

SOCIAL SECURITY ACT, 1972

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FIRST SCHEDULE:

Constitution and Proceeding of the Social Security Board of
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Insurable Employments

SOCIAL SECURITY

(11th July, 1972)

3/1972
24/1973
9/1984
2/1988

1. This Act may be cited as the Social Security Act, 1972

Short Title.

2. (1) In this Act-

“appointed day” shall have the meaning ascribed to it in section 51;

Interpretation.

“beneficiary means a person entitled to benefit;

“benefit” means any benefit under this Act;

“Board” means the Social Security Board of Control established by subsection (1) of section 4;

“claimant” means person who has claimed benefit;

“contribution” means a contribution under this Act;

“contribution card” means the card issued by the Board for the purpose of the payment of contributions by means of insurance stamps affixed thereto;

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

“contribution week” means a period of seven days commencing from midnight between Sunday and Monday,

“employed person” means a person who is insured by virtue of subsection (1) of section 19;

“incapable of work” means incapable of work by reason of a specific disease or bodily or mental disablement or deemed in accordance with regulations to be so incapable;

“insurable employment” means subject to subsection (3) of section 19 any employment specified in the second schedule;

“insured” means insured under this Act;

“insurance stamp” means any label, stamp or device for denoting the payment of contributions, issued pursuant to this Act;

“Investment Committee” means the Social Security Fund Investment Committee established by subsection (1) of section 13;

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

“Minister” means the Minister responsible for the subject of social security;

“self-employed person” means a person gainfully occupied in employment in Antigua who is not an employed person;

“unpaid apprentice” means an apprentice who, under his contract or apprenticeship, receive no pecuniary remuneration;

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

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

PART I.

Administration and Finance.

3. (1) There is hereby established a fund to be called the Social Security Fund hereinafter called the Fund into which shall be paid-

- (a) all contributions;
- (b) all rent, interest on investments, or other income derived from the assets of the Fund;
- (c) all sums recovered under this Act as fines, fees, penalties or costs;

- (d) all sums properly accruing to the Fund under this Act, including the repayment of benefit; and
- (e) such other sums as may be provided by Parliament for the purposes of the Act or as may be received and accepted by the Board on behalf of the Fund.

(2) There shall be paid out of the Fund-

- (a) all benefits;
- (b) refunds of contributions; and
- (c) all expenses properly incurred in the administration of this Act.

4. (1) There is hereby established a board to be called the Social Security Board of Control, in which the Fund shall be vested and which shall, subject to the provisions of this Act, be responsible for administering the Fund, and the provisions of the First Schedule shall apply as respects the constitution of the Board and its proceedings.

Social Security Board.

First Schedule

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(3) The Board shall have a Head Office in the City of Saint John's and service on the Board of any notice, order or other document shall be executed by delivering the same or by sending the same by post, addressed to the Director at the Head Office.

(4) The seal of the Board shall be kept in the custody of the Director and shall not be affixed to any instrument except by the authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Director and of such other person as the Board may appoint for the purpose.

(5) The Board shall consider and advise upon all matters which may from time to time be referred to it by the Minister, and shall furnish to the Minister such information as he may reasonably require about the operation of the Act.

- (6) The Board shall render annual reports to the Minister; and the Minister shall, as soon as possible after receiving any such report, lay a copy thereof before Parliament:

Provided that the first report to be rendered under this subsection may cover such period ending not later than two years after the appointed day as the Board, with the approval of the Minister, may determine.

5. (1) Subject to the provisions of this Act the Board may appoint such committees of the Board as it may think fit: Committees of the Board.

Provided that any such committee shall include not less than two members of the Board, and may include persons who are not members of the Board.

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

6. There shall be paid out of the Fund-

Remuneration of Board, and its committees.

- (a) to the chairman, deputy chairman and each member of the Board in respect of his office as such, such remuneration and allowances (if any) as the Minister may determine; and
- (b) to any person co-opted to a meeting of the Board, and to any person, not being a member of the Board, who serves on a committee of the Board, such remuneration and allowances as the Minister may determine upon a recommendation by the Board.

7. (1) The Public Service Commission shall appoint a fit and proper person to be the chief administrative officer of the Board (in this Act referred to as “the Director”). The Director.

- (2) The Director shall, subject to the provisions of this Act and the general direction of the Board, be responsible for the direction of the staff of the Board and for the management of the Fund and in particular for-

- (a) the collection of contributions under this Act;
- (b) the payment of benefit under this Act, and of the expenditure necessary for the administration of

the Fund;

(c) the investment, where not inconsistent with this or any other Act, of surplus moneys in the Fund; and

(d) accounting for all moneys collected, paid or invested under this Act.

