expenses properly incurred in the administration of this Act, including disbursements by way of remuneration, allowances and expenses payable under sections 6, 14, 15 and 36.

(4) Regulations shall provide for the form and conduct of the accounts of the Fund and in particular for—

- (a) the establishment and maintenance of different branches of such accounts; and
- (b) the establishment and maintenance within the Fund of different reserves for different purposes.

(5) An auditor appointed by the Minister shall examine and certify every account of the Fund.

(6) Any moneys forming part of the Fund may from time to time be invested by the Board in accordance with the provisions of the Second Schedule and, subject to these provisions, of any regulations made under paragraph (b) of subsection (4) establishing criteria for the investment of reserves.

(7) The Minister may by Order published in the *Gazette*, make such amendments to the First and Second Schedule as may be necessary.

(Inserted by Act 5 of 1991)

Report and accounts to be submitted to Minister. Second Schedule.

41. (1) The Board shall—

- (a) after the end of each year prepare a report on its activities during the last preceding year and shall furnish that report to the Minister not later than the thirtieth day of June;
- (b) submit to the Minister every account certified by the auditor under subsection (5) of section 40, together with the report of the auditor 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 in accordance with the Second Schedule.

(2) The Minister shall cause a copy of every account or report submitted to him or her under this section to be laid before the National Assembly.

Temporary insufficiency of Fund.

42. (1) Any temporary insufficiency in the Fund to meet the liabilities of the Fund under this Act shall be met from money provided by the Legislature.

(2) Any moneys provided by the Legislature under subsection (1) shall be repaid by the Fund by payment out of the Fund into the Consolidated Fund as soon as may be practicable.

LEGAL PROCEEDINGS

Fine for non-payment of contribution.

43. (1) If any contribution is not paid into the Fund within the time prescribed or approved under this Act, a fine in the sum of five per centum shall be added to the amount unpaid for each month or part of a month after the date when the contribution ought to have been paid, and any such added amount shall be recoverable as a civil debt due by the employer to the Fund.

(2) Notwithstanding the provisions of subsection (1) of this section the Director may, if he or she thinks it just and equitable so to do, remit the whole or a part of any fine imposed under the said subsection.

Recovery of Social Security contribution by sale of goods, etc.

44. (1) Subject to subsection (2) of this section, the provisions dealing with the recovery of income tax as provided in sections 70 to 75 in the Income Tax Act shall apply *mutatis mutandis* to the recovery of any contribution under this Act.

(2) Every reference to the word “collector” and the word “tax” in sections 70 to 75 of the Income Tax Act shall be read as a reference to the word “Director” and the word “contribution” respectively for purposes of this Act.

(Inserted by Act 18 of 1983 as section 43A. As a result of its renumbering sections 44 to 57 have been renumbered as section 45 to 58)

Offences and Penalties.

45. (1) Any insured person or employer who fails to pay at or within the time prescribed for the purpose any contribution which he or she is liable under this Act to pay shall for each such failure be liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both and in addition shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars for every day during which such failure continues beyond six months.

(Amended by Act 5 of 1991)

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contributions of the employer in respect of any person from the wages or other remuneration of such person commits

an offence and is liable, on summary conviction, to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both.

(Amended by Act 5 of 1991)

(3) Any person who for the purpose of obtaining any benefit or other payment under the Act, whether for himself or herself or some other person, or for any other purpose connected with the Act—

- (a) knowingly makes any false statement or false representation; or
- (b) produces or furnishes, causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or both.

(Amended by Act 5 of 1991)

(4) Any person who—

- (a) wilfully delays or obstructs an Inspector in the exercise of any powers under section 35 of this Act; or
- (b) refuses or neglects without reasonable cause to answer any question or to furnish any information or to produce any document when required so to do under the said section,

shall be liable, on summary conviction, to a fine not exceeding two hundred dollars in respect of the first offence and not exceeding five hundred dollars in the case of a second or subsequent offence.

(Inserted by Act 18 of 1983)

(5) Any employer who fails to render any return within the prescribed period commits an offence and is liable, on summary conviction, to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both, and in addition shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars for every day during which such failure continues beyond six months.

(Inserted by Act 5 of 1991)

General provisions as to prosecutions.

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

(2) Any such officer although not a counsel or a solicitor may prosecute or conduct before a court of summary jurisdiction any such proceedings as aforesaid.

(3) Notwithstanding any provision in any enactment 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 six 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 six years after the commission of the offence whichever period last expires and for the purpose of this subsection a certificate purporting to be signed on behalf of the Board as to the date on which such evidence came to its knowledge shall be conclusive evidence thereof.

(Amended by Act 10 of 1988)

(4) 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 a wife or husband shall not be compelled to give evidence or in giving evidence to disclose any communication made to her or him during the marriage by the accused.

(5) 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 or she as well as that body shall be deemed to have committed that offence and shall be liable to be proceeded against and penalised accordingly.

Recovery of contributions on prosecution.

47. (1) In any case where a person has been convicted of an offence under subsection (1) of section 45 of failing to pay a contribution he or she shall be liable to pay to the Fund a sum equal to the amount which he or she failed to pay.

(2) On any such conviction as is mentioned in subsection (1) if notice of intention to do so has been served with the summons or warrants 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 which he or she is so proved to have failed to pay.

(3) Where any person is charged with any offence as is mentioned in subsection (1) or (2) and a probation order is made under the Probation of Offenders Act, the foregoing provisions of this section shall apply as if the making of the order were a conviction.

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

(5) Any sum paid by an employer under this section shall be treated as a payment in satisfaction of the unpaid contributions and any part of such sum which represents an employee's contribution shall not be recoverable by the employer from the insured person.

(6) If any employer being a body corporate fails to pay to the Fund any sum which the employer has been ordered to pay under this section such sum or part thereof as remain 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 in question.

(7) 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.

48. (1) All sums due to the Fund under this Act shall be recoverable as debts due to the Fund and without prejudice to any other remedy may be recovered summarily as a civil debt.

(2) Proceedings for the summary recovery of sums due to the Fund may, notwithstanding anything in any enactment to the contrary, be brought at any time within six years from the time when the matter complained of arose.

(Amended by Act 10 of 1988)

(3) Proceedings for the summary recovery as civil debts of sums due to the Fund may be instituted by an officer of the Board authorised in that behalf by special or general directions of the Board, and any such officer may although not of counsel or a solicitor conduct such proceedings.

Proceedings for benefits lost by employer's default.

49. (1) Where an employer has failed or neglected to pay any contribution which he or she is liable to pay in respect of or on behalf of any insured person, and by reason of such failure or neglect such person or any other person becomes disentitled to any benefit or entitled to a benefit on a lower scale the Board may, on being satisfied that the contribution should have been paid by the employer, pay to the person or the other person benefit at the rate to which he or she would have been entitled if the failure or neglect had not occurred and the Board shall be entitled to recover summarily in a magistrate's court from the employer as a civil debt a sum equal to the amount of benefit so lost irrespective of the amount.

(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 person concerned would, but for the employer's failure or neglect, have been entitled to receive the benefit lost.

Proceedings against officers and employees of the Board.

50. Subject to the provisions of any other enactment, in any action or other legal proceedings brought against any officer or employee of the Board in respect of any act done in pursuance of or in execution or intended execution of this Act the plaintiff shall not recover unless he or she alleges in his or her pleading and proves at the trial that such act was done either maliciously or without reasonable and probable cause.

PART VII

MISCELLANEOUS AND GENERAL PROVISIONS

Crown Servants.

51. This Act shall apply to persons employed by or under the Crown in right of the Government of the State 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 the provisions of this Act to the case of such persons but regulations may provide that any such persons or any class of such persons shall be exempted from the operation of this Act.

Persons employed on board ships, vessels or aircraft.

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

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may, in particular, provide—

- (a) for the classification under this Act 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 section 25;
- (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 State;
- (c) for the taking of evidence for the purpose of any claim to benefit or assistance in any place outside the State;
- (d) for enabling persons on board ships, vessels, or aircraft to authorise the payment of the whole or any part of any benefit or assistance to which they are or become entitled to such of their dependants as may be prescribed; and
- (e) for withholding any benefit which may be payable to a mariner for any period while the owner of his or her ship or vessel is under a statutory obligation to pay him or her wages.

Reciprocal agreements with other countries.

53. For the purpose of giving effect to any agreement with the Government of any other country, being an agreement which provides for reciprocity as respects the making of provision for social security the Minister may, by Order, modify or adapt the provisions of this Act in their application to cases affected by the agreement.

Exemption from Stamp Duty.

54. Stamp Duty shall not be chargeable upon any draft or order or receipt given in respect of any benefit or upon any receipt given in respect of any other payment out of the Fund under subsection (2) of section 40 or upon any receipt given by an officer or employee of the Board for or in respect of any sum payable into the Fund.

REPEALS AND TRANSITIONAL PROVISIONS

Repeal of National Provident Fund Act and preservation of rights.

55. (1) No person shall, on or after the appointed day, be insured or deemed to be or treated as insured under the National Provident Fund Act and accordingly, subject to the following provisions of this Act, the National Provident Fund Act as from that day is hereby repealed.

(2) Subject as aforesaid, the foregoing provisions of this Act shall, in relation to—

- (a) persons (hereafter in this Act referred to as “existing members”) who on the day immediately preceding the appointed day are registered members of the National Provident Fund or deemed to be or treated as such;
- (b) persons (hereafter referred to as “existing creditors”)—
 - (i) to or in respect of whom immediately before that day any benefit, award or payment is, or would but for any disqualification or forfeiture be payable under or by virtue of the National Provident Fund Act; or

- (ii) who then have any prospective right to or expectation of any benefit, award or payment under or by virtue of that Act; and
- (c) persons (hereafter referred to as “existing debtors”) who immediately before that day were liable in respect of contributions or any other liability under the National Provident Fund,

have effect with such modifications, additions and exceptions as may be prescribed for securing the preservation of rights conferred under or by virtue of that Act.

(3) Regulations made under subsection (2) shall, in particular, provide—

- (a) as respects existing members—
 - (i) for the insurance under this Act of such of them as on the appointed day, being under the age of sixty-two years continue in any employment by virtue of which they are existing members;
 - (ii) for modifying the conditions for receipt of benefit under this Act so as to take into account for such purposes and in such manner and subject to such conditions as may be prescribed contributions paid or deemed to be or treated as paid under that Act;
- (b) as respects existing creditors, either—
 - (i) for substituting for any right to any benefit, award or payment payable under or by virtue of that Act a right to such benefit under this Act as may be prescribed as corresponding thereto; or
 - (ii) for preserving any such right and giving effect thereto under this Act subject to such modifications if any as appear to the Minister to be appropriate, so however, that the maximum rate of any such benefit, pension or allowance shall not be increased above the rate of the corresponding benefit under this Act.

Transfer of assets and liabilities.

56. (1) Subject to the following provisions of this Act, on the appointed day, the following assets, that is to say—

- (a) all sums standing to the credit and other assets of the National Provident Fund;
- (b) all assets of the body charged with the administration of the provisions of the National Provident Fund,

shall become assets of the Social Security Fund.

(2) Subject as aforesaid, any liabilities accrued on or accruing after the appointed day to which the assets mentioned in subsection (1) would have been applicable but for this Act shall be liabilities of the Social Security Fund.

Regulations.

57. The Minister may make regulations not inconsistent with this Act prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing penalties not exceeding a fine of two hundred dollars for any breach of the regulations.

Workmen's Compensation Act 1955.

58. Notwithstanding the repeal of the Workmen's Compensation Act where any right has accrued to a worker under that Act prior to the first day of January, 1986 the provisions of that Act shall continue to be in force for the purpose of enforcing such right as if that Act had not been repealed.

FIRST SCHEDULE

(Section 2)

PART I**EMPLOYMENT AS AN EMPLOYED PERSON**

1. Employment in the State under any contract of service.
2. Employment whether within or without the State of a person domiciled or having a place of residence therein—
 - (a) as master or member of the crew of any ship or vessel, or as a pilot, commander, navigator or member of the crew of any aircraft, being a ship, vessel or aircraft of which the owner (or the managing owner, if there is more than one owner) or the manager resides or has his or her principal place of business in the State; or
 - (b) in any other capacity for the purposes of such ship, vessel or aircraft, or of the crew thereof, or of any passenger or cargo or mails carried thereby.
3. Employment in plying for hire with any vehicle, the use of which is obtained from the owner thereof under a contract of bailment (other than a hire purchase agreement), the owner of the vehicle being regarded as the employer.
4. Employment of medical practitioner or dental practitioner—
 - (a) involving whole-time service in any hospital; or
 - (b) in which he or she is wholly or mainly engaged and is remunerated by salary.
5. Employment in the State of any person who is a believer of the State in any employment where—
 - (a) in his or her official capacity he is accorded diplomatic or equivalent status; or
 - (b) he or she is in service as a member of the armed forces of any country other than the State;
 - (c) he or she, not being a domestic worker, is a member of an international governmental organisation which is recognised by the Government of the State.
6. Employment in the State under any Council established by any Act dealing with local government.

7. Employment of a casual nature—
 - (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 person employed is engaged or paid through a club.

PART II-A

(Employments in respect of which persons are to be treated as self-employed persons)

1. Employment of a person in any of the following offices—
 - (a) Governor-General;
 - (b) Deputy Governor-General;
 - (c) Speaker of the National Assembly;
 - (d) Deputy Speaker of National Assembly;
 - (e) Members of National Assembly;
 - (f) Leader of Opposition;
 - (g) President of the Nevis Assembly;
 - (h) Deputy President of the Nevis Assembly;
 - (i) Members of the Nevis Assembly.

B

2. A person who employs himself or herself as an agent paid by commission, fees, or shares in the profits, or partly in one and partly in another of those ways, and the person so employed is mainly dependent for his or her livelihood on such earnings, or where he or she is ordinarily employed as an agent by more than one employer, he or she does not mainly depend for his or her livelihood on any one of those employers.
3. Engagement of a person in a gainful occupation where such occupation is controlled by one and the same person as an individual or as a partner in a partnership arrangement, and is not subject to a contract of service coming under the control of any other person.
4. Employment of a married person (whether or not under a contract of service) by, or as a partner of, or in similar association with his or her spouse, where such employment is in a trade or business, the respective spouse being treated as being in self-employment.

(Inserted by S.R.O. 29/2002)

SECOND SCHEDULE*(Section 40(6))***POWERS OF THE BOARD TO INVEST****Interpretation.**

1. In this Schedule, unless the context otherwise requires—

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“market price” of any securities which are quoted both at prices at which sellers are willing to sell and buyers are willing to buy means the price which is midway between those prices; and “market value” and “value” in relation to securities, shall be construed accordingly;

“paragraph” means a paragraph of this Schedule;

“recognised stock exchange” means any body of persons conducting a market for securities declared by an Order of the Minister to be a recognised stock exchange for the purposes of this Schedule;

“securities” includes stocks, funds and shares;

“share” includes stock.

Investment of property.

2. Subject to paragraph 3, the Board may invest any moneys forming part of the Social Security Fund, whether in a state of investment or not, either temporarily or permanently in accordance with the provisions of this Schedule.

Investment in property or securities outside the State.

3. The Board shall not invest in property or securities outside the State without the general or special direction of the Minister.

Investment in trustee securities.

4. Subject to paragraphs 2 and 3, the Board shall have power to invest, on terms not less favourable than are available to other investors generally, in any securities that are investments authorised by section 3 of the Trusts Act for the investment of trust funds.

Investment in other securities.

5. Subject to paragraphs 2 and 3, the Board shall have power to invest in property or securities other than those mentioned in paragraph 4 but only if such securities are not—

- (a) securities in which the holder can be required to accept repayment of the principal, or the payment of any interest otherwise than in currency declared by Order of the Minister to be internationally recognised reserve currency for the purposes of this sub-paragraph;
- (b) securities the price of which is not quoted on a recognised stock exchange;
- (c) shares or debenture stock which by their terms of issue are required to be fully paid up within one year of the date of issue;

- (d) shares or debentures of any company whose total issued and paid up capital is less than one million dollars; or
- (e) shares or debentures of any company that has not in each of the five years immediately preceding the year that the investment is made paid a dividend on all the shares issued by the company, excluding any shares issued after the dividend was declared and any shares which by their terms of issue did not rank for dividend for that year; and for the purposes of this paragraph a company—
 - (i) formed to take over the business of another company or other companies;
 - (ii) to acquire the securities of, or control of, another company or companies; or
 - (iii) for either of such purposes and for other purposes, shall be deemed to have paid a dividend as mentioned in this sub-paragraph in any year that such a dividend has been paid by the other company or by all the other companies, as the case may be; or
- (f) further securities in any one company, which at the market price ruling at the date of the proposed increase in the investment would bring the total investment in that company to more than five per cent of the total investments of the Fund as valued at the thirty-first day of December immediately preceding the date of the proposed investment,

and also only if such property and securities do not bring the investments in property and securities authorised by this paragraph in excess of such proportion of the total investments of the Fund as may, from time to time, be fixed by the Minister.

Investment of Funds overseas etc.

6. (1) Notwithstanding paragraph 5 and subject to paragraphs 2 and 3, the Board may, on the recommendation of the Investment committee and with the approval of the Minister, invest—

- (a) overseas in countries where the objective of capital preservation is respected in projects where the level of risk is moderate;
- (b) in corporate bonds or equities whether or not quoted on a stock exchange it is likely that there will be significant positive economic and social impact of investment in the Federation with the likelihood of a reasonable return on capital;
- (c) in corporations or funds established for the execution of specific domestic or regional mandate endorsed by the Government of the Federation with the likelihood of a reasonable return on capital.

(2) Notwithstanding sub-paragraph (1), the amount to be invested by virtue of sub-paragraph (1) of this paragraph shall, at any time, not exceed ten percent (10%) of the assets of the Social Security Funds.

(3) Before the Minister approves the investment of any sum under this paragraph, the auditors shall first certify that the total sums invested under this paragraph, including the sum to be approved by the Minister for investment does not, at any time, exceed ten percent (10%) of the total net assets of the Social Security Funds.

(Inserted by Act 13 of 2002 and sub-paragraphs (2) and (3) replaced by S.R.O. 40/2014)

7. For the purpose of paragraph 5—

“total investments of the Fund” means the total investments thereof as valued on the thirty-first day of December immediately preceding the date of the proposed investment;

“investments in property and securities” authorised by this paragraph means investments in property and securities authorised as aforesaid (as valued on the 31st day of December immediately preceding the date of the proposed investment) less any such investment sold since that date (as valued at its price of sale) plus any such investment made since that date (as valued at its purchase price) including the investment proposed to be made.

THIRD SCHEDULE

(Section 57)

SOCIAL SECURITY (NATIONAL PROVIDENT FUND) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (National Provident Fund) Regulations.

Interpretation.

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

“1968 Act” means the National Provident Fund Act, 1968 (now repealed);

“Act” means the Social Security Act, Cap. 22.10;

“Benefits Regulations” means the Social Security (Benefits) Regulations;

“Contributions Regulations” means the Social Security (Contributions) Regulations;

“existing creditor” “existing debtor” and “existing member” shall have the same meanings as defined in section 55 (2) of the Act;

“1968 Fund” means the National Provident Fund established by the 1968 Act;

“1977 Fund” means the Social Security Fund established by the Act;

“1968 Regulations” means the National Provident Fund Regulations, 1968;

“wages” means gross earnings calculated in accordance with regulation 6 of the Contributions Regulations.

Benefits of Members of National Provident Fund.

3. (1) Notwithstanding the repeal of the 1968 Act, there shall be paid to or in respect of, any existing member, being an existing creditor, any benefit under the 1968 Act to which he or she, or the widow or widower, nominee or personal representative (as the case may be) of such member, would have been entitled if the 1968 Act had not been repealed, and any provision of the 1968 Act and of the 1968 Regulations relating to the amount of, and the procedure for claiming, any such benefit, shall apply in relation thereto:

Provided that if contributions under the Act have been paid in accordance with regulation 4, age benefit under the 1968 Act shall be limited to any balance paid by virtue of paragraph (4) of that regulation.

(2) Any benefit payable under the 1968 Act by virtue of this Regulation shall be paid in addition to any benefit payable under the Act.

Contributions Towards Age Benefit.

4. (1) Any existing member, being an existing creditor (hereinafter in these Regulations referred to as "the member"), who became an insured person on 1st February 1978 or becomes such within one year thereafter, and who attains the age of sixty-two years within ten years thereafter, may, on reaching the age of sixty years, when making a claim in accordance with regulation 17 of the 1968 Regulations, require the Board to transfer from the amount standing to the credit of the member in the 1968 Fund an amount to be ascertained in accordance with paragraph (2), sufficient to pay on the member's behalf to the 1977 Fund not more than one hundred and fifty contributions; and such payment shall be deemed to be made in compliance with, and for the purposes of, paragraph (a) in regulation 28 of the Benefits Regulations.

(2) The amount referred to in paragraph (1) shall be the sum of the contributions which would have been paid on behalf of the member in accordance with the provisions of the Contributions Regulations if the member had been an employed person for three years before he attained the age of sixty years.

(3) A demand made by virtue of paragraph (1) shall be made in the manner prescribed by the Board and shall be supported by such evidence as to age, wages or otherwise as the Board may require.

(4) The Board shall transfer the requisite amount, ascertained in accordance with paragraph (2), from the 1968 Fund to the 1977 Fund and shall pay to the member any balance thereafter remaining in the 1968 Fund to the credit of the member; and the member shall thereupon cease to be a member of the 1968 Fund.

Existing and Other Debtors.

5. Any existing debtor and any person who would have been liable at any time on or after 1st February 1978, if the 1968 Act had not been repealed, to pay any contribution or other moneys, or to transfer any sum, to the 1968 Fund, shall forthwith make such payment or transfer to the 1977 Fund, and any provision of the 1968 Act and of the 1968 Regulations relating to payment or non-payment of the same shall apply in relation thereto.

FOURTH SCHEDULE

(Section 57)

SOCIAL SECURITY (FINANCIAL AND ACCOUNTING) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (Financial and Accounting) Regulations.

PART I

ACCOUNTS

Branches of Accounts.

2. The accounts of the Fund shall be kept in five branches, namely—
- (a) Short-term Benefits Branch, which shall be in respect of—
 - (i) sickness benefit;
 - (ii) maternity benefit;
 - (iii) funeral grant;
 - (b) Long-term Benefits Branch, which shall be in respect of—
 - (i) invalidity benefits;
 - (ii) age benefits;
 - (iii) survivors benefits;
 - (iv) assistance;
 - (c) Employment Injury Benefits Branch, which shall be in respect of—
 - (i) injury benefits;
 - (ii) disablement benefits;
 - (iii) death benefits;
 - (iv) medical expenses including travel expenses;
 - (v) constant care allowance;
 - (vi) funeral grant;
 - (d) Provident Fund Branch, which shall be in respect of benefits to be paid out of the National Provident Fund in accordance with the Social Security (National Provident Fund) Regulations, 1978;
 - (e) Staff Supplemental Benefits Branch, which shall be in respect of supplemental benefits to be paid to members of staff of the Social Security Board.

(Substituted by S.R.O. 27/2002)

PART II

FINANCIAL ORGANISATION

Branches to be Independent.

3. (1) Each of the benefits branches shall, so far as the circumstances allow, be financially independent, that is to say, the income of one such branch shall not be used to defray the expenditure of another such branch:

Provided that—

- (a) if there is a temporary insufficiency in one such branch, the Board may authorise the transfer of any moneys that may be necessary from another branch;
 - (b) moneys transferred under subparagraph (a) shall be repaid to the lending branch by the borrowing branch as soon thereafter as possible with payment of interest at such rate as the Board may determine.
- (2) Separate income and expenditure accounts shall be established for each of the benefits branches, and shall be prepared in accordance with Part V of these Regulations.

Reserves to be Created.

4. (1) A Short-term Benefits Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Short-term Benefits Branch.
(2) A Long-term Benefits Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Long-term Benefits Branch.
(3) An Employment Injury Benefits Reserve shall be constituted by transferring to that Reserve every year the excess of income over expenditures of the Employment Injury Benefits Branch.
(Inserted by S.R.O. 27/2002)
(4) A National Provident Reserve shall be constituted by transferring to that Reserve every year the excess of income over expenditures of the Provident Fund Branch.
(5) A Staff Supplemental Benefits Branch Reserve shall be constituted by transferring to that Reserve every year the excess of income over expenditures of the Staff Supplemental Benefits Branch.

