

# ST.Vincent & The Grenadines

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## PART 1

### PRELIMINARY

#### Short title and commencement

(1) This Act may be cited as the National Insurance Act, 1986

(2) This Act shall come into force on such day as the Governor-General may by proclamation published in the gazette appoint and different days may be appointed for the same provision for the same purpose in relation to different cases or class of case.

(3) Any reference in any provision of this Act to the appointed day shall be construed as a reference to the day appointed under subsection (2) for the coming into force of that provision.

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#### Interpretation

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

"appointed Day" means the day appointed -under sub- section (2) of section 1;

"beneficiary," means a person entitled to benefit;

"Board" means the National Insurance Board established under section 4;

"Benefit" means any benefit under this Act;

"claimant" means a person who has claimed benefit;

"contribution" means a contribution under this Act;

"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;

"contribution year" means

(a) the period of 52 or 53 weeks beginning with the first Monday in any calendar year and ending on the Sunday immediately before the first Monday of the succeeding calendar year,

(b) in relation to the year 19 87 the period beginning with the first Monday occurring on or after the appointed day and ending on the Sunday immediately before the first Monday in 1998;

"deduction card" means the card issued. by the Board for the purpose of recording thereon The amount of the wages of an employee, the amount of contribution deducted therefrom and the total contribution to be paid in respect of that employee;

"employee or employed person" means a person who is insured by virtue of subsection (1) of section 18;

"employer" means a person, natural or legal who employs a person in insurable employment;

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

"insurable employment" means subject to subsection (3) of section 18 any employment specified in the second schedule,

"insured" means insurance under this Act;

"Investment Committee" means the National Insurance Fund Investment Committee of the Board established by subsection (1) of section 13;

"Minister" means the Minister responsible for the subject of National Insurance;

"regulations" means regulations made by the Minister under this Act;

"schedule" and "section" mean schedule and section to this Act;

"unpaid apprentice" means an apprentice who, under his contract of apprenticeship, receives no pecuniary remuneration;

"Wages" includes salary or any other pecuniary remuneration as may be prescribed.

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

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## PART 11

### ADMINISTRATION AND FINANCE

#### National Insurance Fund

3. (1) There is hereby established a fund to be called the National Insurance Fund, hereinafter called the Fund into which shall be paid

- (a) all contributions;
  - (b) all rent, interest on investment or other income derived from the assets of the Fund.
  - (c) all sums recovered under this Act or any regulation made thereunder as fines, fees, penalties or costs”
  - (d) all sums properly accruing to the Fund under this Act or any regulations made there under including the repayment of benefits; and such other sums as may be provided by the House of Assembly 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 or met out of the Fund-
- (a) all benefits;
  - (b) (b)refunds of contributions;
  - (c) all expenses properly incurred in the administration of this Act or regulation made there under; and
    - a. any sums as the Board may, with the approval of the Minister, write off as losses.

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## National Insurance Board

4. (1) There is hereby established a Board to be called the National Insurance Board 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.

(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 its Head Office in the Town of Kingstown and service on the Board of any notice order or other documents 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 require about the operation of the Act.

(6) The Board shall render reports on its activities in the last preceding contribution year to the Minister, and the Minister shall, as soon as possible after receiving any such report, lay a copy thereof before the House of Assembly.

(7) The report to be rendered under subsection (6) shall be rendered not later than the thirtieth day of June in the year next after the contribution year.

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## Committees of the board

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

(2) A committee appointed under subsection (1) shall include not less than two members of the Board, and may include persons who are not members of the Board.

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

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## Remuneration the Board & Its Committees

6. There shall be paid out of the Fund

(a) to the chairman, deputy chairman and each member of the Board in respect of his office, such remuneration and allowances as the Cabinet 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.

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## Director

7. (1) The Cabinet shall appoint a fit and proper person to be the Director chief administrative



officer of the Board (in this Act referred to as "The Director") on such terms and conditions as it may think fit.

(2) The Director shall, submit to the provisions of this Act and any direction by the Minister, 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 benefits 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., or any specific direction by the Minister of surplus moneys in the Fund; and
- (d) accounting for all moneys collected, paid or invested under this Act.