- 8. (1)** The Director may, in relation to any matter or class of matters, by writing under his hand delegate to an officer or employee of the Board any of his functions under the Act, except this power of delegation, so that the delegated function may be performed by such officer or employee with respect to the matter or class of matters specified in the instrument of delegation. Delegation by the Director.
- (2) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the performing of any function by the Director.
- 9. (1)** The Public Service Commission shall appoint a fit and proper person to be the Director's deputy. Director's deputy.
- (2) On the occurrence of a vacancy in the office of Director (whether caused by death, resignation or otherwise) and in the case of illness, absence or temporary incapacity of the Director, from whatever cause arising, and so long as such vacancy, illness, absence or incapacity continues, the Director's deputy shall have and may exercise all the powers duties and functions of the Director.
- (3) The fact that the Director's deputy exercises any power, duty or function as aforesaid shall be sufficient evidence of his authority so to do.
- 10.** The Director may from time to time, acting upon the advice of the Board, appoint persons to be officers or employees of the Board. Staff of the Board.
- 11.** The terms and conditions of employment of officers and employees of the Board other than those of the Director and the Director's deputy shall be prescribed from time to time by the Minister and shall be no less favourable than those prescribed for public servants of similar grades. Terms and Conditions of employment with the Board.
- 12.(1)** The Board may designate such officers or employees in its Inspectors.

service as it thinks fit to be inspectors for the purpose of this Act.

- (2) Every inspector shall be furnished with a certificate of his appointment and on applying for admission to any premises or place for the purposes of this Act shall produce the certificate.
 - (3) The premises or places liable to inspection under this section shall include any premises or place where an inspector has reasonable cause to believe that any persons are employed whether or not such premises or place is used exclusively for residential purposes.
 - (4) An inspector shall for the purposes of this Act have power to enter at all reasonable times any premises or place liable to inspection under this Act and there make any examination or enquiry necessary for the purposes of this Act, and to require the production of any document relating to contributions or the liability to contribute to the Fund, for inspection by him on the said premises or place, and to copy such documents or make extracts therefrom.
 - (5) The occupier of any premises or place liable to inspection under this section, and any other person who is or has been employing any person, and the servants or agents of any such occupier or other person, shall furnish to an inspector all such information and shall produce for his inspection all such documents as the inspector may reasonably require.
 - (6) Any person who without reasonable cause obstructs, impedes, hinders, molest or refuses admission to, an inspector in the exercise of any power under this section, or refuses or neglects to furnish any information or produce any document when required to do so under this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.
- 13. (1)** There is hereby established a committee to be called the Social Security Fund Investment Committee which shall consist of three members to be appointed by the Minister of whom-
- Investment Committee.
- (a) one shall be a person with experience in the investment of moneys, nominated by the Minister;
 - (b) one shall be the Director; and

(c) one shall be another member of the Board, nominated by the Board and approved by the Minister.

(2) The Investment Committee shall appoint its own chairman and may regulate the procedure at its meetings.

(3) The Investment Committee shall meet at such times as the chairman or the Minister may appoint.

(4) The Investment Committee shall have power to give general or specific directions from time to time on the investment of moneys in the Fund which are surplus to current needs; and the Director shall give the Investment Committee any information necessary for the proper discharge of its function.

14.(1) Moneys in the Fund may be lawfully expended by the Board in the purchase of any land or building deemed by the Board to be necessary for the proper administration of this Act.

Investment of moneys.

(2) The investment of moneys in the Fund not otherwise required shall be made by the Director in accordance with the directions of the Investment Committee.

15.(1) The initial expenditure incurred in carrying this Act into effect shall be defrayed out of the Consolidated Fund

Initial expenditure, and temporary insufficiency of assets.

(2) Any temporary insufficiency in the assets of the Fund to meet the liabilities of the Fund shall be advanced out of the Consolidated Fund.

(3) Subject to the provisions of this Act, any sums provided under subsection (1) to defray expenditure incurred after the appointed day, and any sums advanced under subsection (2), shall be repaid out of the Fund as soon as may be practicable.

16. There shall be paid out of the Fund into the Consolidated Fund by the Director such sums as may be estimated by the Minister responsible for Finance to be the amount of the expenses of the Post Office in carrying this Act into effect. Payment shall be made at such times and in such manner as may be agreed by the Financial Secretary and the Board.