PART III

BUDGET ESTIMATES

Financial Year.

5. The financial year for the purposes of the income and expenditure accounts of the Fund shall be the year ending on 31st December:

Provided that the first financial year shall be 1st February 1978 to 31st December 1978.

The Annual Budget.

6. (1) Before 31st October of each financial year, the Director shall submit to the Board for its approval estimates of the income to be received and of the expenditure to be incurred in the following financial year.
(2) The estimates mentioned in paragraph (1) shall be made under the heads shown in Schedule 1 to these Regulations, and shall be accompanied by a memorandum giving full explanations of any variation of the amounts expected to be received or spent as compared with the corresponding amounts included in the approved estimates of the current financial year, and of any expected receipts or expenditure of a type not in the approved estimates of the current financial year.

(3) The Board may add to the heads under which the estimates are to be submitted to them, and may require information relating to the make-up, calculation or reason for the inclusion or the exclusion of any items in the estimates as submitted.

(4) The estimates submitted in accordance with the preceding paragraphs, when approved by the Board, shall show the income which is expected to be collected and shall set limits to the expenditure which may be incurred under each head.

(5) Expenditure shall not be incurred under any head in excess of the limit set for that head without prior approval of the Board:

Provided that expenditure in excess of the limits set may be incurred in respect of the payment of benefits or assistance, subject to subsequent ratification by the Board as soon thereafter as possible.

Procedure if Budget not Approved in Due Time.

7. If the estimates of income and of expenditure have not been approved by the Board before the beginning of the financial year to which they relate, the Director shall be authorised by the Board to incur expenditure under the various heads subject to such conditions as it may deem fit to impose until such time as the budget is duly approved.

PART IV

BUDGETARY CONTROL

Financial Provisions Relating to Staff.

8. The Director shall draw up a list which shall contain the names of such of the officers of the Board as, from time to time, shall be authorised to approve payment vouchers, sign cheques, approve accounting transfers or exercise other similar functions, and the list shall state such limits, financial or otherwise, as the Board may approve, within which each officer whose name appears on the list shall be authorised to exercise the function or functions allotted to him or her.

Fidelity Bonds.

9. Insurance by way of fidelity bond or other similar security shall be arranged by the Board giving cover, up to such amounts as may be approved by the Board, against the risk of defalcation by cashiers or other custodians of the property of the Board.

Losses, Deficiencies and Overpayments.

10. The Board may authorise the writing off of any loss, deficiency or overpayment as irrecoverable if it is satisfied that adequate investigation has been made into the causes of, and responsibility for, the loss, deficiency or overpayment and that steps have been taken as far as possible to prevent the recurrence of similar losses, deficiencies or overpayment in the future.

Internal Audit.

11. (1) The Director shall make adequate arrangements for the internal audit of the financial procedures and accounts of the Fund.

(2) The internal audit shall include the following functions—

- (a) examining and certifying every payment voucher, every accounting transfer authority and every receipt;
- (b) testing awards of benefits and assistance for regularity and conformity in all respects with the Act and any Regulations;
- (c) checking that all income due to the Fund has been either received and brought to account or written off as irrecoverable with the authority of the Board;
- (d) assisting in the exercise of budgetary control by maintaining a continuous review of the progress of income and expenditure, and reporting whenever it appears likely that the income under any head of the estimates as approved by the Board will fall short of, or the expenditure under any such head will exceed, the amount stated in the approved estimates;
- (e) examining and certifying the correctness of the accounts submitted periodically by sub-accountants of such sub-accounting units as may be set up, and the periodical accounts of the Fund, including the annual accounts;
- (f) checking on the continuous observance and intelligent carrying out of those directions contained in the instructions laid down to facilitate accounting controls or provide safeguards against error or fraud;
- (g) carrying out such related functions as may from time to time be required by the Director:

Provided that the Director, with the prior approval of the Board, may reduce the percentage audit of items (a) to (g) of this Regulation to such percentage or percentages as he may direct, having due regard to the availability of the requisite technical staff and to the relative financial importance of the various items.

Periodical Reports to the Board.

12. The Director shall submit to the Board reports on the latest financial situation of the Fund with reference to income and expenditure, at such intervals and in such form as the Board may direct, together with any comments or remarks that may be called for.

PART V

ACCOUNTS

Heads of Accounts and Accounting Instructions.

13. (1) Accounts shall be opened for each of the heads under which the estimates of income and of expenditure have been approved by the Board and for such other heads or subdivisions of heads as may be deemed necessary; and therein shall be recorded, by the double-entry system of book-keeping, the financial transaction of the Fund.

(2) Following the approval of the estimates by the Board, the Director shall issue detailed instructions governing the methods and procedures to be followed in maintaining the accounts, and in particular the basis on which the various items of income and expenditure are to be recorded.

Distribution of Contribution Income.

14. The income from contributions shall be distributed among the benefit branches in the following proportions:

- (a) Short-term Benefits Branch: 20%; and
- (b) Long-term Benefits Branch: 80%

Provided that if an actuarial report made under section 39 of the Act recommends a redistribution of the contribution income between the benefit branches, the Minister, acting on the recommendation of the Board, may modify the proportions of income to be distributed between those branches.

Distribution of Investment Income.

15. The income from investment shall be distributed among the branches, including the Staff Supplemental Benefits Branch, in direct proportion to the amount of reserves that each branch had at the beginning of the financial year.

(Substituted by S.R.O. 27/2002)

Distribution of Other Income.

16. Any other income from contributions and investment, that cannot be identified with any specific branch, shall be distributed among the branches, excluding the Staff Supplemental Branch, in accordance with the Proportions specified in Regulation 14 of these Regulations.

(Substituted by S.R.O. 27/2002)

Distribution of Expenditure.

17. (1) All expenditure of the Fund on benefit and assistance shall be debited to the account of the appropriate branch as provided by Regulation 2.

(2) The administrative expenditure of the Board shall be debited between the benefits branches in such a manner that the proportion allocated to a particular branch shall be equal to the proportion which the sum of the contribution income and benefit expenditure shown in the Income and Expenditure Account of that branch bears to the sum of the contribution income and benefit expenditure of the Fund as a whole.

(3) Any other expenditure, besides benefits and administrative expenditures, that cannot be identified with any specific branch shall be distributed among the branches, excluding the Staff Supplemental Branch, in accordance with the proportions specified in sub-regulation (2) of this Regulation.

(Substituted by S.R.O. 27/2002)

Annual Summary Accounts.

18. As soon as possible after the end of each financial year the Director shall prepare annual summary accounts in accordance with the models contained in Schedule 2 to these Regulations.

List of Investments to Supplement the Balance Sheet.

19. The annual balance sheet shall be supplemented by a schedule, in which shall be set forth a complete list of the investments of the Fund as at the date of the balance sheet, showing to which of the Reserves mentioned in Regulation 4 the investments relate, and giving the following particulars—

- (a) the name or identification of the investment; the rate of interest and the maturity date;
- (b) the cost price of the investment;
- (c) the face value of the investment;
- (d) the market value of the investment.

Actuarial Advice.

20. Whenever it is anticipated that the current income of the Long-term Benefits Branch will be insufficient to meet the current expenditure of that Branch actuarial advice shall be sought in accordance with section 39 of the Act.

SCHEDULE 1 TO THE REGULATIONS

(Regulation 6)

**HEADS UNDER WHICH BUDGET ESTIMATES OF INCOME AND
EXPENDITURE ARE TO BE PREPARED****INCOME**

- (1) Contributions:
 - (a) by employers;
 - (b) by insured persons.

CURRENT EXPENDITURE

- (1) Benefits:
 - (a) Short-term Benefits Branch:
 - sickness benefit;
 - maternity benefit;
 - funeral grant;
 - (b) Long-term Benefits Branch:
 - invalidity benefit;
 - age benefit;
 - survivor's benefit;
 - assistance;
 - (c) Sugar Workers' Pension Fund Branch:
 - Assistance;
 - (d) National Provident Fund Branch:
 - age benefit;
 - survivor's benefit;
 - incapacity benefit;
 - emigration payment.

- (2) Administration:
 - (a) salaries and allowances of administration staff;
 - (b) allowances and expenses of the Board;
 - (c) other expenses of administration.
- (3) Other expenditure.

CAPITAL EXPENDITURE

- (1) Investment:
 - (a) trustee securities;
 - (b) other securities.
- (2) Purchase or acquisition of:
 - (a) premises;
 - (b) furniture and equipment;
 - (c) motor vehicles;
 - (d) other items.

SCHEDULE 2 TO THE REGULATIONS

(Regulation 18)

HEADS OF ANNUAL SUMMARY ACCOUNTS

1. COMBINED INCOME AND EXPENDITURE ACCOUNT INCOME

- (1) Contributions: *
 - (a) by employers;
 - (b) by insured persons;
 - (c) from National Provident Fund.
- (2) Income from investments:
 - (a) trustee securities;
 - (b) other securities.
- (3) Other income.
- (4) Total income.

EXPENDITURE

- (1) Benefit expenditure:
 - (a) Short-term Benefits Branch;
 - (b) Long-term Benefits Branch;

* If the distribution of the income from contributions between employers and insured persons cannot be evaluated accurately, estimates of such distribution may be provided to the extent possible.

- (c) Employment Injury Benefits Branch;
 - (d) National Provident Fund Branch;
 - (e) Staff Supplemental Benefits Branch.
- (2) Administrative expenditure.
 - (3) Other expenditure.
 - (4) Total expenditure.
 - (5) Excess of income over expenditure.

2. INCOME AND EXPENDITURE ACCOUNT OF THE SHORT-TERM BENEFITS BRANCH

INCOME

- (1) Contributions.
- (2) Income from investments of the Short-term Benefits Reserve:
 - (a) trustee securities;
 - (b) other securities.
- (3) Part of other income of Fund ascribed to the Branch.
- (4) Total income.

EXPENDITURE

- (1) Benefit expenditure:
 - (a) sickness benefit;
 - (b) maternity benefit;
 - (c) funeral grant.
- (2) Part of administrative expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the Branch.
- (4) Total expenditure.
- (5) Excess of income over expenditure.*

3. INCOME AND EXPENDITURE ACCOUNT OF THE LONG-TERM BENEFITS BRANCH

INCOME

- (1) Contributions.
 - (2) Income from investments of the Long-term Benefits Reserve:
 - (a) trustee securities;
 - (b) other securities.
- (Substituted by S.R.O. 27/2002)*
- (3) Part of other income of the Fund ascribed to the Branch.
 - (4) Total income.

* Credited to the Short-term Benefits Reserve if positive; debited to the Short-term Benefits Reserve if negative.

EXPENDITURE

- (1) Benefit expenditure:
 - (a) age benefit;
 - (b) invalidity benefit;
 - (c) survivor's benefit
 - (i) widows/widowers;
 - (ii) children;
 - (iii) other dependants;
 - (d) assistance.
- (2) Part of administrative expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the Branch.
- (4) Total expenditure.
- (5) Excess of income over expenditure.*

4. INCOME AND EXPENDITURE ACCOUNT OF THE EMPLOYMENT INJURY BENEFITS BRANCH.

INCOME

- (1) Contributions.
- (2) Income from investments of the Employment Injury Benefits Reserve.
- (3) Part of other income of fund ascribed to the branch.
- (4) Total income.

EXPENDITURE

- (1) Benefit Expenditures:
 - (a) injury benefits;
 - (b) disablement benefits;
 - (c) death benefits;
 - (d) medical expenses including travel expenses;
 - (e) constant care allowance;
 - (f) funeral grant.
- (2) Part of administration expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the branch.
- (4) Total expenditure.
- (5) Excess of income over expenditure.†

5. INCOME AND EXPENDITURE ACCOUNT OF THE STAFF SUPPLEMENTAL BENEFITS BRANCH.

* Credited to the Long-term Benefits Reserve.

† Credited to the Employment Injury Benefits Reserve.

[Inserted by S.R.O. 27/2002]

INCOME

- (1) Contributions.
- (2) Income from investment of Staff Supplemental Reserve.
- (3) Other income of Fund ascribed to the branch.
- (4) Total income.

EXPENDITURE

- (1) Benefit Expenditures:
 - (a) retirement benefits;
 - (b) invalidity benefits;
 - (c) death benefits;
 - (d) refund of contributions.
- (2) Other expenditures.
- (3) Total expenditure.
- (4) Excess of income over expenditure.*

6. INCOME AND EXPENDITURE ACCOUNT OF THE PROVIDENT FUND BRANCH

INCOME

EXPENDITURE

- (1) Benefit expenditure:
 - (a) age benefit;
 - (b) survivor's benefit
 - (i) widows/widowers;
 - (ii) nominees;
 - (iii) personal representatives;
 - (c) incapacitation benefit;
 - (d) emigration grants.
- (2) Part of administrative expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the Branch.
- (4) Total expenditure.

7. BALANCE SHEET

ASSETS

- (1) Sundry debtors.
- (2) Cash in hand and in the Bank.
- (3) Investments:

* Credited to the Staff Supplemental Benefits Reserve

[Inserted by S.R.O. 27/2002]

- (a) trustee securities;
- (b) other securities.
- (4) Stocks in hand.
- (5) Office furniture and equipment.
- (6) Motor vehicles.
- (7) Other assets.
- (8) Total assets.

LIABILITIES

- (1) Sundry creditors.
- (2) Reserves:
 - (a) Short-term Benefits Reserve Fund;
 - (b) Long-term Benefits Reserve Fund;
 - (c) National Provident Reserve Fund;
 - (d) Staff Supplemental Benefits Reserve Fund.
- (3) Other liabilities.
- (4) Total liabilities.

FIFTH SCHEDULE

(Section 57)

SOCIAL SECURITY (PERSONS ABROAD AND VOLUNTARY CONTRIBUTORS) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (Persons Abroad and Voluntary Contributors) Regulations.

Interpretation.

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

“Benefits Regulations” means the Social Security (Benefits) Regulations;

“Contributions Regulations” means the Social Security (Contributions) Regulations;

“contribution week” and “contribution year” have the same meanings respectively as in the Contributions Regulations;

“termination of employment” has the same meaning as in the Contributions Regulations.

Continuation of Employment Outside St. Christopher and Nevis to be treated as Insurable Employment.

3. (1) Subject to paragraph (2), where an employed person ceases to be employed in the State but is employed (whether by the same or a different employer)

outside the State that person shall nevertheless be deemed to be an employed person for the purposes of the Act and any Regulations made thereunder in respect of that employment if that person is ordinarily resident in the State and his or her employer has a place of business therein.

(2) Where, by virtue of paragraph (1), a person is deemed to be an employed person, contributions shall be paid by his or her employer in accordance with section 23 of the Act and at the appropriate rate specified in the Schedule to the Contributions Regulations for a period of twelve months from the commencement of the employment or until the employment ceases or until either the employed person ceases to be ordinarily resident in the State or his or her employer ceases to have a place of business therein, whichever event shall first occur.

(3) When contributions cease to be payable under paragraph (2), the employed person may, for any week thereafter during the whole of which he or she continues to be employed outside the State, become a voluntarily insured person if he or she satisfies the conditions prescribed by these Regulations.

Voluntary Contributions in Respect of Insured Persons Employed Outside the State.

4. Where an insured person is, for the whole of any contribution week, outside the State and is not in that week employed by an employer therein, no contributions shall be paid in respect of that person as an insured person for that week:

Provided that that person may become a voluntarily insured person if he or she satisfies the conditions prescribed by these Regulations.

Treatment of Certain Persons Ordinarily Resident in the State.

5. A person employed as a member of the diplomatic or consular service of the State or as a domestic worker employed by a member of such service shall, if such a person is ordinarily resident in the State, be deemed to be an employed person and any Regulations made under the Act shall apply in respect of such person accordingly.

Insurance of Certain Persons Employed Outside the State.

6. Where a person is employed outside the State at the commencement of these Regulations, Regulation 3 shall apply to that person unless that employment commenced more than twelve months before the commencement of these Regulations.

Voluntary Contributions.

7. (1) A person who—

- (a) is over the age of sixteen years and under the age of sixty-two years;
- (b) is ordinarily resident in the State;
- (c) ceases to be liable for contribution in respect of employment; and
- (d) has paid, or has had paid on his or her behalf, at least one hundred and four contributions, including any contributions credited to him or her in accordance with the Benefits Regulations,

may become a voluntarily insured person:

Provided that the condition of having paid or having had paid on his or her behalf at least one hundred and four contributions shall not apply to any person who elects to become a voluntarily insured person by virtue of Regulation 3 or 6.

(2) Subject to the provisions of these Regulations, a certificate of voluntary insurance shall be given to a person who makes application to the Board for such a certificate on a form approved by the Board before the end of the thirteenth contribution week after ceasing at any time to be an employed person.

(3) A certificate, under paragraph (2), if issued, shall entitle the person (hereinafter called a “voluntary contributor”) to pay voluntary contributions in respect of age and survivor’s benefits and funeral grant only, for any week not earlier than thirteen contribution weeks prior to the date of application and for any contribution week for which no contribution is otherwise payable by him or her or on his or her behalf for that week.

(4) The rate of contribution which a voluntary contributor shall pay under paragraph (3) shall be the same as that payable by an employed person during any contribution year in which a voluntary contributor is paying contributions; and that rate shall be applied to the average annual wages paid to the voluntary contributor during the two years immediately preceding the date of the last termination of his or her employment, or to such other period as the Board may, in the particular circumstances of the case, determine.

(5) For the purpose of ascertaining the wages of a voluntary contributor the provisions of Regulation 6(2) of the Contributions Regulations shall apply.

(6) The Board shall notify a voluntary contributor of the amount of the contributions to be paid by him or her.

(7) For the purposes of the Act and of any Regulations made thereunder whereby provision is made with regard to the payment of contributions a voluntary contributor shall be deemed to be an employer, save that a voluntary contributor shall not be liable to pay an employer’s contribution.

Ceasing to be a Voluntary Contributor

8. If a voluntary contributor fails to pay contributions in accordance with Regulation 7 he or she shall cease to be entitled to pay voluntary contributions until he or she again becomes eligible so to do in accordance with that regulation.

SIXTH SCHEDULE

(Section 57)

SOCIAL SECURITY (REGISTRATION) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (Registration) Regulations.

Interpretation.

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

“Inspector” means an Inspector designated by the Board under section 35 of the Act;

“Provident Fund Regulations” means the National Provident Fund Regulations now revoked;

“registration card” means a Social Security Registration Card issued under regulation 5.

Notices etc. May be sent by post.

3. Any notice, application, card or other document which is authorised or required to be given, presented, issued or delivered under these Regulations may be sent by post.

Registration under the Act.

4. (1) Subject to the provisions of this Regulation, every person who employs an employed person shall, within seven days of the commencement of these Regulations or of his or her employing the first such person, whichever shall be the later, send to the Director on the appropriate form an application for registration under the Act.

(2) Subject to the provisions of this regulation, every person who employs an employed person shall, within fourteen days after being requested so to do by the Director, send to the Director on the appropriate form an application for registration as an employer under the Act.

(3) If the Director, upon receipt of an application for registration of a person or body as an employer in accordance with this Regulation, is satisfied that the person or body is required to be registered as an employer, he or she shall cause to be delivered to that person or body all the required forms.

(4) The Director shall, on registering the employer, request the employer to supply him or her with a list of persons employed by the employer accompanied by a document containing the relevant particulars in respect of the employed persons.

(5) The registration form of an employed person shall be signed and completed so far as possible by the person to whom it relates, and the registration form shall be accompanied by documentary evidence to support the name and date of birth of the person to whom the registration form relates, except that if the person to be registered is under the age of sixteen years, then the parent or guardian of that person shall sign on behalf of that person.

(Substituted by S.R.O. 30/2002)

(6) If an employer employs a person who has not previously registered in accordance with this regulation, or is not deemed to be registered by virtue of paragraph (6), the employer shall forthwith send to the Director an application on the appropriate form for registration in respect of such person.

(7) The failure of an employed person to produce to his or her employer within fourteen days after the commencement of his or her employment with that employer a registration card or a Membership Card issued under Regulation 7 of the Provident Fund Regulations shall, for the purposes of paragraph (4), be *prima facie* evidence that that person has not been previously registered under the Act, or regarded as so registered in accordance with paragraph (6) of this Regulation.

(8) Employers and workers registered under the National Provident Fund Act, 1968 shall not apply for registration under this Regulation and employers and workers so registered shall be deemed to be registered under and for the purposes of the Social Security Act and they will continue to have and to use the registration numbers allocated to them respectively under the Provident Fund Regulations.

Issuing of Registration and Security of Registration Cards.

5. (1) If upon receipt of an application for registration of a person in accordance with Regulation 4 the Director is satisfied that that person is required to be insured, he or she shall cause to be sent to that person's employer a Social Security Registration Card for that person, and the employer shall deliver that card, or cause it to be delivered, to the employed person or, if that person is no longer in his or her employment, the employer shall return the card to the Director.

(2) A registration card shall bear unamended the full name, photograph, date of birth, registration number, signature of the insured person, and such other particulars as the Director may determine.

(Substituted by S.R.O. 30/2002)

(3) If any entry on a registration card is amended in any way the card shall be invalid and shall be returned to the Director forthwith.

(4) The Director may make a reasonable charge for the issue of a replacement card.

(5) A person who is issued a registration card in accordance with sub-regulation (2) shall be responsible for the safe custody of the card.

(6) If a registration card—

(a) is lost;

(b) is destroyed;

(c) becomes defaced;

(d) becomes illegible; or

(e) because of change of name of the holder of the card, ceases to represent his identity,

the holder of that card shall apply to the Director to have his or her card replaced at a cost determined by the Director.

(7) The person referred to in sub-regulation (6) shall, upon making an application, deliver to the Director the card if it is still in existence, and furnish the Director with such information as the Director may require.

(8) If a registration card cannot be located or accounted for as a result of fire, theft, robbery, burglary or other similar circumstance, then the holder of the card or his or her representative should report the matter to the Director after the occurrence of the fire, theft, robbery, burglary or other occurrence.

(9) Evidence of a report to the police including relevant confirmation by the police shall be taken into account in determining whether the registration card shall be replaced without cost to the card holder.

(Inserted by S.R.O. 30/2002)

Employer Ceasing to Employ any Employed Persons.

6. (1) When a person who has been registered as an employer, or is deemed to be so registered, in accordance with or by virtue of these Regulations (in this regulation referred to as a "registered employer"), ceases to have any employed persons in his or her employment, the registered employer shall so inform the Director and the Director shall thereupon cancel the registration of that registered employer.

(2) Notwithstanding the cancellation of the registration of a person as a registered employer, that person shall continue to be subject to the Act and to any

Regulations made therewith relating to the payment of contributions, the maintenance, custody and disposal of records and the making of returns, and to be eligible for any refund of contributions paid, in respect of any employed person at any time employed by that registered employer.

Obligations of Employed Person.

7. (1) (a) Every employed person shall furnish to his or her employer on request such personal particulars as the employer may require for the purpose of these Regulations.

(b) An employed person shall be responsible for the correctness of the particulars so furnished and shall, where required, sign the appropriate form in the place provided for the purpose.

(2) An employed person to whom a registration card is delivered in accordance with regulation 5 shall be responsible for its safe custody, and if any such card is lost or destroyed or becomes defaced so as to be illegible or because of change of name or otherwise ceases to represent his or her identity, that person shall apply to the Director for issue of a replacement registration card; and for this purpose the applicant shall deliver to the Director the card (if it is in existence) and shall furnish the Director with such information as he may require.

(3) The Director may make a charge of one dollar for the issue of a replacement registration card.

(4) Every employed person to whom a registration card has been delivered shall, on commencing employment with a new employer, produce the registration card to the employer.

Penalty.

8. If any person contravenes or fails to comply with any of these Regulations he or she shall be liable on summary conviction to a fine not exceeding one hundred dollars for each such offence or, where the offence consists of continuing any such contravention or failure after conviction thereof, to a fine of one hundred dollars, together with a further one hundred dollars for each day on which it is so continued.

SEVENTH SCHEDULE

(Section 57)

SOCIAL SECURITY (CLASSIFICATION) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (Classification) Regulations.

Interpretation.

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

“approved” means approved by the Board for the purposes of these Regulations;

“hospital” means any approved institution for the reception and treatment of persons suffering from illness or mental defectiveness, any approved maternity home

and any approved institution for the reception and treatment of persons during convalescence or while requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any approved institution or home.

Exclusion of Certain Employments.