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## Delegation by the Director

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.

(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.

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### Directors' Deputy

9. (1) The Cabinet shall appoint a fit and proper person to be the Deputy Director on such terms and conditions as it may think fit.

(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 incapacity continues, the Deputy Director subject to the approval of the Minister shall have and may exercise all the powers, duties and functions of the Director.

(4) The fact that the Deputy Director exercises any power, duty or function as aforesaid shall be sufficient evidence of his authority so to do.

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## Staff Of The Board

10. (1) The Director may from time to time, acting upon the advice of the Board, appoint persons to be officers or employees of the Board.

(2) No salary in excess of \$12,000 per annum shall be assigned to any post without the prior approval of the Cabinet.

(3) No appointment shall be made to any post to which salary in excess of \$12,000 per annum is assigned without the prior approval of the Cabinet.

(5) No provision shall be made for the payment of any gratuity or like benefit to any officer or servant of the Board without the prior approval of the Cabinet,

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## Terms and conditions of employment

11. The terms and conditions of employment of officers and employees of the Board other than those of the Director and the Deputy Director shall be prescribed from time to time by the Board.

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## Inspectors

12. (1) The Board may designate such officers or employees in its service as it thinks fit to be inspectors for the purpose of this Act.

(2) Every inspector shall be furnished with a certificate or I.D. Card of his appointment and on applying for admission to any premises or place for the purposes of this Act shall produce the certificate or I.D. Card.

(3) The premises or place liable to inspection under this section include any premises or place where an inspector has reasonable cause to believe that persons are employed.

(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 documents relating to contributions or 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 or the servant or agent of the occupier of any premises or place liable to inspection, and any other person or the servant or agent of that person who employs or had been employing any person shall, as the inspector may reasonably require-

- (a) furnish to him all information;
- (b) produce for his inspection all documents.

(6) Any person who without reasonable cause obstructs, impedes, hinders, molests, or refuses admission to an inspector in the exercise of any of his powers under this section or refuses or neglects to furnish any information or produce any document when required to do so under this section commits an offence and is liable on summary conviction to a fine not exceeding seven hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

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#### National Insurance Investment Committee

13. (1) There is hereby established a committee to be called the National Insurance Fund and Investment Committee.

(2) The Investment Committee shall consist of:

- (a) the Chairman of the Board, who shall be the Chairman of the Committee;
- (b) the Director
- (c) three persons nominated by the Minister with the approval of the Cabinet from among the members of the Board.

(3) The Investment Committee shall meet as often as necessary and may regulate the procedure of its meetings, and shall be able to act notwithstanding any vacancy among its members. Three members of the Committee including the Chairman, shall form a quorum.

(4) The Investment Committee shall in addition meet at such time and place as the Chairman of the minister may request, to give consideration and advice on such cases relating to the operation of this Act as the Minister may require.

(5) In the absence of the Director, the Deputy Director subject to the approval of the Minister shall attend any meeting and in such case the Deputy Director shall be deemed to be a member of the Committee for the purpose of that meeting.

(6) The Investment Committee shall consider and make recommendations to the Board on the investment of monies in the Fund which are surplus to current needs and the Director shall give the Investment Committee any information necessary for the proper discharging of its function.

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## Investment of Moneys

14. (1) Moneys in the Fund may, subject to the approval of the Cabinet, 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.

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

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## Temporary insufficiency of assets

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

(2) Subject to the provisions of this Act, any sums advanced under subsection (1) shall be repaid to the Consolidated Fund as soon as may be practicable.

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## Accounts and Audit

16 (1) The Board shall cause to be kept proper books of account and other books and records in relation thereto, in which shall be recorded all financial transactions of the Fund.

(2) The accounts of the Fund shall be prepared in such form as may be prescribed in the Financial and Accounting Regulations and these Regulations shall provide for the form and conduct of the accounts of the Fund and in particular, for

- (a) the establishment and maintenance of different branches of such accounts, and
  - (b) the establishment and maintenance within the Fund of different reserves, for different purposes;
- and an auditor appointed by the Cabinet, shall examine every such account.