Expense of Post Office

17.(1) The Board shall cause to be kept proper books of account, and other books and records in relation thereto, in which shall be

Accounts and audit.

recorded all financial transactions of the Fund.

- (2) The accounts of the Fund shall be prepared in such form and at such times as the Minister may direct, and shall be audited annually by such person as the Board, with the approval of the Minister, may appoint.
- (3) The Director of Audit, or such person as the Director of Audit may nominate, shall at all times have the right to inspect the accounts of the Fund, and to report thereon.
- (4) The Board shall-
 - (a) Submit to the Minister every account, certified by the appointed auditor in accordance with subsection (2), within one month of the date of such certificate; and
 - (b) Submit annually to the Minister a statement of the securities in which moneys forming part of the Fund are for the time being invested.
- (5) The Minister shall, as soon as possible after receiving any account in accordance with subsection (4), lay a copy thereof before Parliament.

- 18.(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 (1975) 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, having regard to its other liabilities under the Act:

Review of operation Act

Provided that 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 and subsequent reviews shall be accelerated accordingly.

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

PART II.

Insured Persons and Conditions.

19.(1) Subject to the Provisions of this Act, every person who on or after the appointed day- Persons to be insured.

(a) is sixteen years of age or over and under sixty years of age; and

(b) is gainfully occupied in insurable employment,

shall be insured under this Act and shall remain so insured for life.

(2) Regulations may provide for the insurance under this Act of self-employed persons, of unpaid apprentices, of persons under sixteen years of age and of persons sixty years of age and upwards in respect of any of the several contingencies in relation to which benefits are provided and any such regulations may prescribe such modifications of the provisions of this Act or make such other provisions, as are necessary for the purpose of giving effect to this subsection.

(3) Regulations may provide for modifying the application of subsection (1) in relation to cases in which it appears to the Minister desirable to do so because of the nature of a person's employment or otherwise, and such regulations may in particular provide-

(a) for treating as not being insurable employment or for disregarding-

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

(ii) employment in the service of, or for the purpose of the trade or business, or as a partner, or a relative of the person concerned;

(iii) such employment in the service of, or in

the service of a person employed by, such international organizations, or countries other than Antigua and Barbuda, as may be prescribed;

- (b) for treating as being insurable employment such employment outside Antigua and Barbuda, in continuation of insurable employment in Antigua and Barbuda, as may be prescribed; and
- (c) for treating a person's employment as continuing during periods of holiday or incapacity for work or in such other circumstances as may be prescribed.

20.(1) Any insured person who is not liable to pay contributions shall be entitled on making application to the Director within such time and in such manner as may be prescribed to receive a certificate of voluntary insurance if he satisfies the prescribed conditions. Voluntary insurance.

- (2) An insured person holding a certificate of voluntary insurance may within such time and in such manner as may be prescribed the contributions at the prescribed rate for any contribution period for which he is not liable to pay a contribution as an insured person, and regulations may prescribe the circumstances in which such a person may cease to be entitled to contribute in default of payment of contributions within the prescribed time.

21.(1) For the purposes of this Act contributions shall subject to the provisions of this Act, be payable by insured persons and by employers. Source of funds.

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

22.(1) Except where regulations otherwise provide an employer liable to pay a contribution in respect of a person employed by him shall in the first instance be liable to pay also on behalf of and to the exclusion of such person any contribution payable by such person for the same contribution period, and for the purposes of this Act contributions so paid by an employer shall be deemed to be contributions paid by such person. Contributions by employed persons and employers.

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

person.

- (3) Any employer shall be entitled, subject to and in accordance with regulations, to recover from the pecuniary remuneration of a person employed by him the amount of any contribution paid or to be paid by him on behalf of such person and, notwithstanding anything in any enactment, such regulations may authorize such recovery to be made by deduction from the wages of such person.

23. Regulations may provide-

- (a) for exempting insured persons and their employers from liability to pay contributions for such periods as may be prescribed; and
- (b) for crediting contributions to insured persons in respect of such periods (whether before or after the appointed day) and for such purposes, as may be prescribed.

Exemption from liability for, and crediting of contributions.

- 24.** Where an employed person is employed successively or or concurrently in a contribution week or part of a contribution week by more than one employer, each employer shall be liable to pay to the Fund contributions with respect to the wages paid by him to that person.

Employment by more than one employer.

25. In relation to persons who-

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

Persons to be treated as employers.