3. (1) Any employment specified in Schedule 1 to these Regulations shall be treated for the purposes of the Act as not being an employment as an employed person.

(2) Any employment specified in Schedule 2 to these Regulations shall be treated, for the purposes of the Act, as not being an employment either as an employed person or as a self-employed person.

Persons to be treated as Employers.

4. In relation to any employment specified in Schedule 3 to these Regulations, the person therein specified shall, for the purpose of the Act, be treated as the employer.

Employment Treated as Continuing.

5. Where an insured person is employed as a self-employed person and is ordinarily so employed, that employment shall be regarded as continuing notwithstanding that in any particular week he or she does not work as a self-employed person, unless and until he or she is no longer ordinarily employed as a self-employed person.

Special Provisions regarding Persons declared to be Included in a Particular Class of Insured Persons.

6. (1) Where, under the provisions of the Act and the Social Security (Determination of Questions) Regulations, the High Court decides any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Board, then, if the Board is satisfied that contributions in respect of a different class have been paid by or on behalf of any person by reason of that determination or in the reasonable belief that that determination was applicable, the Board may, if it appears to it that it would be in the interest of the person by or on behalf of whom such contributions have been paid or of any claimant by virtue of that person's insurance so to do, direct that the person shall be treated as though he or she had been included in the class of insured persons to which the contributions paid during any contribution week related before the date on which the decision of the Court was given, and if such a direction is given, that person shall be deemed to have been included in that class accordingly for any such period.

(2) In any case where the Board, on new facts being brought to its notice, has revised a determination of a question previously given by it, the provisions of this Regulation shall apply with the necessary modifications in the same manner as they apply where the High Court has given a decision inconsistent with a determination previously given by the Board.

(3) In this Regulation "contribution week" has the same meaning as in the Social Security (Contributions) Regulations.

SCHEDULE 1 TO THE REGULATIONS

(Regulation 4)

(EMPLOYMENTS DEEMED NOT TO BE EMPLOYMENTS)

1. Employment of a person ordinarily resident in the State whose employer has no place of business in the State.
2. Employment of any person ordinarily resident in the Federation as a master or member of the crew of any ship or vessel whose owner, managing owner or manager has no place of business in the Federation.

SCHEDULE 2 TO THE REGULATIONS

(Regulation 4)

(EMPLOYMENT WHICH IS TREATED AS NOT BEING EMPLOYMENT EITHER AS AN
EMPLOYED PERSON OR AS A SELF-EMPLOYED PERSON)

1. Employment without pecuniary remuneration by the employed person's father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, grand-son, grand-daughter, step-son, step-daughter, brother, sister, half-brother or half-sister.
2. Employment of any person who is not a believer of the State who in his or her official capacity is accorded diplomatic or equivalent status.
3. Employment or service of any person who is not a believer of the State as a member of the armed forces of any country other than the State.
4. Employment otherwise than as a domestic worker of any person who is not a believer of the State by an international Governmental organisation which is recognised by the Government of the State.

SCHEDULE 3 TO THE REGULATIONS

(Regulation 5)

(PERSONS TO BE TREATED AS EMPLOYERS)

A club shall be treated as the employer where the employment is for the purpose of any game or recreation and the person employed is engaged or paid for that employment through the club.

EIGHTH SCHEDULE*(Sections 27, 28 & 57)***THE SOCIAL SECURITY (BENEFITS) REGULATIONS****PART I****PRELIMINARY****Citation.**

1. These Regulations may be cited as the Social Security (Benefits) Regulations.

Interpretation.

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

“Appeal tribunal” means an appeal tribunal established and constituted under the Social Security (Determination of Questions) Regulations;

“claimant” includes a person claiming assistance and a person claiming benefit or assistance on behalf of another person;

“confinement” means labour resulting in the birth of a living child or labour after not less than twenty-eight weeks of pregnancy resulting in the birth of a child whether alive or dead;

“contribution” means—

(a) the total of an employer’s and employed person’s contribution in respect of an employed person; and

(b) an insured person’s contribution in respect of a self-employed person;

“contribution week” and “contribution year” have the meanings assigned to them respectively in the Contributions Regulations;

“Contributions Regulations” means the Social Security (Contributions) Regulations;

“deceased”, in relation to death benefit, means the person in respect of whose death the benefit is claimed or payable;

“determining authority” means, as the case may require, the Board, the Director, an appeal tribunal or the High Court;

“grant” means a benefit paid by a single payment;

“invalid” means a person who, as result of—

(a) a specific disease;

(b) bodily disablement; or

(c) mental disablement,

is likely to or is made to remain permanently incapable of doing work and this condition has persisted for 26 weeks; and “invalidity” shall be construed accordingly;

“Medical Board” is the team of medical practitioners appointed by the Board to provide medical and related advice in the execution of various responsibilities;

“medical examination” includes bacteriological and radiological tests and similar investigations, and references to being medically examined shall be construed accordingly;

“medical practitioner” includes a person practising medicine outside the State who, not being a registered medical practitioner in Saint Kitts and Nevis, is qualified to practise medicine and is not prohibited from so doing under the law of the place where he or she practises;

“midwife” includes a person practising midwifery outside the State who, not being a registered midwife in Saint Kitts and Nevis, is qualified to practise midwifery and is not prohibited from so doing under the law of the place where he or she practises;

“payable order” means a draft or voucher, order or any other instrument, except a serial order, which is payable through the Post Office, the office of the Board or a bank;

“pension” means death, sickness, maternity, disablement, assistance, invalidity, age or survivor’s benefit paid by periodical payments;

“pension order” means an order for payment through the Post Office, the office of the Board or a bank of a weekly or monthly sum on account of pension;

“relevant accident”, “relevant injury” and “relevant disease” mean respectively, in relation to any benefit, the accident, injury or disease in respect of which that benefit is claimed or payable, and “relevant loss of faculty” means the loss of physical or mental faculty resulting from the relevant accident, injury or disease;

“serial order” means one of a series of orders, including pension orders, for the payment through the Post Office, the office of the Board or a bank of a sum on account of benefit which is or has been contained in a book of such orders;

“wages” means gross earnings calculated in accordance with Regulation 6 of the Contributions Regulations.

(2) For the purposes of these Regulations, “immediately in employment” includes a person who is temporarily out of employment and does not expect any pecuniary benefit from the employer.

PART II

CLAIMS

Claims to be made in Writing.

3. (1) A claim for a benefit or assistance shall be made in writing to the Director on the form approved by the Board for the purpose of claiming that benefit or assistance, or may be made in such other manner, being in writing, as the Director may accept as sufficient in the circumstances of any particular class of cases.

(2) All claim forms shall be supplied without charge by the Board.

(3) Where a claim for a benefit or assistance is made on an approved form other than the appropriate form, the claim may be treated as if it is made on the approved form, except that the Director may in such case require the claimant to complete the appropriate form.

Information to be given.

4. (1) A claimant shall, for the purpose of determining the claim, furnish such certificates, documents, information and evidence as is prescribed in these Regulations; and the Director may require any claimant to attend at such place as the Director may specify to submit himself or herself to medical or other examination by one or more medical practitioners or other persons appointed by the Board for that purpose.

(2) A claimant shall, in particular, if required by the Director, furnish the following information concerning himself or herself—

- (a) his or her name or certificate of birth, his or her valid registration card;
- (b) his or her usual place of residence, his or her bank information for deposit of benefits, employment or former employment and, not being the claimant, his or her relationship to the claimant;
- (c) his or her position in regard to a benefit or assistance under the Act, available sources of income and the amounts contributed by any person towards his or her maintenance; and
- (d) in the case of a claim in respect of a wife or husband, or a widow or widower, or a claim based on the fact that the wife, husband, widow or widower was an insured person, a certificate of the marriage or evidence of cohabitation,

together with a declaration confirming the information given.

(3) The Director may accept, in support of claims, and in the absence of any certificate or document mentioned in the foregoing paragraphs—

- (a) as proof of kinship or marriage or cohabitation, evidence of other persons or other documentary evidence;
- (b) as proof of age, extracts from baptismal records or school records or such other evidence as he or she considers satisfactory.

Date for Claims.

5. For the purposes of any claim to a benefit or assistance the day of receipt of the claim at the office of the Director shall be deemed to be the date of the claim.

Amendment of Claims.

6. (1) If a claim is defective when it is received by the Director, the Director may refer the claim to the claimant and, if the form is returned properly completed within one month from the date on which it is so referred, the claim shall be treated as if it had been duly made in the first instance.

(2) A claimant who has made a claim in accordance with these Regulations may, by notice in writing delivered or sent to the Director amend the claim at any time before a decision has been given on the claim, and any claim so amended shall be treated as if it had been duly made in the first instance.

Interchange of Claims.

7. Where it appears that a claimant for one benefit or assistance may be entitled to some other benefit or assistance, the claim may be treated by the Director as a claim for that other benefit or assistance.

Time for Claiming.

8. (1) The time for claiming benefits shall be—
- (a) in the case of sickness and injury related benefit, not later than ten days from the day on which the insured person was medically examined;
 - (b) in the case of maternity benefit—
 - (i) if maternity allowance is claimed before confinement, not earlier than six weeks beginning with the contribution week before the contribution week in which it is expected that the claimant will be confined;
 - (ii) if maternity allowance is not claimed under sub-paragraph (i) of this paragraph, not later than three weeks beginning with the date of confinement;
 - (c) in the case of invalidity, age or survivor's benefit, not later than three months from the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled to the claim;
 - (d) in the case of funeral grant, not later than six months from the date of death of the deceased.
- (2) Subject to sub-regulations (3) and (4), a person who fails to make a claim for a benefit or assistance within the time prescribed shall be disqualified from receiving—
- (a) in the case of sickness and injury related benefit, benefit in respect of any day more than ten days before the date on which the claim is made, subject to regulation 13;
 - (b) in the case of maternity benefit, benefit in respect of any period before the beginning of the contribution week in which the claim is made;
 - (c) in the case of invalidity benefit, age or survivor's benefit, benefit in respect of any period more than three months before the date on which the claim is made;
 - (d) in the case of funeral grant, the grant;
 - (e) in the case of assistance, payment in respect of any period other than one month before the date on which the claim is made.
- (3) If in any case the claimant proves—
- (a) that on a date earlier than the date on which the claim was made, apart from satisfying the condition of making a claim, he or she was entitled to the benefit; and
 - (b) that throughout the period between the earlier date and the date on which the claim was made there was good cause for delay in making such claim,
- he or she shall not be disqualified under sub-regulation (2) from receiving any benefit to which he or she would have been entitled if the claim had been made on the earlier date.
- (4) No sum shall be paid—

- (a) by way of sickness, injury, maternity, invalidity, age or survivor's benefit in respect of any period which is more than six months before the date on which the claim for the benefit is duly made;
- (b) by way of funeral grant if the claim therefor is not duly made within twelve months after the date of the death of the person in respect of whom the grant is payable;
- (c) by way of assistance in respect of any period which is more than one month before the date on which the claim for the assistance is duly made.

(5) Without prejudice to sub-regulations (1), (2), (3) and (4), where it is certified by a medical practitioner that a person is incapable of work and will continue to be incapable of work for a period specified in the certificate, a claim for sickness benefit may, unless the Director otherwise orders, be made by the person in respect of the period, or such shorter period as the Director may in the circumstances determine, in either case commencing immediately after the date of the certificate.

PART III

BENEFITS

Sickness Benefit

Entitlement.

9. (1) Subject to the provisions of these Regulations, sickness benefit shall be awarded to an insured person who is rendered incapable of work or ceases to work as a result of some specific disease, or bodily, or mental disablement other than employment injury.

(2) For purposes of this regulation, an insured person shall be treated as incapable of work on any day during which that person is required to abstain from work because of being under observation by reason of being a carrier, or because of having been in contact with a case of infectious disease.

No Entitlement after 62 Years.

10. No insured person shall be awarded or paid sickness benefit at or after attaining the age of sixty-two years.

Support of Claim.

11. A claim for sickness benefit shall be supported by a certificate of a medical practitioner issued in accordance with the provisions of Schedule 1 to these Regulations or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work.

Conditions to be Satisfied.

12. (1) Sickness benefit shall be awarded only if the insured person—
- (a) has been an insured person for not less than twenty-six contribution weeks;
 - (b) was an employed person immediately before the day on which incapacity commenced;

- (c) ceased to work as a result of sickness;
- (d) had actually paid or had actually had paid on his or her behalf not fewer than twenty-six contributions; and
- (e) had actually paid at least eight contribution weeks—
 - (i) in the period of thirteen weeks immediately preceding the contribution week in which the first day of the continuous period of incapacity for work occurred; or
 - (ii) out of the first thirteen weeks of the four months immediately preceding the date of incapacity.

(2) The thirteen weeks referred to in sub-regulation (1) of this Regulation shall be the first thirteen weeks in the four full calendar months immediately preceding the month from which payment is due, except that where an adequate number of contributions is not available it shall be the first thirteen weeks immediately preceding the week from which payment is to be made.

Commencement of Payment of Sickness Benefit.

13. (1) Sickness benefit shall be payable from the day the insured person is medically certified to be incapable of doing work, except that the period of sickness in respect of which payment is to be made shall not be less than four days.

(2) In computing the first three days for which payment is to be made Public Holidays, excluding Sundays, shall be taken into account.

Duration.

14. Subject to the provisions of these Regulations, sickness benefit shall be paid in respect of each day, excluding Sundays, as long as incapacity for work continues, subject to a maximum of twenty-six weeks in any one continuous period of incapacity for work.

Amount.

15. (1) The daily rate of sickness benefit shall be sixty-five percent of the average weekly wages of the insured person, divided by six.

(2) For the purposes of this Regulation wages shall include—

- (a) any contributions credited in accordance with regulation 71; and
- (b) the weekly average of the wages, which shall be the sum of those wages—
 - (i) in the first thirteen weeks of the four full calendar months prior to the date of incapacity divided by thirteen (13), or
 - (ii) for the thirteen continuous contribution weeks immediately preceding the week in which incapacity for work began or was deemed to have begun, divided by thirteen (13):

Except that any two or more periods of incapacity for work not separated by more than eight weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of those periods, and the daily rate of benefit payable in respect of the later period or periods shall be the daily rate paid during the first period.

(3) Notwithstanding the provisions of sub-regulations (1) and (2) the weekly average wage shall not in any case exceed sixty-five percent of the prevailing annual calling divided by fifty-two.

Maternity Benefit

Entitlement.

16. Subject to the provisions of these Regulations, maternity allowance and maternity grant shall be awarded to a woman who is an insured person in respect of her pregnancy and confinement, and maternity grant shall be awarded to a woman who is the wife of an insured person in respect of her pregnancy and confinement:

Except that if a woman is at the same time an insured person and the wife of an insured person, then maternity grant shall be awarded to her either as the insured person or as the wife of the insured person and not in both capacities.

Support of Claim.

17. A claim for maternity benefit shall be supported by a certificate of a medical practitioner or a midwife issued in accordance with the provisions of Schedule 1 to these Regulations or by such other evidence as the Director may require for the purpose of establishing the pregnancy or confinement, as the case may be.

Conditions to be Satisfied.

18. (1) Maternity allowance shall only be awarded if—

- (a) the insured person has ceased to work on account of pregnancy and confinement;
- (b) the insured person has been insured for a period of at least thirty-nine contribution weeks; and
- (c) not fewer than twenty contributions have actually been paid out of the thirty-nine continuous contribution weeks by or on behalf of, or credited by virtue of regulation 71 to the insured person.

(2) Maternity grant shall only be awarded if—

- (a) the insured person has been insured for a period of at least thirty-nine contribution weeks; and
- (b) not fewer than twenty contributions have actually been paid out of the thirty-nine continuous contribution weeks by or on behalf of, or credited by virtue of regulation 71 to the insured person.

(3) The thirty-nine continuous contribution weeks referred to in sub-regulation (1) shall be the first thirty-nine weeks in the ten full calendar months immediately preceding the month from which payment is due except that where an adequate number of contributions is not available it shall be the first thirty-nine weeks immediately preceding the week from which payment is to be made.

Certificate of Confinement.

19. A woman who is awarded maternity allowance before she is confined shall, as soon as possible after her confinement, obtain a certificate of her confinement in accordance with the provisions of Schedule 1 to these Regulations and send it to the

Director within three weeks of her confinement or, within the same period, furnish the Director with such other evidence of her confinement as the Director may require.

Duration.

20. Subject to the provisions of these Regulations, a maternity allowance shall be paid for a period starting on a date not earlier than six weeks before the expected date of confinement and continuing until the expiration of thirteen weeks.

Amount.

21. (1) The daily amount of maternity allowance shall be sixty-five percent of the average weekly wages of the insured person, divided by six.

(2) For the purpose of this regulation, wages include any contributions credited in accordance with regulation 71, and the weekly average of the wages is the sum of those wages of the first thirty-nine continuous contribution weeks in the full ten calendar months immediately preceding the date of confinement divided by thirty-nine, except that where an adequate number of contributions is not available it shall be the thirty-nine weeks preceding the week from which payment is to be made.

(3) Notwithstanding sub-regulations (1) and (2), the weekly average wage shall not in any case exceed sixty-five percent of the prevailing annual ceiling divided by 52.

(4) The amount of maternity grant shall be paid in accordance with Schedule 6 to these Regulations in respect of each child born at one confinement.

Invalidity Benefit

Entitlement.

22. Subject to the provisions of these Regulations, invalidity benefit shall be awarded to an insured person who is an invalid, and for the purposes of benefit in respect of invalidity under these regulations, an invalid is an insured person incapable of performing any employment as a result of a specific disease or bodily or mental disablement likely to be permanent and this condition has lasted for 26 weeks.

Support of Claim.

23. A claim for invalidity benefit shall be supported by a certificate of a medical practitioner issued in accordance with the provisions of Schedule 1 to these Regulations or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work.

Conditions to be Satisfied.

24. Invalidity benefit shall be awarded only if—

- (a) the insured person has not attained the age of sixty-two years; and
- (b) not fewer than one hundred and fifty contributions have actually been paid by him or her or on his or her behalf.

Duration.

25. (1) Subject to the provisions of these Regulations, invalidity benefit shall be paid as long as invalidity continues.

(2) An award for an invalidity benefit shall be reviewed after every three years or at any shorter period as the Director, on the advice of a medical practitioner or a Medical Board, may direct, and the Director may discontinue such benefit if it appears that the beneficiary is no longer eligible for the invalidity benefit in accordance with regulation 22.

Amount.

26. (1) The annual amount of invalidity benefit shall be thirty percent of the average annual wages of the insured person or of the prevailing annual ceiling, whichever shall be the lesser, to which shall be added—

- (a) two percent of his or her average annual wages or of the prevailing annual ceiling, whichever shall be the lesser, for each unit of fifty contributions actually paid in respect of him or her, or credited to him or her in accordance with regulation 71, subsequent to the first five hundred of such contributions and up to a total of seven hundred and fifty of such contributions; and
- (b) one percent of his or her average annual wages or the prevailing annual ceiling, whichever shall be the lesser, for each unit of fifty such contributions in excess of seven hundred and fifty of such contribution:

Except that in no case shall the invalidity pension exceed the lesser of sixty percent of the insured person's average annual wages or the prevailing annual ceiling nor be less than the prevailing minimum pension.

(2) Average annual wages, for the purpose of this regulation, shall be the sum of the weekly wages paid to the insured person during the three best contribution years out of his or her last fifteen contribution years, or such lesser number being the total number of contribution years since 1st February 1978, divided by three.

(3) The weekly rate of invalidity benefit shall be the annual rate thereof divided by fifty-two.

Extent to which Contributions may be applied in Respect of Future Claims to Benefit.

27. If an invalidity benefit ceases to be paid as a result of the beneficiary ceasing to be an invalid, any contributions which were taken into account for the purpose of the award or the amount of that benefit may be taken into account in respect of any subsequent claim by the insured person for invalidity benefit or of any claim by that person for age benefit.

Age Benefit

Pension Entitlement and Conditions to be Satisfied.

28. (1) Subject to the provisions of sub-regulation (2) and of these Regulations, age benefit shall be awarded as a pension to an insured person who has attained the age of sixty-two years, and by or on behalf of whom—

- (a) not fewer than one hundred and fifty contributions have actually been paid; and

(b) a total of not fewer than five hundred contributions have actually been paid or have been credited by virtue of regulations 34 and 71.

(2) Age benefit shall not be awarded to a beneficiary to whom invalidity benefit is being paid.

Grant Entitlement and Conditions to be Satisfied.

29. Subject to the provisions of these Regulations, age benefit shall be awarded as a grant to an insured person who does not satisfy the requirements set out in regulation 28 but who has attained the age of sixty-two years and by or on behalf of whom not fewer than fifty contributions have actually been paid or have been paid or have been credited by virtue of Regulation 71.

Duration of Age Pension.

30. Subject to the provisions of these Regulations, age pension shall be paid from the date of the beneficiary's sixty-second birthday until his or her death.

Amount of Pension.

31. (1) The annual amount of age pension shall be thirty percent of the average annual wages of the insured person or of the prevailing wages ceiling, whichever shall be the lesser, to which shall be added—

- (a) two percent of his or her average annual wages or of the prevailing wages ceiling, whichever shall be the lesser, for each unit of fifty contributions actually paid in respect of him, or credited to him or her in accordance with regulations 34 and 71 subsequent to the first five hundred of such contributions and up to a total of seven hundred and fifty of such contributions; and
- (b) one percent of his or her average annual wages or of the prevailing wages ceiling, whichever shall be the lesser, for each unit of fifty such contributions in excess of seven hundred and fifty of such contributions:

Except that in no case shall the age pension exceed the lesser of sixty percent of the insured persons average annual wages or the prevailing annual ceiling, nor be less than the prevailing minimum pension.

(2) Average annual wages, for the purpose of this regulation, shall be the sum of the weekly wages paid to the insured person during the three best contribution years out of his or her last fifteen contribution years or such lesser number being the number of his or her contribution years.

(3) The weekly rate of age pension shall be the annual rate thereof divided by fifty-two.

Payments in Special Circumstances.

32. (1) Where an insured person to whom regulation 34 applies has paid one hundred and fifty contributions but in respect of whom less than five hundred contributions have been paid or credited by virtue of regulation 71, then that person shall be paid age pension at the rate specified in column 2 of Schedule 2 to these Regulations for the number of contributions and credits specified in column 1 of that Schedule.

(2) In no case shall the age pension computed under sub-regulation (1) be less favourable to a person who is already entitled to a pension.

Amount of Grant.

33. (1) The amount of age grant shall be a lump sum equal to six times the average weekly wages of the insured person for each unit of fifty contributions actually paid in respect of him or her, or credited to him or her in accordance with regulation 71.

(2) Average weekly wages, for the purpose of this regulation, shall be the sum of the weekly wages paid to the insured person during the period for which he or she was an insured person, divided by the number of contribution weeks in that period.

Age Pension for Person over 37 on 1st February, 1978.

34. An insured person who was over the age of thirty-seven years on 1st February, 1978 shall be credited with contributions equal to twenty-five contributions for each year of age in excess of thirty-seven years subject to a maximum of three hundred and fifty contributions, except that such contributions—

- (a) shall be taken into account in respect of age pension only;
- (b) shall not be taken into account in assessing the average annual wages of the insured person; and
- (c) shall only be taken into account to the extent necessary to enable an insured person to qualify for age pension at the rate of thirty percent of his or her average annual wages.

Injury Benefit

Entitlement and Obligations of Employers in Relation to Accidents.

35. (1) An insured person who, subject to these Regulations, sustains the relevant injury or contracts the relevant disease is, during the injury benefit period, entitled to the injury benefit, except that he or she shall not be entitled to injury benefit for any period that is less than four days.

(2) In computing the first three days for which payment is to be made Public Holidays, excluding Sundays, shall be taken into account.

(3) An employer by whom five or more persons are normally employed at the same time at or about the same premises shall keep readily accessible an accident book in which the particulars specified in sub-regulation 10 may be entered, and shall cause to be entered in that book the particulars of any accident of which notice is given as required by sub-regulation 9 or which otherwise comes to his or her knowledge.

(4) It is sufficient compliance with sub-regulation (3) if the employer maintains arrangements under which he or she may receive immediate written notice of the occurrence of any accident, whether the written notice is given in the accident book or otherwise, and if he or she complies with any directions given by the Board in connection with the arrangements.

