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National Insurance and Social Security **Cap. 36:01**

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CHAPTER 36:01

**NATIONAL INSURANCE AND
SOCIAL SECURITY ACT**

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Cap. 36:01 *National Insurance and Social Security*

CHAPTER 36:01

NATIONAL INSURANCE AND SOCIAL SECURITY ACT

15 of 1969 **An Act to establish a system of national insurance and social security providing pecuniary payments by way of old age benefit, invalidity benefit, survivor's benefit, sickness benefit, maternity benefit and funeral benefit, and to substitute for compensation under the Workmen's Compensation Ordinance a system of insurance against injury or death caused by accident arising out of and in the course of employment or resulting from disease due to the nature of employment; to establish a National Insurance Fund; and to provide for matters connected with or incidental thereto.**

*[All sections except section 19(2) ... 29th September, 1969
section 19(2) 1st January, 1970]

PART I

PRELIMINARY

Short title. **1.** This Act may be cited as the National Insurance and Social Security Act, and subject to section 19(3) shall come into operation on a date to be appointed by the Minister by notice published in the *Gazette*.*

Interpretation.
[14 of 1971
9 of 1981
28 of 1997]
c. 75:01 **2.** In this Act—
“the Administration” means the Co-operative Finance Administration established by section 3 of the Co-operative Financial Institutions Act;

“appointed day” means the day appointed under section 1 for the purpose of bringing this Act into operation;

“benefit” means benefit which is payable under this Act;

“the Board” means the National Insurance Board established by section 3;

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

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

“declared day” means the day declared under section 19(3) for the purpose of bringing subsection (2) of that section into operation;

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

“employed person” means any person who is insured under this Act by virtue of section 11(1);

“the Fund” means the National Insurance Fund established by section 33;

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

“insurable employment” means subject to section 11 (2) any employment specified in the Schedule;

Schedule.

“insured person” means a person insured under this Act;

“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 actual loss of function);

“prescribed” means prescribed by regulations;

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

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

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PART II

THE NATIONAL INSURANCE BOARD

Establishment
and constitu-
tion of
National
Insurance
Board.
[9 of 1981]

3. (1) There is established for the purposes of this Act a body to be called the National Insurance Board.

(2) The Board shall consist of the following members, namely:

- (a) a chairman who shall be appointed by the Minister;
- (b) the General Manager of the Board, *ex-officio*, who shall be the Deputy Chairman;
- (c) seven other members appointed by the Minister from among persons appearing to him to be qualified as having experience of, and shown capacity in, such matters which he considers will be beneficial to the functioning of the Board.

(3) Subject to the provisions of this Act, the term of office and other conditions of appointment of the members of the Board, other than the General Manager of the Board, shall be such as may be determined by the Minister.

(4) The Board shall function subject to the supervision and control of the Administration.

Incorporation.

4. (1) The Board shall be a body corporate.

(2) Service upon the Board of any notice, order or other document of whatsoever kind shall be executed by delivering the same to or sending it by registered post addressed to the chairman at the principal office of the Board.

Affixing of
seal and
authentication
of documents.

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

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

6. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board may determine.

Meetings of
the Board and
procedure.
[14 of 1971
9 of 1981]

(2) The chairman, or in the event of his being absent from Guyana or for any reason whatsoever unable to act, the deputy chairman, may at any time call a special meeting of the Board and shall call a special meeting within seven days of a requisition for that purpose addressed to him in writing by any four members.

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

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

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

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

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

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(8) The Secretary of the Administration is entitled to receive notices of all meetings of the Board and to attend thereat without the right to vote and he is entitled to be furnished with copies of the records of the proceedings at the meetings showing the matters discussed and the conclusions reached by the Board thereat.

(9) Subject to the provisions of this Act, the Board has the power to regulate its own proceedings.

Power to
appoint
committees.

7. (1) Subject to the provisions of this Act, the Board may appoint such committees of the Board as the Board shall think fit:

Provided that any committee so appointed 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 be determined by the Board.

Power to
delegate.

8. (1) Subject to the provisions of this Act, the Board may delegate to any member or committee or officer or employee of the Board the power to carry out on its behalf such functions as the Board may determine.