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 the employer; and such regulations may further provide for adjusting the rights between themselves of persons prescribed as the employer, the immediate employer and the person concerned.

26.(1) Regulations may provide-

- (a) for the registration of employed persons;

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

- (b) for the payment and collection of contributions;
- (c) for the maintenance by employers of records of the payment of contributions;
- (d) for treating, for the purpose of any right to benefit, contributions paid after the due dates as paid on such dates, or on such later dates as may be prescribed, or as not having been paid;
- (e) for treating, as paid for the purposes of any right to benefit, contributions payable by an employer on behalf of an insured person but not paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of such person;
- (f) for treating contributions appropriate to the wrong category of person, or at the wrong rate, as aid on account of the contributions properly payable;
- (g) for the return of contributions paid in error; and
- (h) for any other matters incidental to the payment and collection of contributions under this Act.

(2) Where by regulations made under subsection (1) contributions are payable by means of security stamps such stamps shall be prepared and issued in such manner as the Minister may direct, and the Minister may-

- (a) arrange with the Minister responsible for the Post Office for the sale of security stamps through any post office; and
- (b) by regulations provide for applying, with the necessary adaptations as respects insurance stamps, all or any of the provisions (including penal provisions) of the Stamp Act or of any other enactment relating to stamps.

(3) Where regulations permit contributions to be paid, at the option of the person liable to pay, by a method other than by means of security stamps, and that method involves greater expense in the administration of the Fund that

would be incurred if the contributions were paid by means of security stamps, such regulations may provide for payment to the Fund by any person who adopts such method, and for the recovery on behalf of the Fund, of the prescribed fees in respect of the difference in the expense of administration.

PART III

Benefits.

- 27.(1)** Benefit shall be of the following kinds, namely-
- Description of benefit.
- (a) age benefit, that is to say, a payment or periodical payments to an insured person who has reached sixty years of age;
 - (b) sickness benefit, that is to say, periodical payments to an insured person who is rendered temporarily incapable of work otherwise than as a result of employment injury;
 - (c) invalidity benefit, that is to say, periodical payments to an insured person who is rendered permanently incapable of work otherwise than as a result of employment injury;
 - (d) maternity benefit, that is to say, periodical payments to an insured woman in the case of her pregnancy or confinement;
 - (e) funeral grant, that is to say, a payment on the death of an insured person;
 - (f) survivor's benefit, that is to say, a payment or periodical payment made in respect of an insured person who dies otherwise than as a result of an employment injury.
- (2) In this section the expression "employment injury" means such injury as attracts compensation under the Workmen's Compensation Ordinance or occupational benefit under this Act.
- Cap. 377.
- 28.(1)** Regulations may provide that in addition to the kinds of
- Occupational benefit.

benefit specified in section 27, there shall be occupational benefit which shall consist of-

- (a) injury benefit, that is to say, in addition to such free medical care and attention as may be prescribed periodical payments to an insured person who suffers personal injury by an accident arising out of and in the course of insurable employment or 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 periodical payments to an insured person who as a result of such injury or disease as aforesaid sustains loss of faculty;
- (c) death benefit, that is to say, periodical payments in respect of an insured person who dies as a result of such injury or disease as aforesaid;

Provided that, subject to the provisions of sections 44 and 45, occupational benefit shall not be payable in respect of an accident which happens outside Antigua and Barbuda, or a disease which is due to the nature of an employment in which the insured person has been engaged only outside Antigua and Barbuda.

- (2) From and after the day when regulations under subsection (1) come into operation an insured person who suffers any such personal injury or develops any such disease as entitles him to occupational benefit shall not in relation to such injury or disease be regarded as a workman for the purpose of the Workmen's Compensation Act.

29.(1) Regulation shall provide for-

- (a) The rates or amounts of benefit and the variation of such rates or amounts in different or special circumstances
- (b) The conditions subject to which and the periods

Rates of and conditions for benefit, meaning of "marriage" extended.

for which benefit may be granted;

(c) the date as from which benefit is provided.