(5) On receiving a notice of a work related injury, the employer shall forthwith make arrangements for the injured insured person to be taken to the public hospital or to a facility operated by the Government Medical Services, and the

Director shall arrange payment for such services with the Government Medical Services; and the report from the hospital or Government Medical Service Provider shall form a part of the information to be submitted to the Director.

(6) An employer shall forthwith investigate any accident of which notice is given as required by sub-regulation 9 or which comes to his or her knowledge otherwise, and shall make a record of discrepancies, if any, between the particulars given in the notice and the circumstances revealed by the investigations.

(7) Upon a request by the Director, an employer shall forthwith supply particulars of any accident and of any discrepancies revealed by the investigation made pursuant to sub-regulation (5).

(8) Upon a request by the Director, a self-employed person or his or her representative shall forthwith supply particulars of any accident.

(9) Nothing in this regulation shall be construed as relieving an employer of any obligation in relation to the recording, investigating or reporting of accidents pursuant to the provisions of any other enactment, agreement, or other instrument.

(10) An employed person who suffers personal injury by an accident in respect of which employment benefit may be payable shall give notice of the accident, either in writing or orally, immediately or within twenty-four hours after the occurrence of the accident, except that the notice may be given by some other person acting on behalf of the employed person.

(11) A notice referred to in sub-regulation 9 shall be given to the employer, a foreman, or other person under whose supervision the employed person was working at the time of the accident, or to a person designated by the employer for the purpose, or by means of an entry in the accident book; and the notice shall contain the following particulars—

- (a) full name, address and occupation of the employed person;
- (b) date and time of accident;
- (c) place where the accident occurred;
- (d) cause and nature of personal injury;
- (e) name and address of any witness to the accident;
- (f) name, address and occupation of person giving the notice, if not the injured person.

(12) The employer shall report the accident to the Director within four days of the occurrence.

(13) No person shall, where good reasons are provided to the Director for the delay, be disentitled to receive employment benefit by reason only that notice of the accident was not given at the time or in the prescribed manner.

Amount.

36. (1) A person who is entitled to the injury benefit shall, subject to sub-regulation (2), be paid injury benefit calculated in accordance with the provisions of the Third Schedule to these Regulations.

(2) Where a person, during the course of his or her employment, suffers from injury or disease arising from the relevant accident or relevant disease, and thereafter resumes work before the expiry of the injury benefit period but later suffers further incapacity arising out of the same accident or disease then, subject to regulation 6,

that person shall be entitled to an injury benefit computed in accordance with the provisions of sub-regulation (1) of this regulation.

(3) To qualify for the injury benefit referred to in sub-regulation (2) the insured person shall not have exhausted the injury benefit period in which the first incapacity occurred and the second incapacity should have occurred before the expiry of that injury benefit period.

Duration.

37. (1) Injury benefit shall be paid during the period a person is incapable of doing work as a result of the relevant accident or relevant disease, except that such payment shall not be made for a period exceeding twenty-six weeks.

(2) The period referred to in sub-regulation (1) shall be computed from the day following the day on which the relevant accident or medical diagnosis of the relevant disease occurred.

Meaning of Injury Benefit Period.

38. For the purposes of regulations 35 and 36 “injury benefit period” means, in relation to a person who suffers injury arising out of any relevant accident or relevant disease that occurs during his or her course of employment, a period of twenty-six weeks computed in accordance with the provisions of sub-regulation (2) of regulation 37 of these Regulations.

Disablement Benefit

Entitlement.

39. (1) An insured person shall, subject to sub-regulation (3), be entitled to a disablement benefit if, as a result of the relevant accident or relevant disease, he or she suffers from loss of physical faculty or mental faculty.

(2) No disablement benefit shall be paid until payment of the injury benefit has been stopped in accordance with the provisions of regulation 37.

(3) To qualify for the disablement benefit under this regulation, the extent or degree of disablement should not, when assessed by the Medical Board in accordance with the provisions of the Fourth Schedule to these Regulations, be less than one percent.

(4) A person whose degree of disablement is assessed at a percentage of less than twenty percent shall be paid a disablement benefit in the form of a grant, which grant shall be computed in accordance with the provisions of the Third Schedule to these Regulations.

(5) A person whose degree of disablement is assessed at a percentage of twenty percent and more shall be paid a disablement benefit in the form of a pension, which pension shall be computed in accordance with the provisions of the Third Schedule to these Regulations.

(6) A person who has received injury benefit for 26 weeks and continues to be incapacitated shall receive disablement benefit calculated at a rate of 40% and shall continue to receive such payment subject to periodic reviews by the Medical Board.

Rate.

40. The rate of disablement benefit shall be determined in accordance with the provisions of the Third Schedule to these Regulations, except that when determining that rate the degree of disablement specified in the Fourth Schedule to these Regulations shall be taken into account.

Successive Accidents.

41. (1) If a person suffers two or more successive accidents in respect of which he or she is insured under the Act, he or she shall not, in respect of the same period—

- (a) be entitled to receive both the injury benefit and the disablement benefit, but he or she shall be entitled to receive the benefit that is payable at a higher rate;
- (b) be entitled to receive more than one disablement benefit.

(2) In assessing the degree of disablement of a person in connection with the second or subsequent claim to a disablement benefit, the total degree of disablement arising from all the relevant accidents or relevant diseases shall be taken into account, and the rate of benefit shall be computed by reference to whichever of the rates was higher prior to any of the relevant accidents or diseases.

Constant Attendance Allowance.

42. (1) A person entitled to a disablement benefit under these Regulations whose degree of disablement is assessed at one hundred percent and is severely incapacitated as to require constant personal attendance of another person shall, in addition to the disablement benefit, be entitled to a constant attendance allowance, which shall be in accordance with rates of payment of nurses employed by the Ministry of Health.

(2) In determining entitlement, the Director shall have advice from the Medical Board, and the Medical Board, having regard to the circumstances of the case, may specify that the service be provided by a qualified person.

*Death Benefit***Entitlement.**

43. (1) Subject to regulations 55 and 56, the dependents of the insured person shall be entitled to a death benefit where the insured person dies from an injury arising out of the relevant accident or relevant disease suffered from by the insured person while in the course of his or her employment.

(2) The death benefit referred to in sub-regulation (1) shall be paid in the following order of priority—

- (a) the widow or widower who was wholly or mainly maintained by the insured person at the time of the insured person's death;
- (b) children of the insured person, that is to say—
 - (i) unmarried children;
 - (ii) adopted children;
 - (iii) step-children;

- (iv) children who, at the time of death of the insured person, were under 16 years or up to 18 years if receiving full-time education and were wholly or mainly maintained by the insured person;
- (c) parents of the deceased insured person.

Rate.

44. (1) A widow or widower referred to in regulation 43 shall be paid a death benefit at the rate of one half of the disablement pension.

(2) The children referred to in regulation 43 shall be paid a death benefit at the rate of one-sixth of the disablement pension, and where the number of children is three (3) with the widow or widower, or where the number of children is six (6), the rate shall be calculated by dividing the amount by the number of children.

Definition of Widow and Widower.

45. For the purposes of regulations 43 and 44 of these Regulations, the expression “widow” or “widower”, in relation to a person who has been married more than once, refers to the last wife or husband, as the case may be.

*Funeral Grant***Entitlement.**

46. (1) A funeral grant shall be payable to a person who incurs funeral expenses in respect of the death of an insured person, that is to say—

- (a) an insured person; or
- (b) the spouse of the insured person; and
- (c) the dependant child of the insured person.

(2) The funeral grant shall only be payable if the death of the insured person was caused by the relevant accident or relevant disease while the deceased person was in the course of his or her employment.

(3) Where—

- (a) the death of the insured person occurs at sea and the deceased person is buried at sea;
- (b) the person who incurs the funeral expenses of the deceased person cannot be found; or
- (c) the cost of the funeral was less than the benefit,

the funeral grant shall be paid to such person or persons as the Board may determine.

Conditions to be Satisfied.

47. (1) Funeral grant shall be awarded only if the insured person had been an insured person for not less than twenty-six contribution weeks and had actually paid not fewer than twenty-six contributions.

(2) Where a person qualifies in accordance with regulations 46(2) and 43(1) then no contribution is required for the payment.

Support of Claim.

48. A claim for funeral grant shall be supported by a death certificate or by such other evidence as the Director may require for the purpose of establishing the death of the insured person or his or her spouse or child, and by such other evidence as the Director may require to establish that the claimant is entitled thereto.

Amount.

49. The amount of funeral grant payable shall be as set out in the Sixth Schedule to these Regulations.

*Survivor's Benefit***Entitlement.**

50. (1) Subject to the provisions of these Regulations, survivor's benefit shall be awarded to the widow or widower who was being maintained by the deceased, as the case may be, to the parent and to any child of a deceased insured person if, at the date of his or her death, the insured person—

- (a) had actually paid one hundred and fifty weekly contributions;
- (b) was in receipt of invalidity benefit or age benefit;
- (c) would have been awarded invalidity benefit had he or she made a claim for such benefit; or
- (d) was sixty-two years of age or over and would have been awarded age benefit had he or she made a claim for such benefit.

(2) Where, at the date of his or her death, the deceased insured person was in receipt of invalidity benefit or age pension, or would have been awarded either of such benefits if he or she had made a claim in that respect, or had actually paid one hundred and fifty weekly contributions, survivor's benefit shall be awarded as a pension.

(3) Where, at the date of his or her death, the deceased insured person had been awarded age grant, or would have been awarded the age grant if he or she had made a claim for the grant, a survivor's benefit shall be awarded as a grant.

Support of Claim.

51. A claim for the survivor's benefit shall be supported by a death certificate or by such other evidence as the Director may require for the purpose of establishing the death of the insured person.

Widows and Widowers.

52. (1) A widow who, at the date of her husband's death—

- (a) was forty-five years of age or over and had been married to him for not less than three years, shall be awarded a survivor's pension for her life, or a survivor's grant;
- (b) had been married to him for not less than three years and was at that date an invalid, shall be awarded a survivor's pension for so long as invalidity continues or a survivor's grant;

- (c) had not attained the age of forty-five years or was not an invalid, or being forty-five years or over, had been married to him for less than three years, shall be awarded a survivor's pension for a period of one year.

(2) A survivor's pension payable to a widow shall cease on her remarriage or if she cohabits with a man as his wife.

(3) Where a pension payable to a widow pursuant to paragraph (b) of sub-regulation (1) ceases to be payable, other than in accordance with the provisions of sub-regulation (2), then the widow shall, if she is over the age of forty-five, be awarded a survivor's pension for life.

(4) The conditions set out in sub-regulations (1), (2) and (3) shall, *mutatis mutandis*, apply to the widower.

Parents.

53. A survivor's pension or a survivor's grant shall be awarded to a parent of a deceased person who was insured at the time of his or her death if the parent, at the time of the death of the insured person—

- (a) was under 62 years and mainly supported by the deceased person, in which case the parent shall be awarded a survivor's pension for one year or a survivor's grant; or
- (b) was over sixty-two years of age or an invalid, in which case that parent shall be awarded survivor's pension for life,

except that if the parent subsequently gets employment he or she will not be entitled to the pension.

Children.

54. (1) A survivor's pension or a survivor's grant shall be awarded to an unmarried child, including an adopted child, a step-child or an illegitimate child, of a deceased insured person who, at the date of the parent's death, was under sixteen years or under the age of 18 if attending school or college and was living with or was mainly maintained by the deceased at the date of his or her death.

(2) A survivor's pension shall be payable in respect of a child until the child attains the age of sixteen years or if attending school until eighteen years, except that in the case of an invalid child a survivor's pension shall be payable so long as the invalidity continues.

Amount.

55. (1) For the purposes of this regulation and regulation 56, the maximum amount of survivor's pension shall be equivalent to the largest of—

- (a) thirty percent of the average annual wages of the deceased insured person;
- (b) the annual amount of the invalidity or age pension that the deceased insured person was being paid, or would have been paid; or
- (c) prevailing minimum annual ceiling of age or invalidity pension.

(2) For the purposes of this regulation and regulation 56, the maximum amount of survivor's pension shall be the amount of age grant that had been paid or would have been paid to the deceased insured person.

- (3) The amount of survivor's pension or a survivor's grant payable to—
- (a) a spouse shall be equal to fifty percent of the maximum amount;
 - (b) a child shall be $\frac{1}{6}$ of the maximum amount, except where the number of children are in excess of six without a widow or widower or three with a widow or widower, then the maximum amount to each child shall be divided equally among the surviving children;
 - (c) a parent shall be $\frac{1}{6}$ of the maximum amount.

(4) The minimum pension for a child, spouse, and parent shall be in accordance with Schedule 7 to these Regulations.

(5) The aggregate amount of survivor's pension and survivor's grants payable to a spouse, parent and child shall not exceed the maximum amount.

Insufficiency of Amount Available for Distribution to Parent.

56. Where the maximum amount available for the payment of survivor's pensions of a deceased insured person is insufficient to enable payment to be made in respect of the parents in accordance with regulations 53 and 55, then the payment to the parent shall be deferred until payment to one or other survivors has ceased.

PART IV

OLD AGE AND INVALIDITY ASSISTANCE

Old Age Non-Contributory Assistance.

57. Subject to the provisions of these Regulations, assistance in the form of old age non-contributory pension shall be awarded to a person who has not been awarded invalidity or age pension and who—

- (a) is a citizen of Saint Kitts and Nevis;
- (b) has been ordinarily resident in Saint Kitts and Nevis for a period of not less than twelve months without interruption within the fifteen years immediately preceding the date of the claim for assistance;
- (c) is not in gainful employment;
- (d) is in need; and
- (e) has attained the age of sixty-two years.

Invalidity Assistance.

58. Subject to the provisions of these Regulations, invalidity assistance shall, as long as the invalidity continues, be awarded to a person who—

- (a) is permanently incapable of work on account of invalidity;
- (b) is between the ages of 16 and 62 and, is resident in Saint Kitts and Nevis at the date of the claim for assistance;
- (c) is a citizen of Saint Kitts and Nevis;
- (d) is in need; and

- (e) is not in gainful employment or obtaining gainful employment or self-employment.

Review.

59. An award of assistance made under regulations 57 and 58 may be reviewed by the Board at any time and shall be cancelled if it appears to the Board that the beneficiary is no longer eligible for assistance in accordance with regulation 57 or 58.

Duration.

60. Subject to regulation 59, assistance which has been awarded under regulation 57 or 58 shall be paid for his or her life to the beneficiary or to such other person on behalf of the beneficiary as the Board may direct.

Amount.

61. Assistance payable under this Part shall be paid at the rates specified in the Sixth Schedule to these Regulations.

PART V PAYMENT OF BENEFIT

Time and Manner of Payment of Benefit.

62. (1) An award of a benefit or assistance shall be paid by the Board in accordance with the terms and conditions of the award as soon as the award is made.

(2) The award referred to in sub-regulation (1) may be paid—

- (a) in cash;
- (b) by payable order; or
- (c) by serial order, in case of periodical payments,

as the Board may direct.

(3) In any case in which there is an award by the determining authority under which periodical payments are to be made, the Board may cause arrangements to be made whereby, on furnishing such evidence as to identity and such other particulars as may be required, the beneficiary may obtain a book of pension orders or of serial orders, as the case may be, and the beneficiary shall be notified of the appropriate place at which he or she may obtain such a book and of the arrangements so far as they affect him or her.

(4) The Board shall arrange for the issue of a fresh book of pension orders or of orders on the expiration of the previous book.

Books of Orders to Remain Property of Board.

63. (1) Any book of pension orders or of serial orders issued to any person shall remain the property of the Board.

(2) A person who has a book of pension orders or of serial orders, or any unpaid order, shall, on termination of the benefit to which the book or order relates, or when requested to do so by an officer of the Board, deliver such book or order to the Board or such person as the Board may direct.

Board may make Other Arrangements for Payment in Certain Cases.

64. Notwithstanding anything contained in these Regulations, the Board may arrange—

- (a) in any case where the date from which benefit or assistance would commence, or as from which a change in rate of benefit or assistance would take effect, is other than the appropriate day of the week for which that benefit or assistance is payable; or
- (b) in any case where the date from which benefit or assistance would cease to be payable is a day other than the appropriate day of the week for which that benefit or assistance is payable,

for a proportion of the benefit or assistance to be paid to the beneficiary otherwise than by means of a payable order.

Other Methods of Payment of Pensions.

65. (1) The Board may make arrangements for the payment of a benefit at a financial institution to the account of the beneficiary.

(2) Notwithstanding anything contained in these Regulations, the Board may, in any particular case or class of cases, arrange for the payment of benefit or assistance to the beneficiary otherwise than by means of a payable order or a serial order.

Information to be Given when Obtaining Payment.

66. A beneficiary and any person to whom a benefit or assistance is paid on behalf of a beneficiary shall furnish in such manner and at such times as the Director may require such certificates and other documents, and such information of facts, relating to the receipt or disbursement thereof as may be specified, either as a condition on which any sum or sums shall be paid or otherwise, by the Director.

Extinguishment of Right to Sums Payable by Way of Benefit not Obtained within Prescribed Time.

67. (1) The right to any sum payable by way of benefit or assistance shall be extinguished where payment of the benefit or assistance is not obtained within the period of six months from the date on which that sum is receivable in accordance with this regulation.

(2) In calculating the period of six months for the purposes of sub-regulation (1) no account shall be taken of—

- (a) any period during which a payable order or serial order, in respect of the sum is in the possession of the Post Office, the Board or a bank at which it is payable, other than a period after written notice has been given to the beneficiary that the order is available for collection;
- (b) any period during which the Board had under consideration any representation that a payable order or a serial order in respect of the sum has not been received or has been lost, mislaid or stolen;
- (c) any period during which the beneficiary is for the time being unable to act by reason of any mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed one year; or

(d) any period during which the determination of any question as to such extinguishment is pending.

(3) For the purposes of this regulation, a sum payable by way of benefit or assistance shall, subject to sub-regulation (4) and regulation 70(3), be receivable—

(a) in the case of a sum contained in a serial order, on the date on which the order is due to be paid;

(b) in the case of a sum contained in a payable order—

(i) if the order is sent through the post, on the date on which it is authenticated for payment; and

(ii) in any other case, on the date of issue of the order;

(c) in the case of a sum not contained in a payable order where notice is given orally or in writing to the beneficiary that the sum is available for collection—

(i) if written notice is sent by post, on the date on which it would be delivered in the ordinary course of post; and

(ii) in any other case, on the date of the notice;

(d) in any other case, six months or such longer period as may be determined by the Board in the circumstances of any particular case after the date on which the sum became payable.

(4) In determining when a sum is receivable under sub-regulation (3) the following provisions shall apply—

(a) if a beneficiary proves that through no fault of his or her own he or she did not receive the payable order or the serial order, or written notice, until a date later than the appropriate receivable date determined in accordance with sub-regulation (3), the sum shall be receivable—

(i) on that later date; or

(ii) on the date which is six months after the said appropriate receivable date,

whichever is the earlier;

(b) if a beneficiary proves that through no fault of his or her own he or she has not received the payable order or the serial order or written notice, the sum shall be receivable—

(i) on the date determined in accordance with sub-regulation (3) on the basis of the issue of any further payable order or serial order or on giving notice again in respect of that sum; or

(ii) on the date which is six months after the receivable date determined in accordance with sub-regulation (3) on the same basis,

whichever is the earlier.

(5) Any sum payable by way of a benefit or assistance to a beneficiary who is for the time being unable to act shall be receivable in accordance with this regulation, notwithstanding his or her inability to give a receipt for the benefit or assistance.

(6) A person who would be entitled to a benefit or assistance but for the operation of this regulation shall be treated as if he or she was entitled to the benefit

or assistance for the purpose of any rights or obligations under the Act and any regulations made under the Act, whether of himself or herself or any other person, which depend on his or her being so entitled, other than the right to payment of that benefit or assistance.

Beneficiaries to Notify Changes of Circumstances.

68. (1) A beneficiary shall inform the Director of any change in his or her circumstances affecting his or her continued right to receive a benefit or assistance or the rate at which the benefit is payable, within one week of the occurrence of the change.

(2) The Board may require any beneficiary to furnish from time to time documentary evidence that he or she is alive and that the conditions governing the grant of such benefit or assistance continue to be satisfied.

Persons unable to Act.

69. (1) In the case of any beneficiary, or of any person who is alleged to be entitled to a benefit or assistance, or by whom or on whose behalf a claim for a benefit or assistance has been made, being a child or a person unable for the time being to act, where no other person or authority has been duly appointed under the law to have charge of such person or of his or her estate, the Board may, upon written application being made to it and subject to sub-regulation (2), appoint a person to make or exercise on behalf of the child or person who is unable to act, any claim or right to which the child or person may be entitled under the Act and any regulations made under the Act, and to receive and deal with any sums payable on behalf of the child or person:

Provided that—

- (a) the appointment made by the Board under this sub-regulation shall terminate on the date immediately prior to the date on which the Board is notified that another person or authority has been duly appointed under the law to have charge of the person or his or her estate;
- (b) a person who has not attained eighteen years shall not be appointed to act under this regulation;
- (c) the Board may, at any time, in its absolute discretion, revoke an appointment made under this regulation; and
- (d) any person appointed under this Regulation may, on giving the Board one month's notice in writing of his or her intention to do so, resign his or her office.

(2) Anything required by these Regulations to be done by or to any person who is a child or who is for the time being unable to act may be done by or to any person or authority duly appointed under the law to have charge of such person or of his or her estate, or by or to the person appointed under this regulation to act on behalf of such person, and the receipt of any person so appointed shall be a good discharge to the Board and the Fund for any sum paid.

Payment on Death.

70. (1) On the death of a person who has made a claim for benefit or assistance, or who is alleged to have been entitled to a benefit or assistance, or in respect of whose death a funeral grant is payable, the Board may appoint such person as it thinks fit to

proceed with or to make a claim for the benefit or assistance, and the provisions of these Regulations shall apply, subject to the necessary modifications, to the claim.

(2) Subject to sub-regulation (5), any sum payable by way of benefit or assistance which is payable under an award on a claim proceeded with or made under sub-regulation (1) may be paid or distributed to or amongst persons claiming as personal representatives, legatees, next-of-kin, or creditors of the deceased, and the provisions of regulation 68 shall apply to the payment or distribution:

Except that—

- (a) the receipt by any person referred to in this sub-regulation who has attained eighteen years shall be a good discharge to the Board and the Fund for the sum so paid; and
- (b) where the Board is satisfied that the sum or part of the sum is needed for the benefit of any person under eighteen years, the Board may obtain a good discharge of the sum by paying the sum or part of the sum to a person over that age, who need not be a person specified in this sub-regulation who satisfies the Board that he or she will apply the sum so paid for the benefit of the person under eighteen years.

(3) Subject to sub-regulation (5), any sum payable by way of benefit or assistance in respect of a deceased person, payment of which he or she had not obtained at the date of his or her death, may, unless the right thereto was already extinguished at the date, be paid or distributed amongst such persons as are mentioned in sub-regulation (2), and the provisions of regulation 68 and of sub-regulation (5) shall apply to any payment or distribution:

Except that, for the purposes of regulation 68(1), the period of six months shall be calculated from the date on which the sum was receivable by the person and not from the date on which it was receivable by the deceased, and for those purposes the reference in regulation 68(3)(d) to the date on which the sum became payable shall be construed as a reference to the date of application to the Board made in accordance with sub-regulation (4).

(4) Sub-regulations (2) and (3) shall not apply in any case unless written application for the payment of the sum is made to the Board within six months from the date of the deceased's death, or within such longer period as the Board may allow in any particular case.

(5) The Board may dispense with strict proof of the title of any person claiming in accordance with this regulation.

PART VI

MISCELLANEOUS PROVISIONS

Credited Contributions.

71. (1) For every contribution week for the whole of which an insured person receives sickness benefit, injury benefit, maternity benefit or invalidity pension, a contribution shall be credited to that person without actual payment of the contribution.

(2) The provisions of sub-regulation (1) shall apply in the case of an insured person who, but for the provisions of regulation 13, would have been entitled to receive sickness benefit.

(3) A credited contribution shall, subject to these Regulations, be valid for sickness benefit, maternity benefit, invalidity benefit or age benefit and shall be at the level of the weekly wages corresponding to, or most closely corresponding to, those on the basis of which the sickness benefit or maternity benefit was paid:

Except that where sickness or maternity benefit was payable at different rates during a contribution week, the credited contribution for that week shall be at the level of the weekly wages corresponding to, or most closely corresponding to, the higher or highest level of weekly wages on the basis of which such benefit was paid.

Payment of Maximum Contributions.