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

Remuneration
of members,
co-opted
persons and
committee
members.
[14 of 1971
9 of 1981]

9. The Board shall pay—

(a) to each member in respect of his office as such, such remuneration and allowances (if any) as the Administration may determine and to the chairman and to the deputy chairman in respect of his office as such, such remuneration and allowances (if any) in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member as may be so determined;

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(b) to any person co-opted under section 6(7) and to any person not being a member of the Board serving on a committee appointed under section 7 such remuneration and allowances (if any) as the Board with the approval of the Administration may by resolution declare.

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

Protection of Board and its members.

(a) of the existence of any vacancy in the membership, or any defect in the constitution of the Board; or

(b) of any omission, defect or irregularity not affecting the merits of the case.

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

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

PART III

INSURED PERSONS AND CONTRIBUTIONS

11. (1) Subject to this Act, every person who on or after the appointed day is—

Persons to be insured.
[11 of 1977]

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

(b) gainfully occupied in insurable employment, shall be insured under this Act and shall remain so insured for life.

(2) Regulations may provide—

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(a) for treating as employment as an employed person any employment outside Guyana in continuation of any insurable employment;

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

(i) employment which in the opinion of the Minister 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, or for the purpose of the trade or business, or as a partner, of a relative of the person concerned;

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

(iv) such employment in the service of, or in the service of a person employed with, such international organisations or countries other than Guyana as may be prescribed;

(c) for treating for the purposes of this Act or of such provisions thereof as may be prescribed the employment of any person as—

(i) continuing during periods of holiday, incapacity for work or such other circumstances as may be prescribed;

(ii) ceasing in such circumstances as may be prescribed.

Insurance of self-employed persons, of persons under sixteen years of age and of sixty years or upwards.
[11 of 1977]

12. The Minister may by regulations provide for the insurance under this Act of self-employed persons, of persons under sixteen years of age and of persons sixty years or upwards in respect of any of the several contingencies in relation to which benefits are provided under this Act and any such regulations may provide for such modifications of the provisions of this Act or may make such other provision as may be necessary for the purpose of giving effect to this section.

Source of funds.

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

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(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.

14. Regulations may provide for—

(a) excepting insured persons from liability to pay contributions for such periods as may be prescribed or without prejudice to the generality of the foregoing for periods—

- (i) of incapacity for work; or
- (ii) of full time unpaid apprenticeship;

(b) crediting contributions to insured persons for periods for which such persons are excepted from liability to pay contributions under paragraph (a).

Exceptions from liability for, and crediting of contributions.

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

Voluntary contributions.

(2) An insured person holding a certificate of voluntary insurance granted under subsection (1) may pay within such time and in such manner as may be prescribed, the contribution at the prescribed rate for any contribution period in which he is not liable to pay a contribution under this Act as an insured person, and regulations may prescribe the circumstances in which such a certificate may be cancelled in default of payment of contributions within the prescribed time.

16. (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

Contributions of employed persons and employers.

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the same contribution period and for the purposes of this Act contributions so paid by an employer on behalf of such person shall be deemed to be contributions by such person.

(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 to recover from such person the contribution of the employer in respect of such person.

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from 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 authorise such recovery to be made by deductions from the wages of such person.

General provisions as to the payment and collection of contributions, etc. [15 of 1989 28 of 1997]

17. (1) Regulations may provide—

- (a) for the payment and collection of contributions;
- (b) for treating for the purposes 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;
- (c) for treating for the purposes of any right to benefit, contributions payable by an employer on behalf of an insured person but not paid as paid where the failure to pay is shown not to have been with the consent or connivance of or attributable to any negligence on the part of such person;
- (d) for treating contributions of the wrong class or at the wrong rate as paid on account of the contributions properly payable;
- (e) for the return of contributions paid in error.

(2) Where regulations permit contributions to be paid at the option of the person liable to pay by a method other than by means of cash or cheque and that method involves greater expense in administration to the Fund than would be incurred if the contributions were paid by means of cash or cheque such regulations may provide for

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the 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 in administration.