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

(a) where it is a condition of title to benefit that a person is the widow or widower of an insured person, the Director may treat a single woman or widow who was living with a single man or widower at the time of his death as if she were in law his widow (or a single man or widower who was living with a single woman or widow at the time of her death as if he was in law her widower):

Provided that the Director is satisfied that in all the circumstances she (or he) ought to be so treated;

(b) where the question of marriage or remarriage or the date of marriage or remarriage, arises in regard to title to benefit the Director shall in the absence of the subsistence of a lawful marriage decide whether or not the persons concerned should be treated as if he, she or they were married or had remarried as the case may be, and if so from what date; and in determining the question the Director shall have regard to the provisions of paragraph (a);

(c) the determining of the Director under paragraph (a) and (b) shall, unless the context otherwise requires, have the effect of extending, as regards title to benefit, the meaning of the word "marriage" to include the association of a single woman or widow with a single man or widower as aforesaid and the words "wife" "husband" "widow" "widower" and "spouse" shall be construed accordingly.

30.(1) It shall be a condition of a person's right to benefit-

Time and manner of making claims.

(a) that, within the prescribed time, he makes a claim therefor to the Director on the form provided by

the Director for the purpose or in such manner as the Director may accept in the circumstances of the case; and

(b) that he produces such certificates, documents, information and evidence for the purpose of determining the right to benefit as the Director may require, and for that purpose attends at such office or place as the Director may appoint.

(2) Regulations may require employers to maintain such records, to make such reports and to furnish such information as may be prescribed for the purpose of establishing any person's title to any benefit.

31. Regulations may provide-

(a) for disqualifying a person for the receipt of any benefit if fails to make a claim therefor within the prescribed time:

Time and manner of paying benefit; disqualifications; adjustment or extinguishment of benefit; persons's unable to act; deceased persons.

Provided that any such regulation shall provide for extending the time within which the claim is to be made in cases where good cause is shown for the delay;

(b) for the prevention of the receipt of two benefits and the adjustment of benefits in special circumstances;

(c) as to the time and manner of payment of benefit and the information to be furnished by any person when applying for payment;

(d) for adjusting the commencement and termination of benefit, or changes in the rate of benefit, so that, except in the case of sickness benefit payments shall not be made in respect of any period shorter than a contribution week or at different rates for different parts of a contribution week;

(e) for extinguishing the right to payment of an sum by way of benefit if payment is not obtained within a prescribed period;

(f) for disqualifying a person for receiving sickness

benefit, or such other benefit as may be prescribed for such period as may be prescribed if that person-

- (i) has become incapable of work through his own misconduct, or
 - (ii) fails without good cause to attend for or submit to such medical examination or treatment as may be required in accordance with the regulations;
 - (iii) does any work as an employed or self-employed person; or
 - (iv) fails without good cause to observe any prescribed rules of behaviour;
- (g) for suspending payment of benefit to or in respect of any person during any period when he-
 - (i) is absent from Antigua and Barbuda; or
 - (ii) is undergoing imprisonment or detention in legal custody.

and for specifying the circumstances and manner in which payment of the whole or any part of the benefit may instead of being so suspended be made during any such period to any prescribed person nominated by the beneficiary, or for the maintenance of any prescribed person who the Director is satisfied is a dependant of the beneficiary;

- (h) for enabling a person to be appointed to exercise on behalf of any other person who may become unable for the time being to act, any right or power which that other person may be entitled to exercise under this Act and for authorizing a person so appointed to receive and deal with any sum payable by way of benefit to that other person;
- (i) in connection with the death of any person for enabling a claim for benefit to be made or proceeded with in his name, for authorizing payment to or among persons claiming as his personal representatives, legatees, next to kin,

creditors or otherwise, and for dispensing with strict proof of title of persons so claiming; and

- (i) for such other matters as may be necessary for the proper administration of benefits, including the obligation of claimants, beneficiaries and employers.

- 32.**(1) Regulations may provide for the appointment of medical officers or medical referees, and for the establishment of medical boards for the purposes of this Act. Appointment and of medical officers or referees, and medical boards.
- (2) There shall be paid out of the Fund to a medical officer or medical referee appointed under such regulations, and to a member of a medical board so established, such salary or other remuneration as the Board with the prior approval of the Minister may determine and such expense incurred in connection with the work of such medical officer, medical referee or member as may be so determined.
- 33.**(1) If it is found that any person by reason of the non-disclosure or misrepresentation by him of a material fact (whether such non-disclosure or misrepresentation was or was not fraudulent) has received any sum by way of benefit, while he was not entitled to that benefit, he shall be liable to repay the sum so received by him.
- (2) Where any person is liable to repay any sum received by him by way of benefit, that sum may be recovered without prejudice to any other remedy by means of deductions from any benefit to which he thereafter becomes entitled.
- 34.** 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 creditors. Benefit to be inalienable.

PART IV Adjudication and Legal Proceedings.