(3) 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.

(4) The Minister shall, as soon as possible after receiving any account in accordance with subsection (3), lay a copy thereof before the House of Assembly.

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17. (1) Subject to subsection (2) 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, 1989 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 opera

(2) The Minister may at any time direct that the period to be covered by any review and the report under this section shall be reduced and that the making of that and subsequent reviews shall be accelerated accordingly.

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

### PART III

#### INSURED PERSONS AND CONTRIBUTIONS

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18. (1) Subject to the provisions of this Act, every person who-- Persons to be insured

(a) on the day preceding the appointed day is under 60 years of age and is a member of the St. Vincent National Provident Fund set up under the National Provident Fund Act 1970 (No. I of 1970), or

(b) on or after the appointed day, being over the age of sixteen years and under the age of 60 years, is gainfully occupied in an insurable employment set out in the Second Schedule, shall be insured under this Act in respect of the several contingencies in relation to which benefits are provided under subsection (1) of section 26 and there shall be payable to or in respect of any such person, in the prescribed circumstances, any benefit payable by virtue of the said subsection.

(2) Notwithstanding subsection (1) any Person Or class of persons to whom this subsection applies shall be exempt from the requirement to, be insured -under this Act in respect of the contingency in relation to which sickness benefit is provided under paragraphs (a) of section 26 (1) and there shall not be payable to or in respect of any such person or class of persons **any** benefit payable by virtue of the said paragraph.

(3) The persons or class of persons to whom sub- section (2) applies are--

(a) Officers on the Permanent and pensionable establishment of the public service;

(b) Certificated teachers

(c) Members; of the Royal Saint Vincent and the Grenadines Police Force of the rank of Assistant Superintendent of Police and above;

(d) Officers and employees of Statutory Bodies whose conditions of service provide for the granting of sick leave on full salary for a period exceeding 3 months during any period of 12 months ending on the final day of the sick leave granted.

(4) Where the employment of a person to whom subsection (2) applies is for any reason terminated and that person becomes employed otherwise than as is mentioned in subsection (2), he shall be deemed to have been insured in respect of the contingency in relation to which sickness benefit is payable under paragraph (a) of section 26 (1) during his employment as a person mentioned in subsection (3) notwithstanding any enactment to the contrary, and the insurable earnings of such person during such employment shall be taken into account in computing his average insurable earnings for the purposes of sickness benefit.

(5) 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 60 years and upwards in respect a 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.

(6) 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 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 in service of a person employed by, such international organisations, or countries other than Saint Vincent and the Grenadines as may be proscribed;

(b) for treating as being insurable employment such employment outside Saint Vincent and the Grenadines in continuation of insurable employment in Saint Vincent and the Grenadines as may be proscribed; and

(c) for treating the employment of a person as continuing during periods of holiday or incapacity for work or in such other circumstances as may be proscribed.

(7) Subject to the provisions of this Act, all persons employed in insurable employment shall be insured in manner provided by this Act against personal injury caused on or after the appointed day by

accident arising out of and in the course of such employment and there shall be payable in the prescribed circumstances to or in respect of any such person the appropriate description of benefit prescribed by subsection (1) of section 27.

(8) For the purposes of subsection (7) every employment specified by this Act or Regulations made thereunder as insurable employment is insurable employment.

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## Voluntary Insurance

19. (1) Any insured person who is not liable to pay contributions is 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.

(2) An insured person holding a certificate of voluntary insurance may pay 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.

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## Source of Funds

20. (1) For the purposes of this Act insured persons this Act and employers shall, subject to the provisions of this Act, pay contributions.

(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

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## Contribution by employed persons and employers

21. (1) Except where regulations otherwise provide an employer liable to pay a Contribution employer in respect of a person employed by him shall 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.

(2) Notwithstanding any contract to the contrary an, employer is not 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) An employer is 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 person and, notwithstanding anything, in any enactment, such regulations may authorise such recovery to be made by deduction from the wages of such person.