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

PART IV

BENEFITS

19. (1)(a) Subject to subsections (2) and (3), benefits shall be of the following kinds only—

- (i) old age benefit, that is to say, a payment or periodical payments to an insured person who has reached sixty years of age;
- (ii) invalidity benefit, that is to say, a payment or periodical payments to an insured person who is rendered permanently incapable of work otherwise than as a result of employment injury;
- (iii) survivor's benefit, that is to say, a payment or periodical payments made in respect of an insured person who dies and who immediately before his death was receiving old age benefit or invalidity benefit or in respect of an insured person who dies otherwise than as a result of employment injury;

Description of benefits.
[11 of 1977
6 of 1981
15 of 1989
27 of 1992
28 of 1997]

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(iv) sickness 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 is rendered temporarily incapable of work otherwise than as a result of employment injury;

(v) maternity benefit, that is to say, a payment or periodical payments to an insured person or to the uninsured spouse of an insured person in the case of her pregnancy or confinement;

(vi) funeral benefit, that is to say, a payment on the death of an insured person or of a person in such relationship to an insured person as may be prescribed;

(vii) child care benefit, that is to say, in addition to free medical care, a payment or periodical payments to a mother who has been absent from work for the sole purpose of caring for her sick child;

(viii) constant attendance benefit, that is to say, a payment or periodical payments to an invalid or disabled person who is in receipt of a pension under this Act.

(b) In this subsection, the expression “employment injury” means such injury as before the declared day attracts compensation under the Workmen’s Compensation Ordinance or on or after such day attracts industrial benefit under this Act.

Cap. 111
1953 Ed.

(2) Subject to subsection (3), there shall be in addition to the benefits specified in subsection (1) industrial benefit which shall comprise—

(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 which is caused by an accident arising out of and in the course of his 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, a

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payment or periodical payments to an insured person who as a result of such injury or disease as is referred to in paragraph (a) suffers 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 is referred to in paragraph (a):

Provided that, subject to section 48, industrial benefit shall not be payable in respect of an accident happening or a prescribed disease developing while the insured person is outside Guyana.

(3) Subsection (2) shall come into operation on such day, not being earlier than two months after the appointed day, as may be declared by the Minister by notice in the *Gazette*.

20. Regulations shall provide for—

Rates of benefits.

- (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 for which benefit may be granted; and
- (c) the date as from which benefit is provided.

21. Regulations may provide—

Regulations with regard to payment of benefits and as respects persons abroad or in prison, persons unable to act and deceased persons.

- (a) for 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 and notwithstanding anything in this Act, for adjusting the commencement and termination of benefit so that except in the case of sickness benefit or injury 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 for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within six months or such shorter period as may be prescribed from the time at which such sum is receivable in accordance with the regulations;

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

(c) for the circumstances in which and the time for which a person shall be disqualified for or disentitled to receipt of benefit or 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 is—

(i) absent from Guyana, 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 any part of the 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 Director are dependants of that person;

(d) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act, and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary;

(e) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next of kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others) and for dispensing with strict proof of the title of persons so claiming; and

(f) for such other matters as may be necessary for the proper administration of benefits, including the obligations

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of persons claiming any benefit, beneficiaries and employers.

22. For the purposes of this Act an accident—

Presumption and general provisions relating to accidents.

(a) arising out of employment of an insured person shall be presumed unless the contrary is shown to have occurred in the course of the employment and where the accident occurred in the course of the employment, it shall be presumed, unless the contrary is shown, to have arisen out of the employment;

(b) shall be deemed to arise out of and in the course of the employment of an insured person, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employers, or that he is acting without instructions from his employer, if the act is done for the purpose of and in connection with the trade or business of the employer;

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

(i) the accident would have been deemed so to have arisen had he been under such an obligation; and

(ii) at the time of the accident, the vehicle, ship, vessel or aircraft is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer and is not being operated in the ordinary course of a public transport service;

(d) happening to an insured person in or about any premises at which he is for the time employed for the purposes of the trade or business of his employer shall be

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deemed to arise out of and in the course of his employment if it happens while he is taking steps, or an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

Prescription of diseases.