72. If before the end of any contribution year the maximum amount of contributions shall have been paid by or on behalf of, or shall have been credited by virtue of regulations 34 and 72 to, any insured person, being the maximum amount prescribed by the Schedule to the Contributions Regulations, then for the purposes of these Regulations contributions shall be deemed to have actually been paid by or on behalf of that person for each contribution week in that year during which he or she was an employed person and that person shall be deemed to have been an insured person for each such week.

Restriction on the Number of Benefits a Person can be Paid at any Time.

73. (1) Notwithstanding that a person is, at the same time, entitled to two or more benefits under the Act, only one benefit shall be payable to that person, and the benefit payable shall be the benefit that was first awarded unless the other benefit is payable at a higher rate.

(2) The provisions of sub-regulation (1) of this regulation shall not apply where—

- (a) an injury benefit is paid with old age contributory benefit or death benefit;
- (b) a disablement benefit is paid with—
 - (i) sickness benefit;
 - (ii) maternity benefit;
 - (iii) survivor's benefit;
 - (iv) death benefit; or
 - (v) old age contributory benefit;
- (c) death benefit is paid with—
 - (i) sickness benefit;
 - (ii) maternity benefit;
 - (iii) injury benefit; or
 - (iv) disablement benefit;
- (d) any other benefit may be paid with another benefit without prejudice to the employment injury benefit scheme.

Beneficiaries Abroad.

74. (1) Except as hereinafter provided, a beneficiary shall be disqualified from receiving any benefit for any period during which that person is absent from the Federation.

(2) A beneficiary shall not be disqualified from receiving sickness, injury or maternity benefit by reason of being temporarily absent from the Federation for the specific purpose of being treated for any illness which commenced before he or she left the Federation during such period as the Director may allow, having regard to the particular circumstances of the case.

(3) A beneficiary shall not be disqualified from receiving age, death or survivor's benefit by reason of being absent from the Federation.

(4) A beneficiary shall not be disqualified from receiving invalidity benefit by reason of being from the Federation for such period as the Director may allow, having regard to the particular circumstances of the case, that benefit having been awarded before the person left the Federation.

Payment of Benefits to Beneficiaries Abroad.

75. (1) A benefit paid to a beneficiary under regulation 74 shall be paid in the Federation to such representative acting on behalf of the absent beneficiary as may be approved by the Director.

(2) Where an agreement or understanding is entered into between the Government of Saint Christopher and Nevis and the Government of any other country to allow benefits accruing in one or other of those countries to be paid in the other, any benefit for which a person is not disqualified under regulation 74 may be paid to a person in that other country.

Deferment of Claims and Forfeiture of Benefit.

76. (1) Where a person who is claiming or who has been awarded any benefit or assistance fails to furnish any information required of him or her, or fails to attend, when required to do so, medical or other examination under these Regulations or the Social Security (Determination of Questions) Regulations, then the determining authority may defer consideration of the claim or any question arising out of the claim until the information is furnished or the report of the examination is received, and the determining authority may direct that the benefit or assistance payable as a result of its award or decision shall be forfeited for the period the person fails to supply the information or fails to undergo medical or other examination.

(2) If, in respect of any incapacity, or expected or actual confinement, a person awarded sickness benefit, injury benefit, maternity benefit or invalidity benefit, or assistance, as the case may be—

- (a) without good reason behaves in a manner calculated to retard his or her recovery, or fails without good cause to answer any reasonable enquiries by an officer of the Board directed to ascertain whether he or she is doing so;
- (b) is absent from his or her place of residence without leaving word where he or she may be found;
- (c) undertakes work for which remuneration is or would ordinarily be payable;

- (d) fails to comply with a notice given to him or her by the Director which requires him or her to attend for and submit to medical or other examination; or
- (e) fails to comply with the requirements of regulation 66,

he or she shall be liable to forfeit the benefit or assistance for a period not exceeding six weeks as the Director may determine.

Persons Undergoing Imprisonment or Detention.

77. (1) Subject to sub-regulation (2), a person shall be disqualified from receiving any benefit or assistance for any period during which that person is undergoing imprisonment or detention in legal custody.

(2) Where the Director is satisfied that an insured person undergoing imprisonment or detention in legal custody has dependants who, immediately before such imprisonment or detention, were wholly or mainly maintained by him or her, it may authorise the payment to or on behalf of those dependants of an amount not exceeding one-half of the benefit which would otherwise be payable to the insured person during such a period as the Director may allow, having regard to the particular circumstances of the case.

Refund of Medical Expenses.

78. (1) The Government Medical Services shall provide the Board with the relevant particulars regarding the treatment of insured persons for the relevant injury or disease arising from their employment.

(2) The Medical Board may consult the Government Medical Services on the treatment of any insured person and request appropriate record.

(3) The treatment administered shall include—

- (a) medical, surgical, dental, skilled nursing and other in-patient or out-patient at Government hospitals, clinics and other similar institutions;
- (b) the supply of medicines and other pharmaceuticals supplies prescribed by a medical practitioner;
- (c) the supply, fitting, maintenance, repair, and renewal of artificial limbs, dentures, spectacles, other apparatus and appliances.

(4) Where the Medical Board approves medical expenditure separate from the Government Medical Services, an insured person shall, subject to this regulation and regulation 79, be entitled to a refund of reasonable medical expenses incurred by him or her as a result of the relevant accident or relevant disease.

(5) For the purposes of sub-regulations (1) and (3), a claim for refund of reasonable medical expenses may be made in respect of any of the following—

- (a) medical, surgical, dental, skilled nursing and other hospital services;
- (b) the supply of medicines;
- (c) the supply, fitting, maintenance, repair, and renewal of artificial limbs, dentures, spectacles, other apparatus and appliances;
- (d) the cost of travelling for the purpose of obtaining any of what is specified in paragraphs (a), (b) and (c).

(6) The medical expenses referred to under sub-regulations (1) and (3) shall not in any case exceed—

- (a) the reasonable expenses reasonably incurred by the claimant; and
- (b) the expenses normally incurred of obtaining treatment which is so provided as to secure maximum effectiveness at minimum reasonable costs.

(7) The fees or charges in respect of the medical expenses shall not be more than would be properly and reasonably charged to the insured person if he or she were paying them himself or herself.

(8) The amount of medical expenses and related expenditure that may be refunded to the insured person shall be determined by the Director, but shall not exceed twenty-five thousand dollars Eastern Caribbean Currency (EC\$25,000.00) for any relevant injury or disease and is subject to the Eighth Schedule.

Payment of Medical Expenses to a Person Outside St Kitts and Nevis.

79. (1) Where a person is entitled to a refund of medical expenses under these Regulations and the person is absent from Saint Christopher and Nevis, then the medical expenses shall, subject to sub-regulation (2), be paid in Saint Christopher and Nevis, subject to the approval of the Director, to a person acting on behalf of the claimant.

(2) No payment shall be made under this Regulation unless the Medical Board gave prior approval to any treatment obtained abroad, and the amount of payment payable in respect of such treatment and related expenditure shall not exceed amounts set out in the Eighth Schedule.

Offences.

80. (1) A person who contravenes or fails to comply with any requirement of these Regulations commits an offence and is liable, on summary conviction, to a fine not exceeding one hundred dollars.

(2) Where a person continues to contravene any provision of these Regulations after that person is convicted of the same offence then that person commits an offence and is liable, on summary conviction, on top of a fine of one hundred dollars, to a further fine of one hundred dollars for each day in respect of which the contravention is continued.

SCHEDULE 1 TO THE REGULATIONS

(Regulations 11, 17, 19 and 23)

MEDICAL CERTIFICATES

Interpretation.

1. In this Schedule, unless the context otherwise requires—

“medical practitioner” means a medical practitioner not being the insured person or the husband or wife of the insured person.

Form of Certificate.

2. A certificate shall be either on a form supplied by the Board or on such other form substantially to the like effect as the Director may accept.

No further certificate to be furnished.

3. After a certificate based on an examination has been given, no further certificate based on an examination shall be furnished other than a certificate to replace the original certificate which has been lost or mislaid, and in that case the form shall be clearly marked "Duplicate".

*Sickness or Invalidity***Certificate of sickness etc. to be in writing.**

4. Every certificate of sickness or invalidity shall be in writing in ink or other indelible substance, and shall contain the following particulars—

- (a) the insured person's name;
- (b) the date of the examination on which the certificate is based;
- (c) a concise statement of the nature of the disease or disablement by which the insured person is, in the practitioner's opinion, at the time rendered—
 - (i) in the case of sickness, temporarily incapable of work;
 - (ii) in the case of invalidity, permanently incapable of performing in any employment and this condition has lasted for twenty-six weeks;
- (d) the date on which the certificate is given;
- (e) the address of the practitioner,

and shall bear, opposite the words "Doctor's Signature", the signature of the certifying practitioner written after there have been entered on the certificate the insured person's name and the statement of the disease or disablement.

Statement of incapacitating disease to specify cause.

5. The statement of the incapacitating disease or disablement shall specify the cause of incapacity as precisely as the practitioner's knowledge of the insured person's condition at the time of the examination permits:

Except that, if in the practitioner's opinion a disclosure to the insured person of the precise cause would be prejudicial to his or her well-being, the certificate may contain a less precise statement.

What a certificate may specify.

6. (1) In any case in which, in the opinion of the practitioner, the insured person will become fit to resume work on a day not later than the end of the 7th day after the date of the examination on which the certificate is based, the certificate shall specify the first-mentioned day.

(2) In any other case, the certificate shall cover a specified number of days or weeks from and including the date of the examination on which the certificate is based, which shall not exceed 28 days, or where at that date the incapacity has continued for not less than 28 days, 13 weeks.

(3) In computing any period of time in relation to any certificate given under this regulation Sundays shall not be disregarded.

*Confinement***Certificate of confinement to be in writing.**

7. Every certificate of confinement or expected confinement shall be in writing in ink or other indelible substance and shall be signed by a medical practitioner or a midwife attending to the woman.

Particulars to be contained in certificate of confinement.

8. Every certificate of confinement or expected confinement shall contain the following particulars—

- (a) the woman's name;
- (b) in the case of a certificate of expected confinement, the week in which it is to be expected that the woman will be confined and the date of the examination on which the certificate is based;
- (c) in the case of a certificate of confinement, the date and place of the confinement, and the date of the examination on which the certificate is based;
- (d) the date on which the certificate is given;
- (e) the address of the practitioner or the midwife and, in the case of a midwife, either her registered number or the date of her qualification,

and shall bear, opposite the word "Signature", the signature of the person giving the certificate written after there have been entered on the certificate the woman's name and the date or (as the case may be) the expected date of the confinement.

SCHEDULE 2 TO THE REGULATIONS

(Regulation 32)

| COLUMN 1 | COLUMN 2 |
|--------------------------------|-----------------------|
| Total Contribution and Credits | Age Benefit (Pension) |
| 150 – 199 | 16% of Wages |
| 200 – 249 | 18% of Wages |
| 250 – 299 | 20% of Wages |
| 300 – 349 | 22% of Wages |
| 350 – 399 | 24% of Wages |
| 400 – 449 | |
| 450 – 499 | 28% of Wages |

SCHEDULE 3 TO THE REGULATIONS

(Regulations 36, 39 and 40)

Rate of Injury Benefit.

1. The rate of injury benefit payable under these Regulations shall be seventy-five percent of the average weekly earnings of the person entitled to the benefit subject to the prevailing annual ceiling.

Rate of Disablement Benefit.

2. (1) The rate of disablement pension payable in respect of a person whose degree of disablement is assessed at one hundred percent (permanent disablement) shall be seventy-five percent of the average weekly earnings of the person entitled to the benefit.

(2) The disablement grant payable in respect of a person whose degree of disablement is assessed at a percentage that is below 20% shall be the number of weeks assessed as the duration of the disablement times the weekly benefit that would otherwise have been paid, except that the duration shall not exceed 365 weeks:

Provided that disablement pension shall be paid at the rate of 40% where the incapacity has prolonged beyond 26 weeks and the degree of disablement has not been assessed.

Computation of Average Weekly Earnings.

3. The average weekly earnings shall be computed on the following basis—

(a) the weekly average of the wages, which shall be the sum of those wages—

(i) for the thirteen continuous contribution weeks immediately preceding the week in which incapacity for work began or was deemed to have begun, divided by thirteen; or

- (ii) in the first thirteen weeks of the four full calendar months prior to the date of incapacity divided by thirteen,
- except that any two or more periods of incapacity for work not separated by more than eight weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of those periods, and the daily rate of benefit payable in respect of the later period or periods shall be the daily rate paid during the first period;
- (b) the average weekly insurable earnings over the thirteen weeks immediately preceding the week in which the accident occurred;
- (c) where employment was not continuous the average weekly earnings over the last continuous period of employment immediately preceding the week in which the accident occurred;
- (d) where the period of employment was too short for the average weekly earnings to be computed, the average weekly earnings of a person of similar earning capacity in the same grade employed in the same work by same employer or in the same class of employment.

SCHEDULE 4 TO THE REGULATIONS

(Regulation 40)

PRESCRIBED DEGREES OF DISABLEMENT

| <i>Description of Injury</i> | <i>Degree of Disablement percentage</i> |
|--|---|
| 1 Total paralysis | 100 |
| 2. Injuries resulting in being bedridden permanently | 100 |
| 3. Any other injury causing permanent total disablement | 100 |
| 4. Loss of remaining eye by one-eyed workman | 100 |
| 5. Loss of remaining arm by one-armed workman | 100 |
| 6. Loss of remaining leg by one-legged workman | 100 |
| 7. Loss of both hands or amputation at higher sites | 100 |
| 8. Loss of hand and a foot | 100 |
| 9. Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot | 100 |
| 10. Loss of sight to such extent as to render the claimant unable to perform any work for which eye sight is essential | 100 |
| 11. Very severe facial disfigurement | 100 |
| 12. Absolute deafness | 70 |
| 13. Forequarter or hindquarter amputation | 100 |
| Amputation cases – upper limbs (either arm) | |

| | | |
|-----|---|-----|
| 14. | Amputation through shoulder joint | 90 |
| 15. | Loss of arm between elbow and shoulder | 80 |
| 16. | Loss of arm at elbow | 70 |
| 17. | Loss of arm between wrist and elbow | 70 |
| 18. | Loss of hand or of thumb and four fingers of one hand | 60 |
| 19. | Loss of thumb | 30 |
| 20. | Loss of thumb and its metacarpal bone | 40 |
| 21. | Loss of four fingers of one hand | 50 |
| 22. | Loss of three fingers of one hand | 30 |
| 23. | Loss of two fingers of one hand | 20 |
| 24. | Loss of terminal phalanx of thumb | 20 |
| | Amputation cases – lower limbs | |
| 25. | Amputation of both feet resulting in end bearing stumps | 100 |
| 26. | Amputation through both feet proximal to the metatarsophalangeal joint | 80 |
| 27. | Loss of all toes of both feet through the metatarsophalangeal joint | 40 |
| 28. | Loss of all toes of both feet proximal to the proximal interphalangeal joint | 30 |
| 29. | Loss of all toes of both feet distal to the proximal interphalangeal joint | 20 |
| 30. | Amputation at hip | 90 |
| 31. | Amputation at or above knee but below hip | 80 |
| 32. | Amputation below knee | 60 |
| 33. | Amputation of one foot resulting in an end bearing stump | 40 |
| 34. | Amputation through one foot proximal to the metatarsophalangeal joint | 30 |
| 35. | Loss of all toes of one foot through the metatarsophalangeal joint | 20 |
| | Other Injuries | |
| 36. | Loss of one eye, without complications, the other being normal | 40 |
| 37. | Loss of vision of one eye, without complications or disfigurement, the other being normal | 40 |
| 38. | Loss of lens of one eye | 30 |
| 39. | Loss of sight of eye except perception of light | 40 |
| 40. | Loss of hearing of one ear | 20 |
| | Loss of: | |

A. Fingers of right or left hand

Index Finger—

| | | |
|-----|---|----|
| 41. | Whole | 15 |
| 42. | Two phalanges | 10 |
| 43. | One phalanx | 9 |
| 44. | Guillotine amputation of tip without loss of bone | 5 |

Middle Finger—

| | | |
|-----|---|----|
| 45. | Whole | 12 |
| 46. | Two phalanges | 9 |
| 47. | One phalanx | 7 |
| 48. | Guillotine amputation of tip without loss of bone | 4 |

Ring or Little Finger—

| | | |
|-----|--|---|
| 49. | Whole | 8 |
| 50. | Two phalanges | 6 |
| 51. | One phalanx | 5 |
| 52. | Guillotine amputation of tip without loss of bone | 2 |
| 53. | Loss of metacarpals – 1st or 2nd (additional) | 5 |
| 54. | Loss of metacarpals – 3rd, 4th or 5th (additional) | 5 |

B. Toes of right or left foot

Great toe—

| | | |
|-----|------------------------------------|----|
| 55. | Through metatarso-phalangeal joint | 15 |
| 56. | Part, with some loss of bone | 3 |

Any other toe—

| | | |
|-----|------------------------------------|---|
| 57. | Through metatarso-phalangeal joint | 3 |
| 58. | Part, with some loss of bone | 1 |

Two toes of one foot, excluding great toe—

| | | |
|-----|------------------------------------|---|
| 59. | Through metatarso-phalangeal joint | 5 |
| 60. | Part, with some loss of bone | 2 |

Three toes of one foot, excluding great toe—

| | | |
|-----|------------------------------------|---|
| 61. | Through metatarso-phalangeal joint | 6 |
| 62. | Part, with some loss of bone | 3 |

Four toes of one foot, excluding great toe—

| | | |
|-----|------------------------------------|---|
| 63. | Through metatarso-phalangeal joint | 9 |
| 64. | Part, with some loss of bone | 3 |

SCHEDULE 5 TO THE REGULATIONS

(Regulation 41)

PRESCRIBED PROPOSED DISEASES

| | Description of Disease or Injury | Nature of Employment |
|-----|---|--|
| 1. | Poisoning by lead or a compound of lead. | The use or handling of, or exposure to the fumes, dust or vapour of lead or a compound of lead, or a substance containing lead. |
| 2. | Poisoning by manganese or a compound of manganese. | The use or handling of, or exposure to the fumes, dust or vapour of manganese or a compound of manganese, or a substance containing manganese. |
| 3. | Poisoning by phosphorus or poisoning due to the anti-cholinesterase action of organic phosphorus compound. | The use or handling of, or exposure to the fumes, dust or vapour of phosphorus or a compound of phosphorus, or a substance containing phosphorus. |
| 4. | Poisoning by arsenic or a compound of arsenic. | The use or handling of, or exposure to the fumes, dust or vapour of arsenic or a compound of arsenic, or a substance containing arsenic. |
| 5. | Poisoning by mercury or a compound of mercury. | The use or handling of, or exposure to the fumes, dust or vapour of mercury or a compound of mercury, or a substance containing mercury. |
| 6. | Poisoning by carbon bisulphide. | The use or handling of, or exposure to the fumes, dust or vapour of carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide. |
| 7. | Poisoning by benzene or a homologue. | The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues. |
| 8. | Poisoning by a nitro- or amino- or chloroderivative of benzene or of a chloroderivative homologue of benzene or poisoning by nitrochlorbenzene. | The use or handling of, or exposure to the fumes of, or vapour containing, a nitro- or amino- or of benzene or a homologue of benzene or nitrochlorbenzene. |
| 9. | Poisoning by beryllium or a compound of beryllium. | The use or handling of, or exposure to the fumes, dust or vapour of, beryllium, or substance containing beryllium. |
| 10. | Poisoning by diethylene dioxide (dioxan). | The use or handling of, or exposure to the fumes of, or vapour containing, diethylene dioxide (dioxan). |

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| 11. | Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances. | The use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or a homologue, or substituted dinitrophenol or the salts of such substances. |
| 12. | Poisoning by tri-cresyl phosphate. | The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate. |
| 13. | Poisoning by tri-phenyl phosphate. | The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate. |
| 14. | Poisoning by methyl bromide. | The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide. |
| 15. | Poisoning by chlorinated naphthalene. | The use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene. |
| 16. | Poisoning by nitrous fumes. | The use or handling of nitric acid or exposure to nitrous fumes. |
| 17. | Poisoning by gonimoa kamassi or (African Hox wood). | The manipulation of gonioma kamassi or any process incidental to the manufacture of articles therefrom. |
| 18. | Poisoning by tetrachlorethane. | The use or handling of, or exposure to the fumes of, or vapour containing tetrachlorethane. |
| 19. | Poisoning by cadmium. | Exposure to cadmium fumes. |
| 20. | Poisoning by acrylamide monomer. | The use or handling of, or exposure to acrylamide monomer. |
| 21. | Poisoning by chromates or chromic acid. | Chromium plating, tanning of leather involving the use of chromates or chromic acid. |
| 22. | Anthrax. | The handling of wool, hair bristles, hides or skins or other animal products or residues or contact with animals infected with anthrax; and handling and conveying of poisoned items. |

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| <p>23. Primary neoplasm of the epithelial lining of the urinary bladder (papilloma of the bladder), or of the epithelial lining of the ureter.</p> | <p>(a) Work in a building in which any of the following substances is produced for commercial purposes:</p> <ul style="list-style-type: none">(i) alpha-naphthalamine or beta-naphthy-lamine;(ii) diphenyl substituted by at least one nitro or primary amino group or by at least one nitro and primary amino group;(iii) any of these substances mentioned in subparagraph (ii) above if further ring substituted by halogeno, methyl or methoxy groups, but not by any other groups;(iv) the salts of any of the substances mentioned in sub-paragraphs (i) to (ii) above;(v) Auramine or megneta. <p>(b) the use or handling of any of the substances mentioned in subparagraphs (i) to (iv) of paragraph (a) for work in a process in which any such substances is used or handled or is liberated.</p> <p>(c) the maintenance or cleaning of any plant or machinery used in any process as is mentioned in paragraph (b) or the cleaning of clothing used in any building mentioned in paragraph (a) if such clothing is cleaned within the works of which the building forms part or in a laundry maintained and used solely in connection with such works.</p> |
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| 24. | Tuberculosis. | <p>Close and frequent contact with a source of tuberculosis infection by reason of employment:</p> <p>(a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing;</p> <p>(b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity;</p> <p>(c) as a research worker engaged in research in connection with tuberculosis;</p> <p>(d) as a laboratory worker, pathologist or person taking part or assisting at post-mortem examinations of human remains where the occupation involves working with material which is a source of tuberculosis infection.</p> |
| 25. | Hepatitis B. | |
| 26. | HIV | |
| 27. | Glanders. | Contact with equine animals or their carcasses. |
| 28. | <p>(a) Infection by <i>Leptospira icterohaemorrhagiae</i>.</p> <p>(b) Infection by <i>Leptospira canicola</i>.</p> <p>(c) Hantaan disease.</p> | <p>Work in places which are, or are liable to be infected by rats.</p> <p>Work at dog kennels or the care or handling of dogs.</p> <p>Work in places which are infested with rats.</p> |
| 29. | Ankylostomiasis. | Work in or about a mine. |
| 30. | Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or blood dyscrasia, or cataract, due to electro-magnetic radiations (other than radiant heat), or to ionising particles. | Exposure to electro-magnetic radiation other than radiant heat, or to ionising particles. |

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| 31. | Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues of the bones or leukaemia or anaemia of the aplastic type, due to X-rays ionising particle, radium or other radio-active substance; or inflammation of the skin due to other forms of radiant energy. | Exposure to X-rays ionising particles, radium or other radio-active substance or other forms of radiant energy. |
| 32. | Heat cataract. | Frequent or prolonged exposure to the glare of or rays from molten or red-hot material/metal. |
| 33. | Decompression sickness. | Subjection to compressed or rarefied air eg divers air hostesses. |
| 34. | Cramp of the hand or forearm due to repetitive movements. | Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm, including the use of Morse-Key telegraphic instruments. |
| 35. | Subcutaneous callolitis of the Hand (Beat hand). | Manual labour causing severe or prolonged friction of pressure on the hand. |
| 36. | Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (Beat knee). | Manual labour causing severe or prolonged external friction or pressure at or about the knee. |
| 37. | Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (Beat elbow). | Manual labour causing severe or prolonged external friction or pressure at or about the elbow. |
| 38. | Traumatic inflammation of the tendons of the hand or forearm or of the associated tendon sheathe. | Manual labour, or frequent repeated movements of the hand or wrist. |
| 39. | Miner's nystagmus. | Work in or about a mine. |
| 40. | Inflammation, asthmatic reaction or ulceration of mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour (including condition known as chlor-acne but excluding chrome ulceration) | Exposure to dust, liquid or vapour. |