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## Exemption from liability for and crediting of contributions

22. 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.

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## Employment by more than one employer

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

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## Persons to be treated as employers

24. In relation to a person who-



(a) is employed by more than one employer in any contribution period;

(b) works under the general control or management of some person other than his immediate employer,

and in relation to any other cases for which it appears to the Minister that special provision is needed, regulations may provide that for the purposes of this Act the proscribed person shall be treated as the employer; and such regulations may further provide for adjusting the rights between themselves or of persons prescribed as the employer, the immediate employer and the person concerned.

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General provisions as payment to and collection of contributions etc.

25. Regulations may provide---

- (a) for the registration of employed persons and employers;
- (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 Purpose 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, to the satisfaction of the Board not to have been with the consent or connivance of or attributable to any negligence on the part of such a person;
- (f) for treating contributions appropriate to the wrong category of person, or at the wrong rate, as paid on account of the contributions properly payable;
- (g) for the return of contributions paid in error or in error; and
- (h) for any other matter incidental to the payment and collection of contributions under this Act.

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BENEFITS

PART IV

## Description of Benefits

26. Benefits payable under this Act shall be of the following kinds, namely-

- (a) sickness benefit, that is to say, periodical payments to an insured person who is rendered incapable of work;
- (b) maternity benefit, that is to say a payment or periodical payments to an insured woman or the wife of an insured man, in the case of her confinement;
- (c) invalidity benefit, that is to say a payment or periodical payments to an insured person who is rendered permanently incapable of work;
- (d) survivors benefit, that is to say, a payment or periodical payments made in respect of an insured person who dies;
- (e) funeral grant, that is to say, a payment on the death of an insured person;
- (f) age benefit, that is to say, a payment or periodical payments to an insured person who has reached 60 years of age.

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### Employment Injury Benefits

27. (1) Subject to the provisions of this Act, employment injury benefit shall be paid to or in respect of persons insured pursuant to subsection (8) of section 18 in accordance with Regulations made under this section providing for employment injury benefit which shall consist of .

- (a) injury benefit, that is to say, in addition to the payment or reimbursement of the cost of relevant medical care and attention as may be prescribed in regulations, periodical payments to an insured person who suffers Personal injury by an accident arising out of and in the course of incurable 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 the payment or reimbursement of the cost of relevant medical care and attention as may be prescribed in regulations, periodical payments or lump sum grant to an insured person who, as a result of such injury or disease as aforesaid, sustains loss of faculty;
- (c) constant attendance allowance, that is to say, an additional allowance payable to persons in receipt of disablement pension based on 100%, disablement, at the rate of 50% of the pension for such period as the authorities may determine;
- (d) death benefit, that is to say, a payment or periodical payments in respect of an insured person who dies as a result of such injury or disease as aforesaid;
- (e) funeral grant, that is to say, a grant 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 "43" and "44" Employment Injury Benefit shall not be payable in respect of accident which happens outside Saint Vincent and the Grenadines except that the accident happened during the course of executing his employer's business, or a disease which is due to the nature of an employment in which the insured person has been engaged only outside Saint Vincent and the Grenadines.

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

(3) For the purpose of this Act, an accident arising in the course of the employment of any employee has, in the absence of evidence to the contrary, arisen out of that employment.

(4) An accident shall be deemed to arise out of in the course of the employment of an employee notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer if-

(a) the accident would have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purpose of and or in connection with the employer's trade or business.

(5) An accident happening while an employee is, with the expressed or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, arise out of and in the course of his employment, if

(a) the accident would have arisen had he been under such an obligation; and

(b) at the time of the accidents the vehicle--

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and

(ii) is not being operated in the ordinary course of public transport service.

(6) An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of this employment if it happens while he is taking steps on an actual or supposed emergency at those premises to rescue, succor or to protect persons who are or are thought to be or possibly to be injured or imperilled, or to avert or minimise damage to property.

(7) In subsection 5 reference to vehicle includes reference to ship, vessel or aircraft.