23. A disease may be prescribed for the purposes of this Act, in relation to any insured persons if the Minister is satisfied that—

(a) it ought to be so prescribed having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and

(b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty,

and regulations prescribing any such disease may provide that a person who developed the disease on or at any time after a date specified in the regulations, being a date before the regulations come into force but not before the declared day, shall be treated for the purposes of this Act, subject to any prescribed modifications, as if the regulations had been in force when he developed the disease.

Regulations relating to diseases and medical officers and boards.

24. Regulations may provide for—

(a) determining the time at which a person is to be treated for the purposes of this Act as having developed any prescribed disease and the circumstances in which any such disease is, where the person in question has previously suffered therefrom, to be treated as having recrudesced or having been developed afresh;

(b) presuming any prescribed disease—

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

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

(c) the appointment of medical officers and the establishment of medical boards for the purpose of this Act; and

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

25. There shall be paid out of the Fund to a medical officer appointed under regulations made under section 24(c) and to a member of a medical board established in accordance with such regulations, such salary or other remuneration as the Board with the prior approval of the Administration may determine and such expenses incurred in connection with the work of such medical officer or member as may be so determined.

Payment of medical officers and medical boards.
[22 of 1973
11 of 1977]

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

Accidents or diseases in course of illegal employment.

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(2) In this section the expression “relevant employment” means, in relation to an accident, the employment out of and in the course of which the accident arises and in relation to a prescribed disease the employment to the nature of which the disease is due.

Benefit where disease is personal injury by accident.

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

Repayment of benefit improperly received.

28. (1) If it is found that any person by reason of the non-disclosure or misrepresentation by him 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 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.

Benefits to be inalienable.

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

PART V

ADMINISTRATION, FINANCE AND LEGAL PROCEEDINGS

Officers and employees of the Board.
[14 of 1971
22 of 1973
11 of 1977
28 of 1997]

30. (1)(a) There shall be a General Manager of the Board who shall be appointed by the Administration at such remuneration and on such terms and conditions (including the payment of pension, gratuity or other like benefit by reference to his service) as the Administration think fit.

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(b) With the approval of the Administration, the Board may employ such officers and employees at such remuneration and on such terms and conditions (including the payment of pensions, gratuities or other like benefits by reference to the service of its officers and employees) as it thinks fit for the proper conduct of its business.

(2) Where with the approval of the Public Service Commission an officer in the public service is seconded or temporarily transferred for duty to an office with the Board from a pensionable office within the meaning of the Pensions Act, section 5 of that Act shall apply to him as if his service in such office were service in a civil capacity under the Government of Guyana. c. 27:02

(3) Where with the approval of the Public Service Commission an officer in the public service has been transferred to any office with the Board, the provisions of regulation 21 of the Pensions Regulations (as contained in the Schedule of the Pensions Act), shall apply to him as if such service were other public service within the meaning of that Act and the provisions of the Pensions Act shall apply to him as if such service were other public service within the meaning of that Act, not being service under any of the Scheduled Governments as defined in regulation 2 of the Pensions Regulations, and regulation 21 of those Regulations shall apply accordingly to the person transferred. c. 27:02
Sub. Leg.

(4) Except for the purpose of the performance of his functions or when lawfully required to do so by any court or under the provisions of any law no member, officer or employee of the Board shall disclose to any person any information which he has acquired in the performance of his functions under this Act as such member, officer, or employee.

(5) Any person who contravenes the provisions of subsection (4) or who in the purported performance of duties under this Act obtains or seeks to obtain information which he is not authorised to obtain shall be liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for a term of six months.

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Designation
and power of
inspectors.
[22 of 1973]

31. (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, that is to say—

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

(b) to make examination and enquiry as may be necessary for ascertaining whether the provisions of this Act are being or have been complied with in any such premises or place;

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

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

(3) The occupier of any premises or place liable to inspection under this section and any person who is or has been employing any person, and the servants or agents of any such occupier or other person, and any insured person shall furnish to an inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable or have been duly paid by or in respect of any person, or whether benefit is or was so payable to or in respect of any person and the inspector if he considers it necessary may make copies of, or extracts from, the documents so produced, and for that purpose he shall have power to take possession of the documents.