- 35.**(1) Regulations may provide for the determination by the Board, 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, and subject to the provisions of the regulations the decision in accordance therewith of any such question shall be final. Determination of claims and questions.

(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 authorizing the administration of oaths to witnesses;
- (d) as to the representative of one person at the hearing of a case by another person whether having professional qualifications or not,

and except in so far as it may be applied by such regulations the Arbitration Act shall not apply to any proceedings under this section.

Cap. 33.

(3) Regulations under subsection (1) shall 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 or any such question:

and 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;

(4) Notwithstanding anything in any enactment the decision of the High Court on a reference or appeal under subsection (3) 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.

36.(1) Regulations shall provide as respects matters arising-

Interim payments arrears and repayments.

- (a) pending the determination under this Act (whether in the first instance or on appeal or 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 of 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 where it appears to the Director that there is or may be a question whether the condition 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 reviews is to have effect;
- (c) for treating any benefit paid to any person which it is subsequently decided was not payable as properly paid, or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit;
- (d) for treating benefit 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 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.

37. There shall be paid out of the Fund to a person appointed under regulations made under subsection (1) of section 35 and to a member of a tribunal constituted under those regulations such salary or other remuneration as the Board with the approval of the Minister may determine and such expenses incurred in connection with the work of such person or member as may be so determined.

Remuneration of persons and tribunals appointed or constituted under sec. 35.

38.(1) Any person who fails to pay at or within the time prescribed for

Offences and penalties.

the purpose any contribution which he is liable under this Act to pay shall for each such failure be liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment of such fine to imprisonment for a term not exceeding three months.

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contribution of the employer in respect of any person from the wages or other remuneration of such person shall be liable on summary conviction to a fine not exceeding five hundred dollars and in default of payment of such fine to imprisonment for a term not exceeding three months.

(3) Any person who-

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

(b) affixes any used security stamp to any contribution card; or

(c) removes any security stamp from any contribution card, or without lawful excuse is in possession of any used security stamp or any contribution card issued in the name of any other person; or

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

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

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

shall be liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months or to both fine and imprisonment. In addition to such fine, the court may order any such person to refund to the Board any sum or benefits

derived from the commission of the offence.

- (4) In any proceedings under subsection (1) a security stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether it has been used for the purpose of paying a contribution or not.

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

General provisions as to prosecutions.

- (2) Any such officer although not of counsel or a solicitor may prosecute or conduct before a court of summary jurisdiction any such proceedings as aforesaid.
- (3) Notwithstanding any provisions 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 three months from the date on which evidence sufficient in the opinion of the Board to justify a prosecution for the offence comes to its knowledge or within the period of twelve months after the commission of the offence whichever period last expires 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.
- (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:

Provided that the wife or husband shall not be compellable 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 as well as that body shall be deemed to be guilty of that offence and shall be liable to be proceeded against and penalized accordingly.

40.(1) In any case where a person has been convicted of the offence under subsection (1) of section 38 of failing to pay a contribution he shall be liable to pay to the Fund a sum equal to the amount which he failed to pay.

(2) In any case where-

(a) a person is convicted of an offence under paragraph (b) of subsection (3) of section 38 or of an offence under any provision of the Stamp Act or of any other enactment relating to stamps as applied by regulations or of an offence under any regulation, and

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

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

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

(4) Where any person is charged with any such offence as is mentioned in subsection (1) or (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.

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

(6) 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 employed person's contribution shall not be recoverable by the employer from the insured person.

(7) If an employer being a body corporate fails to pay to the Fund any sum which the employer has been ordered to pay under this section such sum or such part thereof as remains unpaid shall be 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.

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

41.(1) All sums due by way of contributions to the Fund under this Act shall bear interest from such date and at a rate to be prescribed by regulations, and shall be recoverable-

Civil proceedings

- (a) as civil debt; or
- (b) by warrant issued by the Director and directed to the Registrar of the Supreme Court, setting out in such warrant or in a schedule thereto the several sums due on account of contributions from the persons and bodies against whom the warrant is directed:

Provided that no warrant shall be issued under this section unless the Director has given at least thirty days notice to the person or persons against whom the warrant is directed.