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Regulations regarding rates of benefits

28. (1) Regulations may provide for

(a) the rates or amounts of benefits and the variation of such rates or amounts in the different or special circumstances;

- (b) the conditions subject to which and the periods for which benefits may be granted;
- (c) the date from which benefits are provided.

(2) Regulations made under subsection (1) may include provision that where it is a condition of the title to benefit that a person is the widow or widower of an insured person, the Director may, where he is satisfied that in all the circumstances she or he ought to be so treated, 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 were in law her widower.

(3) 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 lawful marriage decide whether or not the persons Concerned should be treated as if 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 subsection (2).

(4) The determination of the Director under sub- section (2) or subsection (3) 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 woman with a man as aforesaid and the words "-wife" "husband" "widow", "widower" and "spouse" shall be construed accordingly.

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## Time and manner of making claims

29. (1) It is a condition of the right of a person to benefit---

(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 other manner as the Director may accept in the circumstances of the case; and

(b) that he produces such certificates, (documents, in- formation 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 the title of a person to any benefit.

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Time and manner of paying benefits; disqualifications; adjustment or extinguishments of benefit; persons unable to act; deceased persons.

30. Regulations may provide--

(a) for disqualifying a person for the receipt of any benefit if he fails to make a claim there for within the prescribed time;

Provided that any such regulation shall provide for extending the time within which the claim is to be made in the case 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 any 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;

(g) for suspending, payment of benefit to or in respect of any person during any period when he -

(i) is absent from Saint Vincent and the Grenadines; 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 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 dependent of the beneficiary.

(h) for enabling a person to be appointed to exercise on behalf of any other person -who may be or 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 of kin, creditors or otherwise, and for dispensing with strict proof of title of persons so claiming; and

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

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#### Appointment and remuneration of medical officers or referees and medical Boards

31. (1) Regulations may provide for the appointment of medical officers or medical referees or other professional persons and for the establishment of medical boards for the purposes of this Act, and for obtaining other professional services.

(2) There shall be paid out of the Fund to a medical officer or medical referee or professional person 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 expenses incurred in connection with the work of such medical officer, medical referee or member or professional person as may be so determined.

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#### Repayment of benefit improperly received

32. (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 payment of benefit to which he thereafter becomes entitled.

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

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**PART V**

**ADJUDICATION AND LEGAL PROCEEDINGS**

Determination of claims and questions.

34. (1) Regulations may provide for the determination, by the Board, by the Director, or by a person appointed or tribunal constituted in accordance with the regulations, of any questions 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.

(2) Without prejudice to the generality of subsection (1), regulations made there under 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) to the representation of one person at the hearing of a case by another person whether having professional qualifications or not;

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

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

(a) 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;

(b) appeals to the High Court from the decision of the Board, or of a person or tribunal, on any such question of law.

(4) Provision shall be made by rules of Court for regulating references and appeals to the High Court under this subsection and for limiting the time within which appeals may be brought thereunder.

(5) Notwithstanding anything in any enactment the decision of the High Court on a reference or appeal under subsection (3) shall be final, and the court may make such order as it deems fit.

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Interim payments, arrears and repayments 35. (1) Regulations shall provide as respects matter arising---

(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 or appeal or review of any decision of any such claim or question.

(2) Without prejudice to the generality of subsection (1) regulations there under 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 conditions for the receipt thereof are or were fulfilled or whether the award ought to be revised;

(b) as to the date from which any decision on review is to have effect;



(c) for treating any benefit 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 with-holding accordingly any arrears payable for that period by virtue of that sub- sequent decision.

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Remuneration of persons and tribunal appointed under section 34

36. There shall be paid out of the Fund

(a) to a Person appointed or

(b) to a member of a tribunal constituted under regulations made under subsection of section 34 section 34, such expenses incurred in connection with the work of such person or member as the Board, with the approval of the Minister, may determine.

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Offences and penalties 37. (1) Any person who fails to pay at or within the time prescribed for the purpose any contribution which he is liable under this Act to pay commits an offence and, for each such failure, is liable on summary conviction to a fine not exceeding two hundred 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 contributions of the employer in respect of any person from the wages or other remuneration of such person commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment of such fine to imprisonment for a term not exceeding nine months.