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

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

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

32. 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 or execution or intended execution of this Act the plaintiff shall not recover unless he alleges in his pleading and proves at the trial that such act was done either maliciously or without reasonable and probable cause.

Proceedings against officers and employees of the Board under this Act.

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

Establishment of Fund.
[14 of 1971
11 of 1977]

(2) There shall be paid into the Fund—

- (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, without prejudice to the generality of the foregoing, the repayment of benefit; and
- (e) such other sums as may from time to time be provided by the National Assembly for any of the purposes of this Act or as may from time to time be received and accepted by the Board on behalf of the Fund.

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

- (a) all claims for benefits;
- (b) refunds of contributions paid in error;

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(c) all expenses properly incurred in the administration of this Act, including disbursements by way of remuneration, allowances and expenses payable under sections 9, 25 and 40 and the remuneration and allowances (if any) payable to officers and employees of the Board.

(4) Accounts of the Fund shall be prepared in such form in such manner and at such times as the Administration may direct and an auditor nominated by the Administration shall examine and certify every such account.

(5) Any moneys forming part of the Fund may from time to time be invested by the Board in such securities as may be approved of by the Administration.

Defrayment of initial expenditure and meeting of temporary insufficiency in Fund. [22 of 1973]

34. (1) The initial expenditure incurred in carrying this Act into effect shall be defrayed out of such moneys as Parliament may provide for the purpose.

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

(3) Any sums advanced by Parliament pursuant to subsection (1) or pursuant to subsection (2) shall be repaid out of the Fund as soon as may be practicable.

Expenses of Post Office. [13 of 1976]

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

Report and accounts to be submitted to Minister. [14 of 1971 11 of 1977]

36. (1) The Board shall—

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

(b) submit to the Minister every account, certified by the nominated auditor pursuant to section 33(4) together with

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the report of the nominated auditor therein, within one month of such certification; and

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

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

37. (1) The Board shall with the assistance of an actuary approved by the Minister review the operation of this Act during the period ending the thirty-first day of December 1973 and thereafter during the period ending with the thirty-first day of December in every fifth year, and on each such review make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of contributions to support benefits having regard to its other liabilities under this Act:

Review of operation of Act.

Provided that the Minister may at any time direct that the period to be covered by the review and report under this subsection shall be reduced and that the making of that and subsequent reviews and reports under this subsection shall be accelerated accordingly.

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

38. (1) Regulations may provide for the determination by the Board 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.
[22 of 1973]

(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 which is to be followed, the form which is to be used for any document, the evidence which is

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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 any hearing of a case by another person whether having professional qualifications or not,

c. 7:03 and except so far as it may be applied by regulations under this subsection the Arbitration Act shall not apply to any proceedings under this section.

(3) Regulations under subsection (1) may provide for the reference to the High Court for decision of any question of law arising in connection with the determination of any question under the regulations and for appeals to the High Court from the decision of the Board or of a person or tribunal on any such question, and—

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

(b) notwithstanding anything in any enactment, the decision of the High Court on a reference or appeal under this subsection shall be final save that, on a question of law or of mixed law and fact, an appeal shall lie therefrom to the Court of Appeal except a judgment or order of the High Court given or made before 26th November, 1973, and on any such reference or appeal the court may order the Board to pay the costs of any other person whether or not the decision is in favour of the Board and whether or not the Board appears on the reference or appeal.

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39. (1) Regulations may provide as respects matters arising—

Interim
payments,
arrears and
repayments.
[14 of 1971]

(a) pending the determination under this Act (whether in the first instance or on appeal or reference, and whether originally 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 of the liability of any person for contributions; or

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

(2) Without prejudice to the generality of subsection (1), regulations thereunder may include provision—

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

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

(c) for treating any benefit paid to any person under an award or by virtue of any provision of the regulations which it is subsequently decided was not payable as properly paid or as paid on account of any other benefit which it is decided was payable to him or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;

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

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

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

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

Payment of persons and tribunals appointed or constituted under section 38. [14 of 1971 11 of 1977]

40. There shall be paid out of the Fund to a person appointed under regulations made under section 38(1) and to a member of a tribunal constituted in accordance with such regulations, such salary or other remuneration as the Board with the prior approval of the Administration may determine and such expenses incurred in connection with the work of such person or member as may be so determined.