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| 41. | Non-infective dermatitis of external origin (including chrome ulceration of the skin but excluding dermatitis ionising due to ionising particles or electro-magnetic radiations other than radiant heat). | Exposure to dust, liquid, vapour or any external agent capable of irritating the skin (including friction or heat by excluding particles or electro-magnetic radiations other than radiant heat). |
| 42. | Pulmonary disease due to the inhalation of the dust or mouldy hay or other mouldy vegetable produce and characterised by symptoms and signs attributable to a reaction in the peripheral part of the broncho-pulmonary system, and giving rise to a defect in gas exchange (Farmer's lung). | Exposure to the dust of mouldy hay or other mouldy vegetable produce by reason of employment in: (a) agriculture, horticulture or forestry; or (b) loading, unloading, handling or storing such hay or other vegetable produce; or (c) handling bagasse. |
| 43. | Primary malignant neoplasm of mesothelium (diffuse mesothelioma) of pleura or of the peritoneum. | (a) The working or handling of asbestos or any admixture of asbestos; (b) The manufacture or repair of asbestos textiles or other articles containing or composed of asbestos; (c) The cleaning of any machinery or plant used for any of the foregoing operations and of any chamber, fixtures and appliances for the collection of asbestos dust; (d) Substantial exposure to the dust arising from any of the foregoing operations. |
| 44. | Adeno-carcinoma of the nasal cavity or associated air sinuses. | Attendance for work in or about where wooden furniture is manufactured. |

Revision Date: 31 Dec 2017

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| 45. | Infection by brucella abortus. | Contact with Bovine animals infected by brucella abortus, their carcasses or parts thereof or their untreated products, or with laboratory specimens or vaccines of or containing brucella abortus, by reason of employment (a) as a farm worker; (b) as a veterinary worker; (c) as a slaughterhouse worker; (d) as a laboratory worker; or (e) in any other work, relating to the care, treatment, examination or handling of such animals, carcasses or parts thereof or products. |
| 46. | Spinal injury. | Due to use of heavy equipment, bull dozers, backhoes. |
| 47. | Pathological manifestations due to | |
| | (a) Radium or other radioactive substances; | Any process involving exposure to the action of radium, radioactive substance or X-rays. |
| | (b) X-rays; | do |
| | (c) Ulceration of the corneal surface of the eye; | Any process involving the use or handling of, or exposure to, tar, pitch, bitumen, mineral oil (including kerosene), soot or any compound product or residue of any of these substances. |
| 48. | Berylliosis. | Any occupation involving the making of florescent lamps. |
| 49. | Asbestosis. | Any occupation involving the processing, use or handling of, or exposure to asbestos or to a compound of asbestos or any substance containing asbestos. |
| 50. | Bauxite Pulmonary Fibrosis (Shever's disease) | The making of synthetic abrasives and any occupation involving the liberation of fumes caused by the fusion of the ore known as bauxite with silica or any of its compounds. |
| 51. | Mica Pneumoconiosis. | Any occupation involving the processing, use or handling of silica aluminium compounds. |
| 52. | Talc Pneumoconiosis. | Any occupation involving the processing, use or handling of silica aluminium compounds. |

| | | |
|-----|--|---|
| 53. | Silicosis. | All occupations involving exposure to risk concerned. |
| 54. | Toxic anaemia. | All occupations involving exposure to risk concerned. |
| 55. | Toxic jaundice due to poisonous substances. | All occupations involving exposure to risk concerned. |
| 56. | Lead Tetra-ethyl. | All occupations involving exposure to risk concerned. |
| 57. | Chrome or its toxic compound. | All occupations involving exposure to risk concerned. |
| 58. | Disease caused by ionising radiations. | All occupations involving exposure to risk concerned. |
| 59. | Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, or the compounds, products or the residues of those substances. | All occupations involving exposure to risk concerned. |
| 60. | Bagassosis. | Any occupation involving the processing, use or handling of or exposure to bagasse or a compound of bagasse or a substance containing bagasse. |
| 61. | Pneumoconiosis. | Any occupation involving <ul style="list-style-type: none"> (a) the mining, quarrying or working of silica rock or the working of dried quartzite sand or any dry deposit admixture containing such materials (including any occupation in which any of the aforesaid operations are carried out incidentally to the mining or quarrying of other minerals or to the manufacture of articles containing crushed ground (silica rock). (b) the handling of any of the materials specified in the foregoing subparagraph in or incidental to any of the operations mentioned therein, or substantial exposure to the dust arising from such operations. |
| 62. | Byssionosis. | Process in which large quantities of cotton dust are present. |

Revision Date: 31 Dec 2017

| | | |
|-----|---|---|
| 63. | Disease caused by the toxic halogen derivatives of hydrocarbon of Aliphatic series. | Petroleum production from crude oil. Work which involves exposure to any of the derivatives of hydrocarbon used in the production of paints, protective coatings, plastics, synthetic rubber, resins, pesticides, synthetic detergent and petrochemicals. |
| 64. | Dystrophy of the cornea (including ulceration of the corneal surface of the eye). | Workers employed in foundry work, in the field of engineering, building construction, and in the chemical industry. |
| 65. | Localised new growth of the skin papillomatous or kerototic. | Work which involves exposure to skin injury due to actinic radiation, ionising radiation, contact with coal tar, shale oil, impure paraffin. |
| 66. | Squamous-celled carcinoma of the skin. | Work which involves exposure to skin injury due to organic chemicals (particularly in the petroleum and other related industries for example (tar, pitch, asphalt) and radiation. |
| 67. | Copper. | The use or handling of or exposure to, the fumes, dust or vapour of copper or a compound of copper. |
| 68. | Nickel carbonyl. | Exposure to nickel carbonyl gas. |

SCHEDULE 6 TO THE REGULATIONS*(Regulation 49)***TABLE OF FUNERAL GRANT TO INSURED PERSON OR SPOUSE OF THE INSURED**

| | |
|------|--------|
| 1978 | \$200 |
| 1984 | \$500 |
| 1989 | \$1000 |
| 1993 | \$1500 |
| 1997 | \$2500 |

FUNERAL GRANT TO DEPENDENT/INVALID CHILDREN

| AGE | 1993 | 1997 |
|---------|--------|--------|
| Under 3 | \$260 | \$400 |
| Age 3 | \$390 | \$550 |
| Age 4 | \$520 | \$700 |
| Age 5 | \$650 | \$850 |
| Age 6 | \$780 | \$1000 |
| Age 7 | \$910 | \$1150 |
| Age 8 | \$1040 | \$1300 |
| Age 9 | \$1170 | \$1450 |
| Over 9 | \$1350 | \$1600 |

TABLE OF EMPLOYMENT RELATED FUNERAL GRANT

| | |
|-------------|--------|
| 1986 | \$500 |
| 1989 | \$1000 |
| 1993 | \$1500 |
| 1997 | \$2500 |
| 2002 (July) | \$4000 |

TABLE OF MATERNITY GRANT

| | |
|------|-------|
| 1978 | \$50 |
| 1984 | \$100 |
| 1989 | \$200 |
| 1993 | \$300 |
| 1995 | \$400 |
| 1997 | \$450 |

SCHEDULE 7 TO THE REGULATIONS*(Regulation 61)*

| <i>Table of Minimum Age, Invalidity and Survivor's Pensions</i> | |
|--|---|
| YEAR | Amount of Age/Invalidity Pension |
| 1978 | \$75.83 per month |
| 1984 | \$75.82 per month |
| 1989 | \$130 per month |
| 1992 (July) | \$150 per month |
| 1995 (July) | \$180 per month |
| 1997 | \$200 per month |
| 2002 (July) | \$250 per month |
| 2009 | \$400 per month |

(Amended by S.R.O. 20 of 2009)

| Year | Widow/widower | Child | Parent |
|-------------|----------------------|-------------------|----------------|
| 1978 | \$37.92 per month | \$21.67 per month | |
| 1984 | \$37.92 per month | \$21.67 per month | |
| 1989 | \$65 per month | \$21.67 per month | |
| 1992 (July) | \$75 per month | \$25 per month | |
| 1995 | \$90 per month | | |
| 1997 | \$100 per month | \$50 per month | \$50 per month |
| 2002 (July) | \$125 per month | \$60 per month | \$60 per month |
| 2009 | \$200 per month | \$96 per month | \$96 per month |

*(Amended by S.R.O. 20/2009)***TABLE OF ASSISTANCE AND INVALIDITY ASSISTANCE (NON-CONTRIBUTORY)
PENSION**

| Year | Assistance | Invalidity Assistance |
|----------------|-------------------|------------------------------|
| 1978 | \$7.00 per week | |
| 1981 | \$10.00 per week | |
| 1988 | \$20.00 per week | \$20.00 per week |
| 1995 to June | \$25.00 per week | \$25.00 per week |
| 1995 from July | \$30.00 per week | \$30.00 per week |
| 1996 from July | \$35.00 per week | \$35.00 per week |
| 1997 | \$40.00 per week | \$40.00 per week |
| 2002 | \$100.00 per week | \$100.00 per half month |

| | | |
|------|-------------------|-------------------------|
| 2005 | \$105.00 per week | \$105.00 per half month |
| 2009 | \$125.00 per week | \$125.00 per half month |

(Amended by S.R.O. 20/2009)

TABLE OF RATES OF BENEFITS

| YEAR | MATERNITY/SICKNESS | INJURY ALLOWANCE |
|------|--------------------|------------------|
| 1978 | 50% | |
| 1984 | 60% | |
| 1986 | 60% | 70% |
| 1993 | 65% | 75% |

SCHEDULE 8 TO THE REGULATIONS

(Regulation 79(1))

TABLE OF REIMBURSABLE MEDICAL AND RELATED EXPENDITURE

The following outlines the maximum reimbursable per employment related injury or disease on consultation with the Medical Board. All injuries shall be dealt with at the public hospitals. The first preference is for the best available service at the lowest rate. The Medical Board shall make the recommendation for overseas treatments.

I. MEDICAL BENEFITS

- (a) Hospital Visit \$50
- (b) Home visit (arranged by Medical Board) \$80

II. SPECIALIST CONSULTATION (as approved by the Medical Board)

- (a) Hospital/Office Visit \$60
- (b) Home visit (as approved by the Medical Board) \$100

III. HOSPITAL CONFINEMENT AND SERVICES

- (a) Daily rate \$100
- (b) Number of days (maximum) 30
- (c) Services \$500

IV. HOSPITAL OUTPATIENT SERVICES \$300

V. SURGICAL BENEFITS

- (a) Surgical fees \$2,000
- (b) Surgical fees - follow-up procedure \$1,000
- (c) Anaesthetical fees \$400

| | | |
|-------|---------------------------------------|--|
| VI. | DIAGNOSTIC X-RAY AND LABORATORY TESTS | \$500 |
| VII. | PRESCRIBED DRUGS | \$1,000 |
| VIII. | ORTHOPAEDIC PRESCRIBED ITEMS | \$500 |
| IX. | PROSTACTIC LIMBS | \$500 |
| X. | PHYSICAL AND CHIROPRACTIC THERAPY | \$50 per session to a maximum of \$2,000 |
| XI. | OVERSEAS CONSULTATION AND TREATMENT | |
| (a) | Magnetic Resonance Imaging (MRI) | \$2,000 |
| (b) | Computerised Tomography (CT SCAN) | \$700 |
| (c) | Surgical fees | \$12,000 |
| (d) | Anesthetics | \$1,700 |
| (e) | Hospitalisation confinement | No more than twice the local rate for a maximum of 15 days |

The Director may review this Schedule every three years as recommended by the Medical Board.

NINTH SCHEDULE

(Sections 24 and 57)

THE SOCIAL SECURITY (SELF-EMPLOYMENT) REGULATIONS

Citation.

1. These Regulations may be cited as the Social Security (Self-Employment) Regulations.

Interpretation.

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

“Act” means the Social Security Act;

“Director” means the Director of Social Security;

“gainful occupation” means work or activity—

(a) which generates an income in the form of sales or payment for services rendered; or

(b) from which a person gets a pecuniary remuneration in the form of salary, drawings, return or investments, profits, or other form of pecuniary returns;

“half-year” means half calender year;

“professional services” include Medicine, Law, Accounting and Architecture;

“self-employed person” means a person referred to in Schedule 1 to these Regulations;

“trade or business” includes a trading or business enterprise, professional and non-professional services;

“weekly income” shall be part of wages.

Registration.

3. (1) Subject to these Regulations, every person who is self-employed and is between sixteen and sixty-two years shall, within seven days from the coming into force of these Regulations, or within seven days after attaining sixteen years, or within seven days after becoming a self-employed person, whichever shall be later, register with the Director as a self-employed person under the Act.

(2) In any case where the registration of a self-employed person is suspended by virtue of cessation of employment, that person shall be obliged to inform the Director of any subsequent resumption, of employment, within seven days after such resumption.

(3) Every person between sixteen and sixty-two years who is a self-employed person shall, within fourteen days after being requested to do so by the Director, present to the Director on the appropriate form, an application for registration or notice of resumption, as the case may be, as a self-employed person under the Act.

(4) The person referred to in sub-regulations (1), (2) and (3) of this Regulation shall, upon registration or resumption, furnish to the Director such personal particulars as the Director may require for the purpose of these Regulations, which particulars shall be true and correct to the best of the applicant’s belief and knowledge.

Issuing of Registration Cards.

4. (1) If upon receipt of an application for registration under Regulation 3, the Director is satisfied that the person is required to be insured and that person had not been previously issued with a registration card, he or she shall cause a registration card to be issued to that person.

(2) A registration card shall bear the full name and registration number of the person and such other relevant particulars of that person as are necessary.

(3) No entry on a registration card shall in any way be amended by the holder of the Registration Card.

(4) If any entry on a registration card is amended in any way the card shall be invalid and the holder of the card shall return it to the Director.

(5) Where a person was previously registered as an employee under the National Provident Fund Act, No. 21 of 1968 or the Social Security Act, then that person shall retain the use of the registration number in as far as it is his or her standard registration number as an insured person, except that he or she shall, for the purpose of paying contributions as a self-employed person and other related matters, register as a self-employed person.

Registration of a Person who is Self-Employed if employed by an Employer.

5. (1) Where a person is self-employed while he or she is at the same time employed by an employer, then that person may elect to pay personal contributions in addition to the contributions payable by his or her employer, except that the contributions shall be subject to the ceiling in force.

(2) Where a person ceases to be self-employed and becomes employed by an employer, then that person may cease paying contributions as a self-employed person.

(3) The self-employed person referred to in sub-regulation (2) of this Regulation shall, when he or she becomes employed by an employer inform the Director of that fact.

(4) Nothing in this Regulation shall be construed as preventing any person from being employed by an employer while he or she is at the same time self-employed.

Security of Registration Card.

6. (1) A person who is issued a registration card in accordance with the provisions of regulation 4 of these Regulations shall be responsible for the safe custody of the card.

(2) If a registration card—

- (a) is lost;
- (b) is destroyed;
- (c) becomes defaced;
- (d) becomes illegible; or
- (e) because of change of name of the holder, ceases to represent his or her identity,

the holder of that card shall apply to the Director to have his or her card replaced at a cost determined by the Director.

(3) The person referred to in sub-regulation (2) of this regulation shall, upon making the application, deliver to the Director the card if it is still in existence, and furnish the Director with such information as the Director may require.

Contributions.

7. (1) A self-employed person shall, except where these Regulations otherwise prescribe, pay a contribution in respect of each contribution week during which he or she is self-employed.

(2) A self-employed person shall, at the end of the month in which he or she is self-employed or within one month thereafter, pay, by a method determined by the Director, the contributions he or she is obliged to pay by virtue of the provisions of sub-regulation (3) of this regulation.

(3) A self-employed person shall, for the purpose of payment of contributions, and subject to sub-regulations (4), (5), (6), (7), (8), and (9)—

- (a) select one of the categories of weekly income (A) to (L) listed in Schedule 2 to these Regulations, which selection shall be binding for the duration or balance of any half year, as the case may be;

- (b) with effect from 1st January 2003 and continuing onwards, select one of the categories of weekly income listed in Part One of Schedule 2 in accordance with the guidelines set forth in Part Two of the said Schedule, and the selection made shall be binding for the duration or balance of any half year as the case may be;
- (c) subject to the minimum stipulations set out in Schedule 2 Parts One and Two, as the case may be, be entitled to change his or her selection at the end of every half year during which he or she is self-employed, except that he or she shall, in respect of the upcoming half year, only be entitled to change to a category of weekly income that is immediately lower or higher than the one selected for the immediate preceding half of the calendar year;
- (d) whenever liability commences or whenever liability resumes in any month other than January or July of a different calendar year from the year in which liability may have earlier ceased, notify the Director of his or her selection of a category of weekly income before the end of the month following the month in which liability commences or resumes;
- (e) whenever he or she ceases and subsequently re-activates his or her registration as a self-employed person by virtue of his or her resumption of self-employment, select an income category in accordance with the stipulations in Parts One and Two of Schedule 2, and notify the Director of his or her selection by the end of the month following the month of resumption.

(4) A self-employed person who is fifty-two years may change his or her category of weekly income once in a year until he or she is fifty-seven years old, and whatever selection he or she makes at the age of fifty-seven shall be the category of weekly income he or she will pay until he or she is sixty-two years old.

(5) A person who, prior to attaining fifty-seven years, has never paid contributions as a self-employed person but is subsequently required under these Regulations to pay contributions as a self-employed person shall not select a category of weekly income that exceeds the lower limit set in the contribution band allocated to the category of his or her employment as specified in Part Two of Schedule 2, or where the Schedule is silent as to the category of his or her employment, the Director shall determine an income category for that person following the guidelines of the said Schedule.

(6) A self-employed person who fails to select a category of weekly income in respect of any half year within the prescribed time shall—

- (a) in case he or she had selected a category of weekly income for the immediate preceding half year, be deemed to have selected that category of weekly income; and
- (b) in any other case, have his or her category of weekly income for that contribution half year determined by the Director.

(7) Any selection of a category of weekly income made by a self-employed person shall be subject to the approval of the Director.

(8) Before the Director approves any selection referred to in sub-regulation (7) of this regulation, he or she may make any inquiry and determination in accordance with the provisions of sub-regulations (9) of regulation 7 of these Regulations.

(9) The Director may, if satisfied that a person's income is not up to a level equivalent with the Special Category of income specified in Schedule 2 to these Regulations, exempt that person from paying contributions, except that such exemption shall be granted upon production of evidence that the person cannot afford to pay the amount set out in the Special Category specified in the Second Schedule to these Regulations.

(10) Any contribution payable under these Regulations shall be paid at the offices of the Social Security Board that are designated by the Director.

(11) Regulations 15, 18, 19, and 20 of the Social Security (Contributions) Regulations, shall, *mutatis mutandis*, apply to a self-employed person who is required to pay contributions under these Regulations.

(12) A self-employed person shall maintain records relating to his or her employment as specified by the Director.

Benefits to which a Self-Employed Person is Entitled.

8. (1) A self-employed person shall, subject to these Regulations, be entitled to the following benefits—

- (a) sickness benefit;
- (b) maternity benefits;
- (c) funeral benefits;
- (d) invalidity benefit;
- (e) age benefit; and
- (f) survivors benefit.

(2) The conditions and rates that apply to the award of the benefits referred to in sub-regulation (1) of this regulation to other classifications of insured person shall apply to self-employed persons.

(3) Benefits shall not be paid to a self-employed person who has outstanding contributions.

(4) A self-employed person shall not be entitled to employment injury benefits.

(5) Where death or incapacity occurs as a result of employment related injury or disease, payment shall only be made to that person or his or her estate under sub-regulation (1) of this regulation.

Self-Employed Person to Pay Outstanding Contributions on Ceasing to be Self-Employed.

9. If a self-employed person ceases to be self-employed, he or she shall, in case there are outstanding contributions to be paid in respect of his or her self-employment, pay the contributions within a period of one calendar month after ceasing to be self-employed.

Director to be Notified of Death of Self-Employed Person.

10. (1) Where a self-employed person dies, his or her survivor or personal representative shall inform the Director of the death.

(2) The survivor or personal representative referred to in sub-regulation (1) of this regulation shall, upon informing the Director about the death of the self-employed person, return the registration card that was issued to the deceased person to the Director, and the survivor or personal representative, before claiming any benefit, shall do what the deceased person was obliged to do under the Act and these Regulations.

Fine for Failure to Pay Contributions.

11. Subject to regulation 12(1), a self-employed person who fails to pay his or her contributions as required under these Regulations shall pay a monthly fine of five percent in respect of the amount of the contribution that remains outstanding.

Alternative Arrangements for Payment of Contributions.

12. (1) The Director may, if he or she thinks fit and subject to such conditions as he or she deems appropriate, approve any arrangement whereby any contribution may be paid in a period other than that prescribed in these Regulations.

(2) The arrangement referred to in sub-regulation (1) of this regulation may include provision for the payment of such fees as may be determined by the Board to be the additional expenses incurred in the execution of the arrangement.

Exempted Person.

13. A person who, on the coming into force of these Regulations, is less than twenty-six weeks from his or her sixty-second birthday and has never been an insured person under this Act, is exempt from the provisions of these Regulations.

Submission of Nil Returns.

14. If a self-employed person is not gainfully employed for the duration of all the contribution weeks in a month, he or she shall submit: a NIL return by the end of the following month using the same form applicable for paying contributions, except that the Director may, where a person submits three NIL returns in any twelve months, require that person to furnish evidence of not having been employed during those periods, and any person designated by the Director may inspect the records of the self-employed person to verify the claim.

Submission of Information Relating to Self-Employment.

15. A self-employed person shall, whenever requested by the Director or an officer authorised by the Board, or an Inspector designated under section 35 of the Act, supply such information with respect to his or her occupation as may be requested, and shall produce all relevant documents to any person designated by the Director to determine his or her liability.

Determination of Liability of Self-Employed Person.

16. (1) The liability of a self-employed person shall be determined by the Director by reference to the information obtained from inspection of documents produced in accordance with the provisions of regulation 15 of these Regulations.

(2) The Director shall, for the purposes of sub-regulation (1) of this regulation, prepare on the occasion of each inspection a certificate setting out the amount of contributions that the self-employed person is liable to pay for any relevant period in accordance with the documents produced.

Non-Entitlement to Assistance Pension.

17. Notwithstanding any provision in any other Regulations to the contrary, a person who fails to pay contributions as a self-employed person when he or she is required to do so, shall not be entitled to receive the Assistance Pension.

Treatment of Contributions Paid Late, For Purposes of Right to Benefit.

18. (1) Regulations 18, 19 and 20 of the Social Security (Contributions) Regulations, shall, *mutatis mutandis*, apply to a self-employed person who is required to pay contributions under these Regulations.

(2) Where an entitlement to age or invalidity benefit was not secured in accordance with the qualifying conditions prior to the making of the late payment, entitlement shall not be secured as a result of making the late payment.

Penalties.

19. Where a person fails to comply with any provision of these Regulations, or with any direction or requirement of the Board given or made by virtue of these Regulations, and the failure does not constitute an offence under the Act for which a penalty is provided, that person commits an offence and is liable, on summary conviction, to a fine of two hundred dollars and imprisonment for a period not exceeding two months.

SCHEDULE 1 TO THE REGULATIONS*(Regulation 3)*

Employments in respect of which persons are to be treated as self-employed persons:

1. Employment of a person in any one of the following offices—
 - (a) Governor-General;
 - (b) Deputy Governor-General;
 - (c) Speaker of the National Assembly;
 - (d) Deputy Speaker of the National Assembly;
 - (e) Members of the National Assembly;
 - (f) President of the Island Assembly;
 - (g) Deputy President of the Island Assembly;
 - (h) Members of the Island Assembly;
 - (i) Leader of the Opposition in the National Assembly;
 - (j) Leader of the Opposition in the Island Assembly.
2. A person who employs himself or herself as an agent paid by commission, fees, or shares in the profits, or partly in another of those ways, and the person so employed is mainly dependent for his or her livelihood on such earnings, or where he or she is so ordinarily employed as an agent by more than one employer he or she does not mainly depend for his or her livelihood on any one of those employers.

3. Engagement of a person in a gainful occupation where he or she is not employed by an employer and where such occupation is controlled by the one and the same person as an individual or as a partner in a partnership arrangement and is not subject to a contract of service coming under the control of any other person.