(3) Any person who 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 -

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

(b) produces or furnishes, causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding nine months or to both such fine and imprisonment.

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General provisions as to prosecutions

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

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

(3) Notwithstanding any Provision in any enactment fixing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of six months from the date on which evidence sufficient in the opinion of the

Board to justify a prosecution for the offence comes to its knowledge or within the period of three years after the commission of the offence whichever period last expires and for the purpose of this Subsection a certificate purporting to be signed on behalf of the Board as to the date on which such evidence came to its knowledge shall be conclusive evidence thereof.

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

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

(5) Where an offence under this Act is committed by a body of persons which is--

(a) a body corporate, society, or other body of persons, every person who at the time of the commission of the offence was a director, Manager, Secretary or other officer of the body corporate or society or other body of persons commits the offence;

(b) a partnership or firm, every partner of the partnership or firm commits the offence, and shall be liable to be proceeded against and punished accordingly.

(6) No person referred to in subsection (5) shall be found guilty of an offence under that subsection where he proves that

(a) the act constituting the offence took place without his knowledge or consent, or

(b) he exercised all due diligence to prevent the commission of the offence.

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## Recovery of contributions on prosecution

39. (1) Where a person is convicted of an offence under subsection (1) of section 37 he is liable to pay to the Fund a sum equal to the amount which he failed to pay; and if notice was served with the summons or warrant and evidence was given of the failure on the part of the person who is convicted to pay other contributions during the two years preceding the date of the commission of the offence of which he is convicted upon proof of such failure the person convicted is 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.

(2) Notice mentioned in subsection (1) is a notice given by the prosecution of its intention to, give evidence at the trial of the failure on the part of the person concerned.

(3) Where any person is charged with any offence as is mentioned in subsection (1) and a probation order is made in respect of such offence the foregoing provisions of this section shall apply as if the making of the order were a conviction.

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

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

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

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

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## Civil proceedings

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

(2) A sum due by way of contributions shall from such date as may be prescribed, bear interest at the rate of ten per centum per annum or- such other rate as may be prescribed.

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

(4) 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 a barrister or a solicitor conduct such proceedings.

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#### Proceedings for benefits lost by employer default

41. (1) Where an employer has failed or neglected to pay any contribution which he is liable to pay in respect of or on behalf of or on behalf of any insured person, and by reason of such failure or neglect such person or any other person becomes dis-entitled to any benefit or entitled to a benefit on a lower scale the Director may, on being satisfied that the contribution, should have been paid by the employer, pay to the person or the other person benefit at the rate to which he have been entitled if the failure or neglect had not occurred and the Board shall be entitled to recover from the employer as civil debt a sum equal to the amount of the benefit so paid or the contributions not paid whichever be the greater.

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

(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 in question.

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#### PART VI

#### MISCELLANEOUS

42. This Act shall apply to persons employed by or under 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.

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Persons employed aboard ships etc.

43. (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.

(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 fulfil the conditions of section 19;

(b) For excepting from insurance under this Act or from liability to pay contributions any persons employed as aforesaid who neither are domiciled nor have a place of residence in Saint Vincent and the Grenadines;

(c) For the taking of evidence for the purpose of any claim for benefit in any place outside Saint Vincent and the Grenadines;

(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 become entitled to such of their dependents as may be prescribed;

(e) 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.

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44. For the Purpose of giving effect to any **Reciprocal agreements with other countries** 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 National Insurance, the Minister may, by order, modify or adapt the provisions of this Act in their application to cases affected by the agreement.

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45 (1) Stamp duty shall not be chargeable upon any **Exemption from stamp duty** 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.

(2) Nothing in subsection (1) shall 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.

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#### Power to remove difficulties

46. (1) If any difficulty arises in giving effect to the provisions of this Act, the Minister may, by order published in the Gazette make such provisions as appear to him to be necessary or expedient for removing the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any regulations made under this Act.

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#### Regulations

47. (1) Except in so far as this Act otherwise provides, any power to make regulations or an order conferred by this Act is vested in the Minister.