Offences and penalties. [15 of 1989 28 of 1997]

41. (1) Any insured person or employer who fails to pay at or within the time prescribed for the purpose any contribution which he is liable to pay pursuant to this Act, shall for each such failure be liable on summary conviction to a fine of three thousand dollars and in default of such payment to imprisonment for a term not exceeding three months.

(2) Any person who—

(a) wilfully delays or obstructs an inspector in the exercise of any power under section 31; or

(b) refuses or neglects to answer any question or to furnish any information or to produce any documents when required so to do under section 31,

shall be liable on summary conviction to a fine of three thousand dollars in the case of a first offence and of fifteen thousand dollars in the case of a second or subsequent offence.

(3) 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 of such person shall be liable on summary conviction to a fine of six thousand dollars.

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

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

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

shall be liable on summary conviction to a fine of sixty-five thousand dollars and to imprisonment for six months.

42. (1) Subject to the provisions of article 187 of the Constitution, proceedings for an offence under this Act shall not be instituted except by or with the consent of the Board or by an inspector or other officer authorised in that behalf by special or general directions of the Board.

General provisions as to prosecutions under Act. [O. 80/1980] c. 1:01

(2) Any such inspector or other officer may although not of counsel or a solicitor 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 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 purposes of this subsection a certificate purporting to be signed on behalf of the Board as to the date on which such evidence came to the knowledge of the Board 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:

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

(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 the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Recovery of contributions on prosecutions under Act. [15 of 1989 28 of 1997]

43. (1) In any case where any person has been convicted of the offence under section 41(1) 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) On any such conviction as is mentioned in subsection (1), if notice of intention to do so has been served with the summons or warrant, evidence may be given—

(a) of the failure on the part of the convicted person to pay at or within the time prescribed for the purpose on behalf or in respect of the same insured person other contributions under this Act during the two years preceding the date of the offence; and

(b) in the case of any such conviction as is mentioned in the said subsection (1), of the failure on the part of the said person so to pay on behalf or in respect of any other person employed by him any contributions under this Act on that date or during these two years;

and on proof of such failure the convicted person shall be liable to pay to the Fund a sum equal to the total of all the contributions under this Act which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

(3) Where the person charged with such offence as is mentioned in subsection (1) of this section is convicted of that offence in his absence under section 13(2) of the Summary Jurisdiction (Procedure) Act, then if—

(a) it is proved to the satisfaction of the Court, on oath or in the prescribed manner, that such a notice as is mentioned in subsection (2) of this section has been duly served specifying the other contributions in respect of which the prosecutor intends to give evidence; and

(b) the clerk of the court has received a statement in writing purporting to be made by the accused or by counsel acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,

the said subsection (2) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

(4) Where any person is charged with any such offence as is mentioned in subsection (1) 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. c. 11:04

(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 the provisions of this section shall be treated as a payment in satisfaction of the unpaid contributions and the portion of the insured person of those contributions shall not be recoverable by the employer from the insured person.

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

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due to the Fund jointly and severally from any directors of the body corporate who knew or could reasonably be expected to have known of the failure to pay the contribution or contributions in question.

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

Civil proceedings to recover sums due to Fund.
[6 of 1981
27 of 1992]

44. (1) All sums due to the Fund by way of contributions, unless regulations otherwise provide shall bear interest at the rate which is one per cent greater than the rate charged by commercial banks on overdrafts or such other rate and as from such date as may be prescribed and shall be recoverable as debts due to the Fund, and without prejudice to any other remedy, may be recovered on behalf of the Fund summarily in a magistrate's court, without limit of amount, as a civil debt.

Cap.7:02

(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 after the matter complained of arose, whether or not by virtue of this subsection, prior to its amendment by the Miscellaneous Enactments (Amendment) Act 1981, or by virtue of the provisions of the Limitation Act such sums would have been irrecoverable immediately prior thereto.