- (2) Proceedings for summary recovery of sums due to the Fund may, notwithstanding anything in any enactment to the contrary, be brought at any time within three years from the time when the matter complained of arose.
- (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.
- (4) The Registrar of the Supreme Court shall on the receipt of the warrant issued under subsection (1) proceed to levy upon the goods, chattels, and lands of the person or persons against whom the warrant is directed and to sell so much of such goods, chattels and land as may be required to satisfy the sums due on account of the Contributions to the Fund.
- (5) Every sale pursuant to subsection (4) shall be conducted by public auction and shall be held at a place and time to be determined by the

Registrar of the Supreme Court.

- (6) No sale shall be conducted under this section unless a notice of such sale is published in the *Gazette*.
- (7) The proceeds of the sale shall be applied to the payment of the contributions due and the expenses of the levy and sale and the surplus if any shall be paid on application to the person entitled thereto.

42.(1) Where an employer has failed or neglected-

Proceedings for benefit lost
by employers's default.

- (a) to pay contributions which he is liable to pay in respect of or on behalf of any insured person; or
- (b) to comply in relation to any such person with the requirements of the Act relating to the payment and collection of such contributions,

and by reason of such failure or neglect that person or any other person to whom benefit may have been payable has lost in whole or in part the benefit to which he would have been entitled, that person or that other person shall be entitled to recover summarily from the employer as a civil debt a sum equal to the amount of the benefit so lost.

- (2) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provisions 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.

PART V.

Miscellaneous.

- 43. This Act shall apply to persons employed by or under the Crown 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. Crown servants.

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

Persons employed aboard ships, vessels or aircraft.

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

- (a) for the insurance 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 fulfill the conditions of section 19;
- (b) for excepting from insurance under this Act or from liability to pay contribution any persons employed as aforesaid who neither are domiciled nor have a place of residence in Antigua and Barbuda;
- (c) for the taking of evidence for the purpose of any claim for benefit in any place outside Antigua and Barbuda;
- (d) for enabling persons on board ships, vessels, or aircraft to authorize the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed;
- (e) for the payment of occupational benefit to or in respect of persons employed aboard ships, vessels or aircraft in respect of accidents happening in the course of, or of prescribed diseases which are due to the nature of, such employment;
- (f) for treating as accidents arising out of and in course of employment aboard any ship, vessel or aircraft accidents happening while the employed person is proceeding to or from such employment, or in other prescribed circumstances; and
- (g) for withholding any benefit which may be payable to a mariner for any period while the owner of his ship or vessel is under a statutory obligation to pay

him wages.

- 45.** For the purpose of giving effect to any agreement with the government of any other part of the Commonwealth or the government of any other country, being an agreement which provides for reciprocity in matters of social security, it shall be lawful for the Minister, by order, to modify or adapt the provisions of this Act in their application to cases affected by the agreement. Reciprocal agreements with other countries.
- 46.(1)** 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 3 or upon any receipt given by an officer or employee of the Board for or in respect of any sum payable to the Fund. Exemption from Stamp Duty.
- (2) Nothing anything in subsection (1) shall be deemed to exempt any person from liability to pay stamp duty on any power of attorney or on any documents other than those mentioned in subsection (1) which is otherwise liable to duty under the Stamp Act. Cap. 410.
- 47.(1)** The Minister may make such regulations as are required by this Act to be made, or such regulations modifying or affecting the operation of any provision of this Act as he may consider necessary of desirable generally for the better carrying into effect of the provisions of this Act. Regulations
- (2) Notwithstanding anything contained in section (17) of the Interpretation and General Clauses Act, regulations may provide a penalty of three hundred dollars for each offence being a contravention of or failure to comply with any regulation, or where the offence consists of continuing any such contravention or failure after conviction thereof, three hundred dollars together with a further three hundred dollars for each day on which it is so continued. Cap 224.
- (3) Any power conferred by this Act to make regulations may be exercised-
- (a) either in relation to all cases to which the power extends or in relation to all such cases subject to specified exceptions or in relation to any specified cases or class of case;
- (b) so as to make as respects the cases in relation

to which it is exercised-

- (i) The full provision to which the power extends or an less provision;
- (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases, or different provision as respects the same case for different purposes of the Act;
- (iii) any such provision either unconditionally or subject to any specified condition.

(4) Without prejudice to any specific provisions of this Act, any regulations may contain such incident of supplementary provisions as appear to the Minister to be expedient for the purpose of the regulations.

48.(1) All regulations shall be laid before Parliament as soon as may be after they are made and if either House of Parliament resolves that the regulations be annulled they shall thereupon cease to have effect but without prejudice to anything previously done thereunder or to the making regulations. Regulations to be laid before Parliament.