4. Employment of a married person (whether or not under a contract of service) by, or as a partner of, or in similar association with his or her spouse, where such employment is in a trade or business, the respective spouse being treated as being in self-employment.

SCHEDULE 2 TO THE REGULATIONS

(Regulation 7(3)(a))

PART ONE

| Category | Weekly Income | Weekly Contribution | Monthly Contribution | Profession or nature of employment activity |
|----------|---------------|---------------------|----------------------|---|
| Special | \$100 | \$10 | \$40 or \$50 | Mobile sole traders |
| A | \$200 | \$20 | \$80 or \$100 | Class I |
| B | \$300 | \$30 | \$120 or \$150 | |
| C | \$400 | \$40 | \$160 or \$200 | Class II |
| D | \$500 | \$50 | \$200 or \$250 | |
| E | \$600 | \$60 | \$240 or \$300 | |
| F | \$700 | \$70 | \$280 or \$350 | |
| G | \$800 | \$80 | \$320 or \$400 | |
| H | \$900 | \$90 | \$360 or \$450 | Class III |
| I | \$1000 | \$100 | \$400 or \$500 | |
| J | \$1100 | \$110 | \$440 or \$500 | |
| K | \$1200 | \$120 | \$480 or \$600 | |
| L | \$1350 | \$135 | \$540 or \$675 | |

**PART TWO – MINIMUM CONTRIBUTION STIPULATIONS BY
CATEGORY**

Not less than \$200 per week – Class I

Farmers, fishermen, bus and taxi drivers, street beach and other vendors, barbers, beauticians, craft-makers, retail store and shop operators, restaurateurs, landscapers, auto tradesmen, food caterers, school operators, others

Not less than \$400 per week – Class II

Building contractors, technicians, electricians, plumbers, carpenters, joiners, masons, truck and heavy equipment operators, persons offering skilled labour,

Not less than \$900 per week – Class III

Accountants, medical doctors, lawyers, architects, dentists, undertakers, consultants, engineers, wholesalers, other

TENTH SCHEDULE

(Section 20(3))

SOCIAL SECURITY (CONTRIBUTIONS) REGULATIONS

PART I

PRELIMINARY

Citation.

1. These Regulations may be cited as the Social Security (Contributions) Regulations.

Interpretation.

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

“contribution week” means a week beginning on a Monday;

“contribution year” means the period of 52 or 53 weeks beginning with the first Monday in any calendar year and ending on the Sunday immediately before the first Monday of the succeeding calendar year;

“date due” means, in relation to any contribution, the date on which that contribution was due to be paid in accordance with regulation 12 or the date on which that contribution, if it had been payable, would have been due to be paid (as the case may be);

“registration regulations” means the Social Security (Registration) Regulations; and

“termination of employment” means the day on which the employment actually comes to an end, whether such termination is in accordance with the terms of the contract or not, and whether or not the employment is to be resumed at a later date.

Notices etc. May be sent by Post.

3. Any notice, application, card or other document which is authorised or required to be given, presented, issued or delivered under these Regulations may be sent by post.

PART II

PAYMENT OF CONTRIBUTIONS

Exemption from Payment of Contributions.

4. (1) An employer shall be exempt from liability to pay contributions for any contribution week—

- (a) in which no work is done by the employed person and that person receives no wages in respect of the period;
- (b) in which the employed person is engaged in full-time unpaid apprenticeship; or
- (c) for the whole of which the employed person receives sickness or maternity benefit.

(2) Nothing in paragraph (1) shall be deemed to affect the liability of an employed person and his or her employer to pay contributions for any contribution week in which that person is on leave if contributions are normally payable with respect to the employment of such person.

Liability for Contributing between 16 and 62.

5. A contribution under the Act shall be paid—

- (a) in the case of an employed person attaining sixteen years, for the week in which that person reaches that age; and
- (b) in the case of an employed person attaining sixty-two years, for the week in which the employed person reaches that age:

Provided that a contribution shall not be paid in respect or on behalf of an employed person if that person attains sixty-two years on the Monday of the week in question.

Rate of Contributions.

6. (1) In respect of each period of one week or one month beginning on 1st February 1978 for which an employed person is paid wages, his or her employer shall pay a total contribution in accordance with the Schedule to these Regulations in relation to the wages paid to the employed person during or immediately after the end of that period:

Provided that—

- (a) if the wages of an employed person are not fixed on a time basis, the total amount of the wages paid to him or her in or immediately after the relevant period for which contributions are to be paid may be taken into account; and
 - (b) if the wages of an employed person are paid on a time basis other than weekly or monthly, they may be converted to such basis by simple proportion, or in such other way as the Director may determine.
- (2) The wages of an employed person for the purposes of paragraph (1) shall include all gross earnings received in cash by or on behalf of the employed person, including—
- (a) overtime payment;
 - (b) cost of living payment, including any house allowance;
 - (c) additional payments in respect of dependents;
 - (d) supplements for long service in industry or efficiency;
 - (e) commission or profits on sales;
 - (f) gratuity paid by the employer excluding lump sums paid on retirement and any paid in the month of December;
 - (g) payments for night or shift work;
 - (h) production bonus;
 - (i) danger or dirt money or similar payments;
 - (j) service charges;
 - (k) any employed person's liabilities (including tax) paid on his or her behalf by the employer; and
 - (l) holiday pay or other amounts set aside out of the employed person's remuneration throughout the year or part of the year and to be paid to him or her periodically:

Provided that in the case of items specified the amounts so received in respect of any of them shall, if they are not paid together with the wages for the period for which they were due, be included in the wages for the period in, or immediately after which, they are paid.

(3) With a view to securing that liability for the payment of contributions is not avoided or reduced by an employer using any pay practice which is abnormal for any relevant employment, the Board, whether or not an application has been made in that regard, may, if it thinks fit, determine the amount of contributions to be paid where any such practice has been or is being followed in like manner as if the employer concerned had not followed such abnormal practice but had followed a practice normal for the employment in question.

Deduction of Contributions from Wages.

7. (1) Every employer on making any payment of wages to any employed person may deduct the contributions paid on behalf of that person in accordance with these Regulations.

(2) An employer shall not be entitled to recover any contributions paid by him or her or to be paid by him or her on behalf of any employed person otherwise than by deduction in accordance with these Regulations.

Time of Deduction of Contributions.

8. (1) An employer liable to pay any contribution on behalf of an employed person may, except as hereinafter provided, deduct that contribution before paying to that person for wages in respect of the period for which such contribution is payable.

(2) Where wages are paid in advance for any period an employer shall deduct contributions in advance for that period before the payment of the wages.

(3) On the occasion of any payment of wages to an employed person, the employer may on making the payment in question deduct from the wages the amount of the contributions based thereon which that person is liable to pay under these Regulations:

Provided that when two or more payments of wages fall to be aggregated the employer may deduct the amount of contributions based thereon which are payable by the employed person either wholly from one payment or partly from one and partly from the other or any one or more of the others.

(4) If by reason of any error made in good faith an employer on making any payment of wages to an employed person fails to deduct therefrom the full amount of contributions which he or she may deduct, he or she may, after prior notification to that person, recover the amount so under-deducted by deduction from any subsequent payment of wages to that employed person during the same year:

Provided that—

- (a) the amount that may be deducted from any payment, or from any payment which falls to be aggregated, shall be in addition to, but shall not exceed, the amount deductible therefrom under other provisions of these Regulations; and
- (b) for the purpose of regulations 12 and 13 any additional amount which may be deducted by virtue of this paragraph, shall be treated as an amount deductible under these Regulations only in so far as the amount of the corresponding under-deduction has been so treated.

Calculation of Deductions.

9. Every employer shall record either on a contribution card or in such other form as may be authorised by the Director the following particulars regarding every payment of wages which he or she makes to an employed person, namely—

- (a) the date of commencement of contribution week;
- (b) the wages, determined in accordance with regulation 6(2);
- (c) the contribution which may be deducted from the wages otherwise than under regulation 8(4);
- (d) the contribution which is payable by the employer in respect of the wages; and
- (e) the total of subparagraphs (c) and (d):

Provided that—

- (i) “nil” shall be recorded in respect of subparagraphs (c) and (d) when the maximum contributions, as prescribed in the Schedule to these Regulations, have been paid before the end of any contribution year;

- (ii) where two or more payments fall to be aggregated the employer, instead of recording the amount of each contribution which may be deducted from the wages included in each payment, may record the total amount of the contributions which may be deducted from those payments;
- (iii) the employer may obtain authority from the Director to record the total only of subparagraphs (c) and (d).

Statement of Wages and Contributions.

10. (1) Every employer shall, in respect of the wages paid to the persons employed by him or her, enter on the form prescribed by the Director the following particulars—

- (a) name of person employed;
- (b) social security number of the person employed;
- (c) contribution weeks worked in a month;
- (d) wages paid in accordance with sub-regulation (2) of regulation 6;
- (e) the total contribution payable in respect of wages paid to each person employed by him or her;
- (f) any other item required.

(2) Where two or more payments fall to be aggregated the employer may, instead of recording the amount of each contribution which is payable in respect of the wages included in each payment, record the total amount of contributions which are payable in respect of those payments.

(3) Every employer shall, where there are no outstanding payments to be made, submit a NIL return to the Director.

(4) Every employer shall, whenever he or she terminates the services of his or her employee or whenever the employee ceases to be in his or her employment, notify the Director of that fact, and the employer shall furnish the Director with the latest date of payment of wages in respect of the employee.

(Inserted by S.R.O. 31/2002)

Statement by Employer to be Submitted on Time.

11. (1) The statement of wages and contributions shall, even where the contributions are not paid within the prescribed time as required by regulation 12(1)(a), be submitted to the Director within the prescribed time.

(2) The statement referred to in sub-regulation (1) of this regulation shall be accompanied by a declaration and a certificate signed by the employer or his or her agent, or a duly authorised person in the case of a body corporate.

(3) Where the employer—

- (a) fails to pay the total amount of contributions payable in respect of any month within the prescribed time; or
- (b) fails to submit the statement of wages and contributions in respect of any given month within the prescribed time,

the Director may prepare a certificate indicating the amount of unpaid contributions for that month, and that certificate shall, unless the contrary is proved, be sufficient

evidence in any court that the sum indicated on the certificate is unpaid and due to the Board.

(4) The Director may, in computing the amount due to the Board pursuant to the provisions of paragraph (b) of sub-regulation (3) of this regulation, use any assessment method to determine the amount of contributions payable by the employer.

(5) Where the registration of a person as an employer is cancelled pursuant to the provisions of regulation 7 of the Social Security (Registration) Regulations, then that person shall, within one month after the cancellation, submit to the Director—

(a) the final statement of wages and contributions as at the date of cancellation;

(b) any other outstanding statements as at that date,

and references to an employer shall be construed to include references to a person or body whose registration is cancelled.

(6) A court of summary jurisdiction may make an order for the submission of Returns, Statements of Wages and Contributions, and Records by an employer, to the court within five days of the order.

(Inserted by S.R.O. 31/2002)

Omission of Employee from Statement of Wages and Contributions.

12. Where the employer omits the name of the employee from the Statement of Wages and Contributions in respect of any month as required under regulation 9, then the employer shall prepare a supplementary statement in respect of the employee and submit such statement together with the required Statutory Contribution plus any fine accruing in respect of that contribution.

(Substituted by S.R.O. 31/2002)

Tax Free Wages.

13. Where an employer makes a payment to or for the benefit of an employed person in respect of that person's income tax, the amount of the wages which the employer pays to that person shall be deemed, for the purpose of these Regulations, to be such a sum as will include the amount of the payment made by the employer in respect of that person's income tax.

Payment of Contributions by Employer.

14. (1) At the end of the month in which wages are paid, or within one month thereafter, an employer shall pay, by means acceptable to the Director, the contributions payable by the employer under these Regulations in respect of the wages paid by him or her to each employed person for each contribution week in that month (other than amounts which, by virtue of regulation 8(4), he or she did not deduct) together with the appropriate amount by way of the employer's contributions:

Provided that the employer shall, for the purpose of this paragraph, be deemed to have deducted from the last of any number of payments of wages which fall to be aggregated the amount of contributions payable by the employed person.

(2) The employer shall substantiate the payment of wages by the statement of wages and contributions referred to in regulation 9, which statement shall be in such form and contain such particulars as the Director may, from time to time, require.

(Inserted by S.R.O. 31/2002)

(3) In addition to any other requirements, an employer shall, where the employment of an employed person is terminated, pay all contributions due from the employer but still outstanding in respect of that employed person at the end of the month in which deduction was made, or within one month thereafter.

(4) The Board may, if it thinks fit and subject to such terms and conditions as it may impose, approve any arrangements whereby contributions are paid at times and in a manner other than those prescribed by these Regulations, and any such arrangement may include provision for the payment of such fees as may be determined by the Board to represent the estimated additional expense in administration costs of the Board.

(5) As a condition of authorising the payment of any contribution on a date later than that upon which the contribution would, apart from any authorisation under paragraph (3), be due to be paid, the Board may require the making of such deposits of money by way of security as the Board may approve.

(6) Paragraphs (3) and (4) shall, subject to the terms and conditions of any such arrangements, apply to any person affected by such arrangements, and any contravention of, or failure to comply with, any requirement of any such arrangement shall be deemed to be contravention of, or failure to comply with, these Regulations.

(7) If an employer, by reason of an error made in good faith, has paid to the Director on account of contributions under this regulation an amount which he or she was not liable so to pay, any amount which he or she is liable to pay subsequently in respect of other payments of wages made by him or her during the same year shall be reduced by the amount so overpaid:

Provided that if there was a corresponding over-deduction from any payment of wages to any employed person, this paragraph shall apply only in so far as the employer has accounted to that person therefor.

Employer Failing to pay Contributions Due.

15. (1) If within the time prescribed by regulation 14—

- (a) an employer has not paid any contribution which he or she is liable to pay to the Director for that month and the Director is unaware of the amount, if any, which the employer is liable to pay; or
- (b) the employer has tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month,

the Director may give notice to the employer requiring him or her to render, within the time specified in the notice (being not less than five days), a written return showing the name of every employed person to whom he or she made any payment of wages in the period from the preceding first day of January, or such other date as the Director may specify, to the last day of the previous month, together with the following particulars regarding such employed person—

- (i) every payment of wages made during that period;
- (ii) the total amount of contributions which the employer was entitled to deduct during the period and which the employer is liable to pay for that month;
- (iii) the total amount of contributions which was payable by the employer in addition to the amount deductible under subparagraph (ii); and

(iv) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(2) The Director shall ascertain and certify the amount of contributions which the employer is liable to pay in respect of the month in question.

(3) The production of the return made by an employer under paragraph (1) and of the certificate of the Director under paragraph (2) shall be good and sufficient evidence that the amount shown in the said certificate is the amount of contributions which the employer is liable to pay to the Director in respect of the month in question, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Nil Returns.

16. An employer, being a person registered as such under the Registration Regulations, who does not pay to the Director any contributions on the date due because that employer did not employ any employed persons during the period relevant to that date shall instead send to the Director a statement to that effect.

PART III

CONTRIBUTIONS PAID IMPROPERLY, IN ERROR OR LATE

Disposal of Contributions Improperly Paid.

17. Where contributions are paid in respect of the wrong class or at the wrong rate, the Board may treat them as paid on account of the contributions properly payable.

Treatment of Contributions Paid or not Paid Without Consent, Connivance or Negligence of Employed Person.

18. (1) Where a contribution payable by an employer on behalf of an employed person is paid after the due date or is not paid, and the delay or failure in making payment thereof is shown to the satisfaction of the Board not to have been with the consent or connivance of, or attributable to any negligence on the part of, that person, the contribution shall, for the purpose of any right to benefit, be treated as having been paid on the due date.

(2) The provisions of regulations 18, 19 and 20 shall, in their application to a contribution payable by an employer on behalf of an employed person, have effect subject to the provisions of this regulation.

Treatment of Contributions Paid Late through Ignorance or Error.

19. In the case of a contribution paid after the due date where—

- (a) the contribution is paid after the time when it would, under the following provisions of these Regulations, have been treated as having been paid for the purposes of the right to a benefit; and
- (b) the failure to pay the contribution before that time is shown to the satisfaction of the Board to be attributable to ignorance or error on the part of the employer which was not due to any failure on his or her part to exercise due care and diligence,

the Board may direct that, for the purpose of the provisions of regulation 19 or 20, the contributions shall be treated as having been paid on such earlier day as it may consider appropriate in the circumstances and those provisions shall have effect subject to any such direction.

Treatment for Purpose of Sickness or Maternity Benefit of Contributions Paid Late.

20. For the purpose of any right to sickness or maternity benefit, a contribution paid after the due date shall be treated—

- (a) if paid after the commencement of incapacity for work and whilst incapacity continues, or during the period for which maternity benefit would otherwise be payable, as the case may be, as not having been paid in respect of any day before the expiry of a period of forty-two days (including Sundays) from and including the date on which payment of that contribution is made and having been paid at the expiry of that period in relation to the right to such benefit in respect of any other day;
- (b) if paid after the cessation of incapacity for work or the said period, as the case may be, as not having been paid.

Treatment for Purpose of Invalidity or Age Benefit of Contributions Paid Late.

21. For the purpose of any right to age benefit or of invalidity benefit, a contribution paid after the due date shall be treated—

- (a) if paid before the expiration of twelve months next following the end of the contribution year in which it became payable, as having been paid on the due date;
- (b) if paid at any other time, as not having been paid.

Treatment for Purpose of a Funeral Grant of Contributions Paid Late.

22. For the purpose of any right to a funeral grant, a contribution paid after the due date shall be treated as not having been paid if the contribution is paid after the date of death of the person in respect of whom the grant is claimed.

Part IV

REFUNDS

Refund of Contributions Paid in Error.

23. (1) Subject to the provisions of regulation 15 and of this regulation, contributions paid by an employed person or by his or her employer (if any) under the erroneous belief that the contributions were payable by or on behalf of that person shall be refunded by the Board to the person or to his or her employer, as the case may require, if application to that effect is made in writing to the Board within the appropriate time specified in paragraph (4) of this regulation.

(2) In calculating the amount of any repayment to be made under this regulation to an employed person or to an employer, there shall be deducted—

- (a) in the case of employer's contributions and contributions as an insured person, the amount of any contributions paid under erroneous belief as

aforesaid which have, under the provisions of regulation 15, been treated as paid on account of other contributions; and

- (b) in the case of contributions as an insured person, the amount, if any, paid to that person (and to any other person on the basis of the erroneous belief) by way of benefit which would not have been paid had the contributions (in respect of which an application for their return is duly made) not been paid in the first instance.

(3) Contributions erroneously paid by an employer on behalf of any employed person and not recovered by the employer from that person may be repaid to the employer instead of to that person, but if so recovered may be repaid to that person, or, with his or her consent in writing, to his or her employer.

(4) An application for the return of any contributions paid under erroneous belief as aforesaid shall be made in such form and in such manner as the Board may from time to time determine, and any such application shall be made—

- (a) if the contribution was paid at the due date, within two years from the date on which that contribution was paid; or
- (b) if the contribution was paid at a later date than the due date, within two years from the due date or within twelve months from the date of actual payment of the contribution, whichever period ends later.

(5) In its application to contributions payable under Part II of these Regulations, this regulation shall have effect subject to the following provisions, namely—

- (a) the time within which the application shall be made by a person desiring to apply for the return of any such contribution paid under erroneous belief as aforesaid, shall be two years from the due date or such longer time as the Board may allow if it is satisfied that that person had good cause for not applying within those two years; and
- (b) the provisions of this paragraph shall apply to any part of a contribution as they apply to that contribution.

Refund of Contributions to Certain Elderly Entrants.

24. (1) Where an employed person attains sixty-two years on a date not later than twenty-six contribution weeks after he or she becomes an insured person, then he or she shall thereafter be entitled to be refunded the contribution actually paid on his or her behalf in respect of any contribution week within the said twenty-six weeks.

(2) Where an employed person attains sixty-two years on a date not later than forty-nine contribution weeks after he or she becomes an insured person, then, for each contribution actually paid on behalf of him or her, he or she shall be entitled to a refund of that element of the contribution which represents invalidity, age and survivor's benefit.

(3) An application for a refund under this regulation shall be made in writing addressed to the office of the Board and shall be made—

- (a) in respect of an application under paragraph (1), within three months from the date on which the employed person attained sixty-two years; and
- (b) in respect of an application under paragraph (2), within two years from the date on which the employed person attained sixty-two years, or such longer period as the Board may allow, if it is satisfied that the

person had good cause for not submitting an application within the specified time.

PART V

MISCELLANEOUS

Records.

25. (1) An employer shall, in addition to the records mentioned in regulations 9 and 12 maintain a separate record in respect of each person employed by him or her.

(2) The record referred to in sub-regulation (1) shall contain the following particulars—

(a) the employee's—

(i) name;

(ii) date of birth;

(iii) social security number;

(iv) occupation;

(v) address;

(b) the date of commencement and termination of employment of the employee;

(Substituted by S.R.O. 31/2002]

(c) date of payment of wages of the employee;

(d) amount of wages of the employee;

(e) contributions deducted from wages of the employee, including deductions made under regulation 8;

(f) any other statutory deductions made from the wages of the employee;

(g) amount of wages payable to the employee after deductions.

(3) An employee shall be entitled to view his or her own records which are kept in accordance with the provisions of this regulation, and the employer shall give the employee an opportunity to inspect the records.

(4) The inspection may be done no more than twice per month.

Returns by Employer.

26. (1) Subject to sub-regulation (6), an employer shall, before the end of January of each year, render to the Director, in such form as the Board may approve or prescribe, a return in respect of each employed person containing such particulars as the Board may require.

(2) The return mentioned in sub-regulation (1) shall be accompanied by a declaration and statement in a form approved by the Board containing a list of all contribution cards, and all such cards shall be sent to the Director with the said return and statement.

(3) Where an employer is a body corporate, the declaration and the certificate referred to in sub-regulation (2) shall be signed by a person duly authorised by the said body corporate.

(4) A return shall be made under this regulation in respect of every employed person in respect of whom a contribution card has been either issued to the employer by the Director or prepared by the employer in accordance with the Registration Regulations, or to whom the employer has at any time during the year made a payment of wages in respect of which contributions were payable.

(5) If an employer has failed to pay to the Director before the end of January of each year the total amount of contributions which he or she is liable to pay in respect of the previous year, the Director may prepare a certificate showing the amount of contributions remaining unpaid for that previous year and the said certificate that any specified amount of contributions has not been paid to him or her, or, to the best of his or her knowledge and belief, to any other person to whom it might lawfully be paid, shall be sufficient evidence in any court that the sum mentioned in the certificate is unpaid and due to the Board, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(6) Where the registration of a person as an employer is cancelled, in accordance with regulation 6 of the Registration Regulations, then the provisions of this Regulation shall apply to that person as if references in this regulation to “before the end of January of each year” were references to “within one month after the date of the cancellation of the registration of that person as an employer” and references to an “employer” shall include references to a person whose registration as an employer has been cancelled.

(7) A Court of summary jurisdiction may make an Order for submission of returns and records by an employer to such Court.

(Inserted by S.R.O. 18/1984)

Where Insured Person Works under General Control of Person not of his Immediate Employer.

27. (1) Where an insured person works under the general control and management of a person who is not his or her immediate employer, that person (hereinafter referred to as “the principal employer”) shall be deemed to be the employer for the purposes of the Act and the immediate employer shall furnish the principal employer with such particulars of the insured person’s wages as may be necessary to enable the principal employer to comply with the provisions of the Act.

(2) If the insured person’s wages are actually paid to him or her by the immediate employer—

- (a) the immediate employer shall notify the principal employer of the wages to be paid and the immediate employer shall be notified by the principal employer of the amount of contributions which may be deducted when such wages are paid to the insured person, and the immediate employer may deduct the amount so notified to him or her; and

(Inserted by S.R.O. 18/1984)

- (b) the principal employer may make a corresponding deduction on making to the immediate employer the payment out of which the said wages will be paid.

Inspection of Employer's Records.

28. (1) An employer, whenever called upon to do so by an Inspector designated under section 35 of the Act or other authorised officer of the Board, shall supply such information with respect to persons who are or have been employed by that employer as may be requested, and shall produce all wages sheets, and other documents and records whatsoever of the wages of such persons in respect of the years or months specified by the Director or such Inspector or other authorised officer of the Board in relation to the deduction of contributions deductible from such wages or to the payment of the employer's contributions in respect of such wages.