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

(4) The Board may, if in its opinion the delay in paying contributions due to the Fund was caused by an error and was not a deliberate act on the part of the employer, waive the interest chargeable or determine the rate at which such interest shall be paid.

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

(a) to pay any contributions which under this Act he is liable to pay in respect of or on behalf of any insured person in his employment; or

(b) to comply in relation to any such person with the requirements of this Act relating to the payment and collection of contributions;

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

[6 of 1981]

and by reason thereof that person or any other person to whom benefit under this Act 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 as the case may be 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 the benefit so lost, irrespective of the amount.

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

(3) Proceedings under this section may notwithstanding any enactment to the contrary be brought at any time after the date on which the employed person but for the failure or neglect of the employer would have been entitled to receive the benefit lost, whether or not by virtue of this subsection, prior to its amendment by the Miscellaneous Enactments (Amendment) Act 1981, or by virtue of the provisions of the Limitation Act the sum equal to the amount of the benefit lost would have been irrecoverable immediately prior thereto.

Cap. 7:02

46. Nothing in the amendments effected to sections 44 and 45 by the Miscellaneous Enactments (Amendment) Act 1981 shall enable proceedings to be brought in respect of a claim which was the subject matter of proceedings instituted and determined prior to the coming into operation of those amendments.

Saving.
[6 of 1981]

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PART VI

MISCELLANEOUS

State servants.

47. This Act shall apply to persons employed by or under the State in like manner as if the State 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:

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

Persons employed on board ships, vessels or aircraft.

48. (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 their application in relation to persons who are or have been employed on board any ship, vessel or aircraft.

(2) Without prejudice to the generality of subsection (1), regulations thereunder 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 or the declared day on board ships, vessels or aircraft notwithstanding that they do not fulfil the conditions of section 11;

(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 Guyana;

(c) for the taking of evidence for the purpose of any claim to benefit in any place outside Guyana;

(d) for enabling persons on board ships, vessels or aircraft to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed;

(e) for the payment of industrial benefit to or in respect of mariners and airmen in respect of accidents happening and prescribed diseases developed while they are outside Guyana;

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(f) for treating as accidents arising out of and in the course of the employment of a mariner or airman accidents happening while he is proceeding to or from his ship, vessel or aircraft or in any other prescribed circumstances; and

(g) for withholding any benefit that may be payable to a mariner for any period during which the owner of his ship or vessel is under a statutory obligation to pay him wages.

49. (1) Without prejudice to the generality of any other power to make regulations, the Minister may subject to subsection (2) make regulations modifying in such manner as he thinks proper the provisions of this Act in their application in relation to persons who are or have been outside Guyana while insured under this Act.

Insured persons outside Guyana.

(2) Regulations under this section shall provide that where an insured person is throughout any contribution period outside Guyana and is not in that period an employed person he shall not be liable to pay any contribution as an insured person for such period.

50. (1) For the purpose of giving effect to any agreement with the government of any other part of the Commonwealth or the government of any foreign country, being an agreement which provides for reciprocity in matters of social security it shall be lawful for the Minister, by order, to make provision for modifying or adapting this Act in its application to cases affected by the agreement.

Reciprocal agreements with other parts of the Commonwealth or with foreign countries.

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

(a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so far as to confer a right to double benefit);

(b) for determining in cases where rights accrue both under this Act and under the law of the said country which of these rights shall be available to the person concerned;

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(c) for making provision as to administration and enforcement contained in this Act applicable also for the law of the said country;

(d) for making any necessary financial adjustments by payments into or out of the Fund.

Exemption
from stamp
duty.

51. Stamp duty shall not be chargeable upon any draft or order or receipt given in respect of benefit or upon any receipt given in respect of any other payment out of the Fund pursuant to section 33(3) or upon any receipt given by an officer of the Board for or in respect of any sum payable into the Fund.