49. Nothing in this Act shall be deemed to prevent an employer from operating any private scheme providing, for any person who is or has been employed by him, benefits of any kind whether similar to to benefit under this Act or otherwise. Operation of private schemes.

50.(1) In any case where- Protection of contributions in certain cases.

(a) any warrant of distress is executed against the property of an employer and the property is seized or sold in pursuance of the execution; or

(b) on the application of a secured creditor the property of an employer is sold,

the proceeds of the sale of the property shall not be distributed to any person entitled thereto until the court ordering the sale has made provision for the payment of any amounts due in respect of contributions payable by the employer during the

twelve months immediately proceeding the date of the order.

- (2) For the purposes of this section, the expression “employer” includes any company in liquidation under the provisions of the Companies Act.

51. (1) In this Act the expression “the appointed day” means, subject to the following provisions of this section, such day as the Governor-General may by order published in the Gazette appoint and different days may be appointed for different provisions or different purposes of this Act and for the same provisions for the same purpose in relation to different cases or classes of case.

Provisions as to commencement of insurance under this Act.

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

52. The Social Security (Benefits) (Maternity) Regulations, 1973 made under sections 29,30 and 31 shall be deemed to be and are deemed to have been properly and validly made and all acts done and all payments made on or after the 24th day of September, 1973 in respect of maternity benefits to wives of insured persons are declared to have been validly and properly made and are hereby confirmed.

Validity of regulations made S. R. & O. 13/1973

FIRST SCHEDULE.

Section 4 (1).

Constitution and Proceedings of the Social Security Board of Control.

- 1.** The Board shall consist of seven persons appointed by the Governor-General of whom-
- (a) one shall be the Director, or in his absence his deputy;
 - (b) two shall represent Government;
 - (c) two shall represent employers; and
 - (d) two shall represent employed person.

2. The members representing Government shall be appointed by the Governor-General on the advice of the Minister.
3. The members representing employers shall be appointed after consultation with such associations of employers, or such persons or bodies, as appear to the Governor-General likely to produce representation for employers generally throughout Antigua and Barbuda.
4. The members representing employed persons shall be appointed after consultation with such trade unions, or association of trade unions, as appear to the Governor-General to be representative of employees generally throughout Antigua and Barbuda.
5. The Governor-General shall designate two representative members of the Board to be chairman and vice-chairman.
6. The representative members of the Board shall hold office for such period not exceeding three years as may be determined by the Governor-General. Any member of the Board shall be eligible for re-employment.
7. A member of the Board may at any time, by notice in writing addressed to the Minister, resign his office; and if a member becomes, in the opinion of the Governor-General, unfit to continue in office or incapable of performing his duties, the Governor-General shall in such manner as he thinks fit declare the office of the member vacant.
8. The quorum for any meeting of the Board shall be three including the chairman or deputy chairman, one of whom shall preside at all meetings; the Director or his deputy, unless excluded by law, shall be present at all meetings; and the Board may act notwithstanding any vacancy in its membership.
9. A substitute member may be appointed by the Minister after consultation with the appropriate body, for any one meeting which a member is unable to attend.
10. The decision of the Board shall be by a majority of votes, and in the event of an equality of votes the chairman presiding at the meeting shall have a casting vote.
11. Minutes of each meeting shall be kept in proper form by such officer of the Board as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the chairman or deputy chairman as the case may be.
12. The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such co-opted person shall have any right to vote.
13. If any member of the Board or other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matter he shall, at the meeting and as soon as is practicable after the commencement of the meeting,

disclose the fact of his interest and shall not take part in the discussion, consideration or voting on such contract or other matter.

14. Subject to the provisions of this Act, the Board shall have power to regulate its own proceedings.

SECOND SCHEDULE

Section 2 (1).

Insurable employments.

1. Employment in Antigua and Barbuda under any contract of service or apprenticeship, written or oral, and whether expressed or implied.
2. Employment as aforesaid outside Antigua and Barbuda of a person domiciled in or having a place of residence in Antigua and Barbuda-
 - (a) as master or member of the crew of any ship registered in Antigua and Barbuda or of any other British ship or vessel of which the owner or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in Antigua and Barbuda or in any other capacity on board any such ship or vessel; or
 - (b) as pilot, commander, navigator or member of the crew of any aircraft registered in Antigua and Barbuda, or in any other capacity on board any such aircraft;

Provided that, in either case, the employment in that other capacity is for the purpose of the ship, vessel or aircraft, or the crew; or of any passenger or cargo or mails carried thereby.