(2) The Director, by reference to the information obtained from inspection of the documents and records produced under sub-regulation (1), may on the occasion of each inspection prepare a certificate setting out—

- (a) the amount of contributions which the employer is liable to pay to the Director for the said years or months in accordance with the documents so produced; and
- (b) any amount of contributions which have not been paid to him or her or, to the best of his or her knowledge and belief, to any person to whom it might lawfully be paid.

(3) The production of a certificate such as is mentioned in sub-regulation (2) shall be sufficient evidence in any court that the employer is liable to pay to the Director in respect of the years or months mentioned in the certificate the amount shown therein pursuant to sub-regulation (2)(b) and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Death of an Employer.

29. If an employer dies, anything which he or she would have been liable to do under these Regulations shall be done by his or her personal representatives; in the event of the death of an employer who paid wages on behalf of another person, the said things shall be done by the person succeeding him or her or, if no person succeeds him or her, by the person on whose behalf he or she had paid those wages.

Succession to a Business.

30. (1) This regulation applies where there has been a change in the employer from whom an employed person receives wages in respect of his or her employment in any trade, business, concern or undertaking or in connection with any property, or from whom that person receives any annuity other than a pension.

(2) Where this regulation applies, in relation to any matter arising after a change of employer, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place:

Provided that the employer after the change shall not be liable for the payment of any contributions which were deductible from wages paid to an employed person before the change, unless such contributions were also deductible from wages paid to the employed person after the change took place, or of any corresponding employer's contribution.

Penalties.

31. If any person fails to comply with any of the provisions of these Regulations, or with any direction or requirement of the Board given or made by virtue of these

Regulations, and that failure does not constitute an offence under the Act for which a penalty is therein provided, he or she commits an offence and liable, on summary conviction, to a fine of one hundred dollars.

SCHEDULE 1 TO THE REGULATIONS

RATES OF CONTRIBUTIONS

PART I

EMPLOYED PERSON'S CONTRIBUTION

| Description of Employed Person | Rate of Contribution |
|------------------------------------|---|
| Person under 16 years | Nil |
| Persons between 16 and 62 years | 5% of wages subject to the ceiling on the contributions in force at any point in time |
| Persons who have attained 62 years | Nil |

PART II

EMPLOYER'S CONTRIBUTION

| Description of Employed Person | Rate of Contribution |
|------------------------------------|---|
| Person under 16 years | 1% of wages subject to the ceiling on the contributions in force at any point in time |
| Persons between 16 and 62 years | 5% of wages subject to the ceiling on the contributions in force at any point in time |
| Persons who have attained 62 years | 1% of wages subject to the ceiling on the contributions in force at any point in time |

PART III

SELF-EMPLOYED PERSON'S CONTRIBUTIONS

| Description of Self-Employed Person | Rate of Contribution |
|-------------------------------------|---|
| Person under 16 years | Nil |
| Persons between 16 and 62 years | 10% of selectable income category subject to the ceiling on the contributions in force at any point in time |
| Persons who have attained 62 years | Nil |

(Substituted by S.R.O. 31/2002)

SCHEDULE 2 TO THE REGULATIONS

CEILING ON CONTRIBUTIONS

(FOR PURPOSES OF INSURABLE EARNINGS)

| | | |
|------------------------|----------|-----------|
| 1978 – 1983 | \$24,000 | Per annum |
| 1984 – 1992 | \$48,000 | Per annum |
| January 1, 1993 – 1997 | \$62,400 | Per annum |
| January 1, 1996 – 1997 | \$70,200 | Per annum |
| January 1, 1998 | \$6,500 | Per Month |

(Inserted by S.R.O. 31/2002)

ELEVENTH SCHEDULE

(Section 57)

SOCIAL SECURITY (DETERMINATION OF QUESTIONS) REGULATIONS

PART I

PRELIMINARY

Citation.

1. These Regulations may be cited as the Social Security (Determination of Questions) Regulations.

Interpretation.

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

“appeal tribunal” means an appeal tribunal established and constituted under regulation 7;

“applicant” means, for the purpose of Part II, any person who has made application to the Board for the determination of any question to which that Part relates;

“benefit” includes assistance;

“question” includes, for the purposes of Part III, a claim for benefit;

“reserved question” means any question so prescribed by regulation 3.

PART II**DETERMINATION OF QUESTIONS BY THE BOARD****Reserved Questions.**

3. The following reserved questions arising under or in connection with the Act shall be determined by the Board whose decision shall, subject to the provisions of these Regulations, be final—

- (a) whether a person is or was an employed person for the purposes of the Act;
- (b) as to the class of insured person in which a person is to be included;
- (c) at what rate any contribution is or was payable in accordance with any Regulations made under the Act, or any question otherwise relating to a person's contribution;
- (d) who is or was liable for payment of any contribution as the employer of any insured person;
- (e) as to which child or children should be granted survivor's benefit.

Procedure for Determination of Reserved Questions.

4. (1) Any person desiring to obtain the decision of the Board on any reserved question shall send to the Board an application in writing in a form approved by the Board and shall furnish such particulars as the Board may require for the purposes of the consideration and determination of such question.

(2) The Board shall take steps to bring any reserved question and any particulars which may have been furnished in accordance with sub-regulation (1) to the notice of any other person appearing to it to be interested therein (in this Part referred to as "the other person") and may require the other person to furnish such particulars within such time and in such form as it considers reasonable for the proper determination of the question.

(3) The Board may, if it thinks fit, before determining a reserved question, appoint a person to hold an inquiry into the matter and to report to it thereon, and any person so appointed may by summons require any person to attend at any such inquiry to give evidence or to produce any document reasonably required for the purposes of the inquiry, and may take evidence on oath and for that purpose administer oaths.

(4) Reasonable notice of the date and place of the holding of such an inquiry shall be given to the applicant and the other person.

(5) The applicant and the other person shall be entitled to attend and to be heard at the inquiry, and to be represented by any other person, and the procedure thereat shall, subject to this regulation, be such as the person holding the inquiry shall determine.

(6) The Board shall give notice in writing of its decision to the applicant and to the other person, and may publish its decision in such manner as it thinks fit.

References and Appeals to High Court.

5. (1) Any question of law arising in connection with the determination by the Board of any reserved question may in accordance with rules of court, he or she referred by the Board for decision to the High Court.

(2) In the event of the Board deciding to refer any question of law to the High Court, it shall send notice in writing of its intention so to do to the applicant and to the other person.

(3) Any person aggrieved by a decision of the Board on any question of law, and that question is not referred to the High Court by the Board, may, in accordance with rules of court, appeal from that decision to the High Court, and the applicant and the other person shall, on request, be furnished by the Board with a statement of the reasons for its decision.

(4) The applicant, the other person (if any) and the Board shall be entitled to appear and be heard at the hearing of any reference or appeal to the High Court.

Review of Decisions by the Board.

6. (1) The Board may, on new facts being brought to its notice or if it is satisfied that a decision was made in ignorance of, or was based on a mistake as to, some material fact, review any decision made by it in accordance with these Regulations:

Provided that no decision shall be reviewed while a reference or an appeal to the High Court is pending or before the time for appealing against a decision has expired.

(2) The provisions of regulation 5 shall apply in relation to a decision which has been reviewed as they apply to the original decision.

PART III

DETERMINATION OF QUESTIONS BY THE DIRECTOR OR AN APPEAL TRIBUNAL

Appeal Tribunal.

7. For the purposes of these Regulations there shall be an appeal tribunal constituted in accordance with the provisions of the Schedule to these Regulations.

Determination of Questions by the Director.

8. (1) The following questions, that is to say—

(a) any question as to the right to benefit; and

(b) any other question arising under or in connection with the Act or any Regulations made thereunder, not being a reserved question, shall be submitted to the Director, who shall consider the question, and, so far as practicable, dispose of it in accordance with these Regulations within fourteen days from the date when it was submitted to him or her.

(2) Any person desiring to obtain the decision of the Director on any question mentioned in sub-regulation (1) shall send to the Director an application in writing in a form approved by the Board and shall furnish such particulars as the Director may require for the purposes of the consideration and disposal of such question:

Provided that the Director may dispense with the requirements of this sub-regulation if he or she thinks it proper so to do.

(3) If, on consideration of a question, the Director is of the opinion that a reserved question does not arise, then—

- (a) if he or she is satisfied that the question ought to be determined wholly in favour of the claimant, he or she may decide the question accordingly;
- (b) in so far as he or she is not so satisfied, he or she may either—
 - (i) refer the question (so far as is practicable within fourteen days from the date on which it was submitted to him or her) to an appeal tribunal for its decision; or
 - (ii) himself or herself decide the question in whole or in part adversely to the claimant.

(4) Where the Director refers a question to an appeal tribunal in accordance with paragraph (3), notice in writing of such reference shall be given to the claimant.

Action by Director and Appeal Tribunal on Reserved Questions.

9. (1) If on consideration of a question the Director is of the opinion that a reserved question arises he or she shall—

- (a) refer the reserved question to the Board to determine the same; and
- (b) deal with any other question as if a reserved question had not arisen:

Provided that the Director may—

- (i) postpone the reference of, or the dealing with, any question until after any other question has been determined;
- (ii) in any case where the determination of any question disposes of a claim or part thereof, make an award or decide that an award cannot be made as to the claim or any part thereof without the referring or dealing with, or before the determination of, any question.

(2) This regulation shall apply to the appeal tribunal as it applies to the Director, except that an appeal tribunal instead of itself referring a question for determination in accordance with paragraph (a) of sub-regulation (1) shall require it to be so referred by the Director.

Appeals to Appeal Tribunal.

10. (1) If the Director decides a question in whole or in part adversely to a claimant the Director shall notify the claimant accordingly in writing, stating in such notice the reasons for his or her decision and informing the claimant of his or her right of appeal.

(2) A claimant shall, subject to this regulation, have the right to appeal against an adverse decision to an appeal tribunal, whose decision shall, subject to the provisions of these Regulations, be final:

Provided that where the decision of the Director has been based solely upon the decision of a reserved question by the Board or by the High Court, and the Director certifies accordingly, no appeal shall lie without the leave of the chairperson of the appeal tribunal.

(3) An appeal against a decision of the Director shall be brought by giving notice to the Board within twenty-one days after the date of the decision or within such further time, not exceeding four months, as the chairperson of the appeal tribunal may allow.

(4) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

Time and Place of Hearing of Appeals.

11. (1) Reasonable notice of the time and place of any hearing before an appeal tribunal shall be given to the claimant and to any other person who may appear to the chairperson of the tribunal to be interested therein (in this Part referred to as “the other person”), and, except with the consent in writing of the claimant, the appeal tribunal shall not proceed with the hearing of any case unless such notice has been given.

(2) If a claimant or the other person fails either to appear in person or by representative at such hearing, and has not given a reasonable explanation for his or her absence, the appeal tribunal may proceed to determine the appeal as they think proper.

Hearings before Appeal Tribunal.

12. (1) Every hearing before an appeal tribunal shall be in public unless the chairperson of the tribunal otherwise directs if he or she is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) The claimant, the other person (if any) and the Director shall be entitled to appear and be heard at the hearing of any appeal to an appeal tribunal.

(3) Any person who, by virtue of this regulation, has the right to be heard by an appeal tribunal may be represented at the hearing by some other person whether having professional qualifications or not and, for the purpose of the hearing, any such representative shall have all the rights to which the person whom he or she represents is entitled under these Regulations.

(4) Any person who exercises the right conferred by this regulation to be heard at the hearing may call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(5) If it appears to an appeal tribunal that any appeal under this regulation involves a question of law or fact of special difficulty, it may direct that, in dealing with the appeal or any part thereof, it shall have the assistance of an assessor or assessors.

(6) For the purpose of arriving at their decision, or discussing any question of procedure, an appeal tribunal may, notwithstanding anything contained in this regulation, order all persons not being members of the tribunal or an officer of the Board acting as clerk to the tribunal, to withdraw from the sitting of the tribunal.

Decisions of Appeal Tribunal.

13. (1) An appeal tribunal shall—

- (a) record in writing every decision (whether on an appeal or on a reference from the Director); and
- (b) include in the record of every decision (which shall be signed by all the members of the tribunal) a statement of the reasons for its decision, including its findings on all questions of fact material thereto.

(2) Where an appeal tribunal is unable to reach a unanimous decision on any case, the decision of the majority of the members thereof shall be the decision of the tribunal.

(3) As soon as may be practicable, a copy of the record of its decision made in accordance with this regulation shall be sent to the claimant, to the Director and to the other person (if any).

Review of Decisions of Director and Appeal Tribunal.

14. (1) Any decision of the Director or of an appeal tribunal may be reviewed at any time by the Director, or, on a reference from the Director, by the appeal tribunal (as the case may be), if—

- (a) he or she is, or the appeal tribunal is, satisfied, but not without fresh evidence in the case of a decision of an appeal tribunal, that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) there has been any relevant change of circumstances since that decision was made; or
- (c) that decision was based on the decision of any reserved question and the decision of that question has been revised.

(2) An application that a decision of the Director or of an appeal tribunal be reviewed under sub-regulation (1) shall be sent to the Director in writing in a form approved by the Board and shall state the grounds upon which the application is based.

(3) On receipt of any such application, the Director shall proceed to deal with or refer any question arising thereon in accordance with these Regulations:

Provided that the Director, before disposing of the application, shall send a copy of it to the other person if the application relates to a decision of an appeal tribunal and the other person was a party to the proceedings before the appeal tribunal.

(4) Any refusal to review and any decision given on a review under this regulation shall be subject to appeal in like manner as an original decision, and the provisions of this Part shall, subject to the necessary modifications, apply in relation to any decision given on a review as they apply to the original decision of a question by the Director.

PART IV

EFFECT OF PROCEEDINGS ON AWARDS

Interim Payments.

15. (1) Subject to this regulation and to the Social Security (Benefits) Regulations, benefit shall be payable in accordance with an award, notwithstanding that an appeal against, or a review of, the award is pending.

(2) Where it appears to the Director that a question has arisen whether—

- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled; or

- (b) an award of benefit ought to be reviewed in accordance with these Regulations,

he or she may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.

Review of Decisions Involving Payment or Increase in Benefit.

16. (1) Subject to the following provisions of this regulation, when a decision is revised on review so as to make benefit payable, or to increase the rate of benefit, the decision on review shall have effect as from the date of the application for the review.

(2) If in any case a claimant proves that on a date earlier than the date on which the application for the review was made, he or she was (apart from satisfying the condition of making a claim therefor) entitled to benefit, he or she shall not be disqualified from any benefit to which he or she would have been entitled in respect of the period between the earlier date and the date on which the application for the review was made.

(3) No sum on account of benefit shall be paid to any person in respect of any part of the period referred to in sub-regulation (2) earlier than six months before the date on which the application for the review was made.

(4) If a decision on review was based on a material change of circumstances subsequent to the date from which the original decision took effect, the decision on review shall not have effect for any period before the date declared by the Director or an appeal tribunal (as the case may be) to be the date on which such material change of circumstances took place.

(5) Where a decision is reviewed by or at the instance of the Director under regulation 14 (1), the date on which it was first decided by the Director that the decision should be reviewed shall be deemed to be the date of the application for the review.

(6) For the purposes of this regulation, "benefit" shall not include invalidity, age or survivor's benefit or funeral grant.

Adjustment of Benefit Following Review or Appeal.

17. (1) When a grant is awarded by a decision on review or appeal *in lieu* of a grant previously awarded, such decision shall direct that any payment made on account of the grant previously awarded shall, in so far as it does not exceed the amount of the subsequently awarded grant, be treated as being made on account of the latter.

(2) When any benefit other than a grant is awarded by a decision on review or appeal *in lieu* of another benefit previously awarded, that decision shall, as respects any payments made on account of the benefit previously awarded—

- (a) direct that, in so far as the amount of such payments does not exceed the amount of any arrears payable in respect of the benefit subsequently awarded, such payments shall be treated as having been made on account of such arrears; or
- (b) direct that, to the extent by which the amount of such payments exceeds the amount of the said arrears, such payments shall (except in so far as they are required to be repaid under this regulation) be treated as having been made on account of sums becoming payable after the date of the decision on review or appeal in respect of the benefit awarded thereby.

(3) When on review or appeal a decision is revised, or is reversed or varied, so as to make benefit previously awarded not payable or to reduce the amount of such benefit, the decision given on review or appeal shall direct that the beneficiary shall repay to the Fund any benefit paid in pursuance of the previous decision to the extent to which—

- (a) it would not have been payable if the decision on review or appeal had been given in the first instance; and
- (b) it is not directed to be treated as paid on account of the benefit subsequently awarded by the decision on review or appeal.

(4) When—

- (a) on review of or appeal against an award of benefit a decision is made so that such benefit is not payable or is payable at a less rate; and
- (b) on review or appeal, the subsequent decision is made so as to make such benefit again payable, or payable at a higher rate than that at which it was payable before the subsequent decision,

any benefit paid in pursuance of the award before the subsequent decision shall, to the extent to which it would not have been payable if the decision on review or appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review or appeal, except in so far as that benefit has, in pursuance of that decision, been repaid or treated as having been paid on account of the benefit awarded by that decision.

(5) When, in accordance with a decision given on review or appeal, any benefit is required to be repaid to the Fund, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or from any benefit payable on his or her death.

(6) Nothing in this regulation shall be construed as preventing the operation of the Social Security (Benefits) Regulations, which provide for the adjustment of benefits where there is entitlement to more than one benefit.

PART V

MISCELLANEOUS

Powers of the Board, the Director and an Appeal Tribunal.

18. (1) Subject to the Act and these Regulations, the procedure for the determination of any question by the Board, the Director or an appeal tribunal shall be such as the Board, the Director or the appeal tribunal, as the case may be, may determine.

(2) Any power given by these Regulations to extend, the period during which anything is required to be done thereunder or to dispense with any of the requirements hereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

Decisions to be Conclusive for Purposes of Proceedings under the Act.

19. (1) Where in any proceedings—

- (a) for an offence under the Act;
- (b) involving any question as to the payment of contributions under the Act; or
- (c) for the recovery of any sum due to the Fund,

any question arises which, under the Act or any Regulations made thereunder is to be determined by the Board, or by the High Court in the event of a reference or an appeal on a point of law, or by the Director or an appeal tribunal (hereinafter referred to as "the determining authority"), the decision of the determining authority shall, unless an appeal under these Regulations is pending or the time for so appealing has not expired, be conclusive for the purpose of these proceedings.

(2) If any decision mentioned in sub-regulation (1) has not been obtained and the decision of the question is necessary for the determination of the proceedings, the question shall be referred to the determining authority, as the case may require, in accordance with procedure (modified where necessary) prescribed by these Regulations.

(3) When any appeal mentioned in sub-regulation (1) is pending, or the time for so appealing has not expired, or where any question has been referred under sub-regulation (2), the court dealing with the proceedings shall adjourn them until such time as a final decision upon the question has been obtained.

Authority for Payments.

20. (1) There shall be paid out of the Fund to the chairperson of the appeal tribunal such salary or other remuneration and such expenses as the Minister may from time to time determine.

(2) There shall be paid out of the Fund—

- (a) to the members of an appeal tribunal (not being the chairperson);
- (b) to a person or persons appointed by the Board under regulation 4(3),

such remuneration and such travelling or other allowances as the Board may by resolution determine.

(3) There shall be paid out of the Fund to persons required to attend on the consideration of a case before an appeal tribunal or the Board such travelling or other allowances as the Board may by resolution determine.

(4) There shall be paid out of the Fund such other expenses incurred in connection with the work of an appeal tribunal or the Board as the Board may by resolution determine.

(5) For the purposes of this regulation any reference to travelling or other allowances includes a reference to compensation for loss of remuneration:

Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this regulation.

SCHEDULE TO THE REGULATIONS*(Regulation 7)***APPEAL TRIBUNAL****Composition of tribunal.**

1. An appeal tribunal shall consist of—
 - (a) one person drawn, in accordance with paragraph 3, from a panel of persons nominated by the Board to represent employers;
 - (b) one person drawn, in accordance with paragraph 3, from a panel of persons nominated by the Board to represent insured persons; and
 - (c) a chairperson who, subject to the provisions of this Schedule, shall be appointed by the Minister.

Qualifications of Chairperson of tribunal.

2. (1) The Chairperson of an Appeal Tribunal shall be a barrister of at least five years standing and the Minister may appoint more than one person to perform the functions of chairman.
(2) A Chairman shall hold office for such period not exceeding two years as the Minister may determine and shall be eligible for reappointment.

Nominations of persons to panels.

3. (1) Before nominating persons to be members of either of the panels, the Board shall take into consideration any recommendation from organisations concerned with the interests of employers and of insured persons.
(2) Members appointed to a panel shall hold office for such term and on such conditions as may be determined by the Board and shall be eligible for reappointment.

Revocation of appointment of Chairperson etc.

4. The Minister may, if he or she considers it expedient so to do, at any time revoke the appointment of the chairperson and the Board may, if it considers it expedient so to do, at any time, revoke the appointment of any member of a panel.

Non-eligibility of members of Board for appointment to tribunal.

5. No member of the Board shall be eligible for appointment as a chairperson or member of an appeal tribunal.

Summoning of members of panels.

6. As far as practicable the members of each panel shall be summoned by the Board to serve in turn on an appeal tribunal:

Provided that—

- (a) no person shall sit on a tribunal during the consideration of a case—
 - (i) in which he or she appears as the representative of the claimant;
or
 - (ii) by which he or she is or may be directly affected; or

- (iii) in which he or she is involved as an employer or as an employed person or as a witness;
- (b) where the claimant is a woman, at least one of the members of the tribunal shall, if practicable, be a woman.

Proceeding with cases.

7. The appeal tribunal may, with the consent of the claimant, but not otherwise, proceed with any case in the absence of any member other than the chairperson, and in any such case the chairperson shall, if the number of the members of the tribunal is an even number, have a second or casting vote.

TWELFTH SCHEDULE

(Section 19(2))

**THE SOCIAL SECURITY (EXEMPTION FROM CONTRIBUTION)
REGULATIONS****Citation.**

1. These Regulations may be cited as the Social Security (Exemption from Contribution) Regulations.

Interpretation.

2. In these Regulations—

“contribution” means—

- (a) the total of an employer’s and employed person’s contribution in respect of an employed person; and
- (b) an insured person’s contribution in respect of a self-employed person;

“specified period” means the period determined by the Minister.

Exemption from contribution.

3. (1) An employer may be exempted by the Minister for a specified period from liability to pay contributions for an employer who is a foreign national—

- (a) who is engaged to work in Saint Christopher and Nevis for a total period of one year or less and in respect of whom a declaration is made to the satisfaction of the Social Security Board that the employee—
 - (i) is a temporary worker whose skills are unavailable or are not in short supply within Saint Christopher and Nevis;
 - (ii) that those skills are necessary for the employer to carry on his business; and
 - (iii) would not be working within the Federation after the completion of the specified period;
- (b) who is engaged for the purpose of training personnel for a period in excess of one year, such period to be determined by the Minister.

(2) The period specified by the Minister in paragraph (a) above shall be calculated from the date of first entry by the employee into the Federation for the purpose of taking up the employment.

(3) In making a determination as to whether any person may be exempted from making contributions, the Minister may consult with the Social Security Board and the Department with responsibility for Labour.

(4) The Social Security Board when consulted by the Minister in pursuance of his obligations under section 3 shall advise the Minister, and in so advising shall take into account all relevant factors including the payment if any by the employee or employer of Social Security contributions in another country and/or the existence of any reciprocal Social Security agreements between the relevant countries.

(5) The Department with responsibility for Labour when consulted by the Minister in pursuance of his obligations under section 3 shall advise the Minister and in so advising shall take into account all relevant factors including advising on the state of the skills market and on a reasonable period for the exemption.

(6) Subject to subsection (8) any employment beyond the specified period continued or subsequent employment that is taken up in Saint Christopher and Nevis by the person referred to in subsection (1) after the designated period has expired, shall be considered to be 'employment' within the meaning of the Social Security Act and shall be subject to contributions irrespective of the length and nature of the employment.

(7) If a person has been made exempt from Social Security contributions, he shall not, without making payments of the appropriate fees, in any way benefit from or use social assistance or insurance of any kind under the Social Security Act or any other related law or regulation from time to time in force in the Federation.

(8) Nothing in these Regulations shall exempt a person from the payment of the appropriate Social Services Levy payments to be made in respect of the employee in the Federation.