Regulations.
[28 of 1997]

52. (1) The Minister may make regulations required by this Act to be made, or for the purpose of modifying or affecting the operation of any provision of this Act, or as the Minister may consider necessary or desirable generally for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may by such regulations—

(a) prescribe any matter which may be or is required to be prescribed under the provisions of this Act;

(b) require any employer—

(i) to submit returns of persons employed by him at such intervals and in such manner as may be prescribed;

(ii) to take reasonable steps to investigate the circumstances of every accident or disease of which notice is given to him;

(iii) to give the Board such notices or returns as may be thereby required of any accident or disease whether fatal or not which has occurred in his place of employment;

(c) except such categories of insured persons as may be specified therein from liability to pay contributions for such periods as may be prescribed;

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(d) provide for determining the circumstances in which a person is or is not to be deemed for the purposes of this Act to be wholly or partially maintaining another person.

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

(4) 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 classes of case; and
(b) so as to make as respects the cases in relation to which it is exercised—

(i) the full provisions to which the power extends or any less provision (whether by way of exception or otherwise);
(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case or different provision as respects the same case or class of case for different purposes of this Act;
(iii) any such provision either unconditionally or subject to any specified condition.

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

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Regulations subject to negative resolution.

53. All regulations shall be subject to negative resolution of the National Assembly.

Workmen's Compensation Ordinance not to apply to persons entitled to industrial benefit.
c. 111
1953 Ed.
Measure of damages where section 54 applies.
c. 111
1953 Ed.

54. From and after the declared day an insured person who if he suffers any such personal injury or develops any such disease as entitles him to industrial benefit shall not in relation to such injury or disease be regarded as a workman for the purposes of the Workmen's Compensation Ordinance.

55. (1) Where, consequent on the provisions of section 54, in relation to personal injury or death an insured person is not regarded as a workman for the purposes of the Workmen's Compensation Ordinance the following provisions of this section shall apply as respects such insured person.

(2) In an action for damages for personal injuries (including any such action arising out of a contract) there shall in assessing such damages be taken into account against any loss of wages or profits which has accrued or probably will accrue to the insured person from the injuries, one-half of the value of any rights which have accrued or probably will accrue to him therefrom in respect of injury benefit or disablement benefit for the five years beginning with the time when the cause of action accrued; but this subsection shall not be taken as requiring both the gross amount of the damages before taking into account such rights and the net amount after taking them into account to be found separately.

(3) The reference in subsection (2) to assessing the damages for personal injuries shall, in cases where damages otherwise recoverable are subject to reduction under the law relating to contributory negligence or are limited by or under any enactment or by contract, be taken as referring to the total damages which would have been recoverable apart from the reduction or limitation.

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(4) In assessing damages in respect of the death of a person in any action under Part IV of the Law Reform (Miscellaneous Provisions) Ordinance or the Carriage by Air Act, 1932, of the United Kingdom as extended to Guyana by the Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953, and the Carriage by Air (Non-international Carriage)(Colonies, Protectorates and Trust Territories) Order, 1953, there shall not be taken into account any right to benefit resulting from the death of such person.

c. 4, 23 Geo.
& c. 36
S.I. 1953
No. 1474
S.I. 1953
No. 1206

(5) For the purposes of this section—

(a) the expression “personal injury” includes any disease and any impairment of the physical or mental condition, of a person and the expression “injured” shall be construed accordingly;

(b) any payment on account of disablement benefit shall be treated as benefit for the period taken into account by the assessment of the extent of the disablement in respect of which it is payable.

SCHEDULE

s. 2

INSURABLE EMPLOYMENTS

1. Employment in Guyana under any contract of service or apprenticeship, written or oral, and whether expressed or implied.

2. Employment as aforesaid outside Guyana of a person domiciled or having a place of residence in Guyana—

(a) as master or a member of the crew of any vessel, registered in Guyana, or of any 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 Guyana, or in any other capacity on board any such vessel;

(b) as a pilot, commander, navigator or member of the crew of any aircraft flying the Guyanese flag, or in any other capacity on board any such aircraft:

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

3. Service as a member of the Guyana Defence Force.

4. Employment outside Guyana of a person domiciled or having a place of residence in Guyana—

(a) as a member of the diplomatic or consular service of Guyana;

(b) as a domestic worker employed by a person specified in subparagraph (a) hereof.

—————