(2) Except in so far as this Act otherwise provides any power to make regulations conferred by this Act 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 special cases or class 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 provisions

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

(III) any such provision either unconditionally or subject to any specified condition.

(3) Without prejudice to the power to make regulations conferred by any other provisions of, this Act, the Minister may make regulations generally for giving effect to the provisions of this Act.

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

(5) Regulations made under this Act may provide a penalty of two hundred and fifty 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, two hundred and fifty dollars together with a further one hundred dollars for each day on which it is so continued.

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## House of Assembly control of orders and regulations

48. All orders made under section 46 of this Act and all regulations made under this Act shall be laid before the House of Assembly as soon as may be after they are made and if the House of Assembly resolves that the order or the regulations, as the case may be, be annulled they shall thereupon cease to have effect but without prejudice to anything previously done there under or to the making of new regulations.

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## Operation of private Schemes

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.

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## Contribution to be allowable deduction under the Income Tax

50. Notwithstanding anything contained in the Income Tax Act 1979 (No. 2 of 1979) contributions made to the National Insurance Fund by employers and employees shall be regarded as allowable deductions under Part VI of the income Tax Act, 1979.

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## Protection of Contributions in certain cases

51. (1) In any case where -



(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 in 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 amount due in respect of contributions payable by the employer.

(2) For the purpose of this section, the expression "employer" includes any company in liquidation under the provisions of the, Companies Act.

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## PART VII

### REPEAL, AND TRANSITIONAL PROVISIONS

52. The National Provident Fund Act (No. 1 of 1970) is hereby repealed with effect from the Appointed Day. The assets of the National Provident Fund on the Appointed Day, including amounts due to the Fund, actionable claims and movable and immovable property shall be transferred to and become part of the National Insurance Fund.

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53. Regulations shall provide for the preservation of the rights of existing members of the National Provident Fund so that benefits accrued under that Act at the Appointed Day shall become payable in accordance with the provisions of that Act notwithstanding that it is repealed

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54. (1) Subject to subsection (2), Workmen's compensation Act and Law Reform (Contributory Negligence) Act. workmen's compensation shall not be payable in respect of any employment on or after the appointed day and accordingly the enactment out in the 3rd schedule Part I are hereby repealed as from that day to the extent mentioned in the second column of that Schedule

(2) The Workmen's Compensation Act and the law Reform (Contributory Negligence) Act shall continue to apply to cases to which they would have applied if this Act had not been passed, being cases where a right to compensation arises or had arisen in respect of employment before the appointed day.

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Amendments of other Enactments

55. The enactments specified in the THIRD Schedule Part 11 are hereby amended in the respects specified in the second column of that Part of that schedule.

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## FIRST SCHEDULE

(Section 4)

### Constitution and Proceedings of National Insurance Board

1. The National Insurance Board shall consist of nine members appointed lay the Cabinet as follows-

- (a) two members who shall represent Government;
- (b) two members who shall represent employers;
- (c) two members who shall represent employed persons;
- (d) two members who shall be persons experienced in matter relating to business administration, finance, accountancy or banking;
- (e) the Director or in his absence the Deputy Director.

2. The members representing employers shall be appointed after consultation with such associations of employers, or such persons or bodies, as appear to the Minister likely to produce representation for employers generally throughout Saint Vincent and the Grenadines.

3. The members representing employed persons shall be appointed after consultation with such trade unions or association of trade unions, as appear to the Minister to be representative of employees generally throughout Saint Vincent and the Grenadines.

4. (1) Save as provided in subparagraph (2) the Cabinet shall appoint two members of the Board to be respectively Chairman and Deputy Chairman of the Board.

(2) The Director or the Deputy Director, as the case may be, shall not be eligible for appointment as Chairman or Deputy Chairman of the, Board.

5. The members of the Board with the exception of the Director or the Deputy Director as the case may be, shall, subject to the provisions of paragraphs 6, 7, and 8 of this schedule, hold office for a period not exceeding three years as Cabinet may direct.

6. The Cabinet may by instrument in writing appoint, (after consultation with the appropriate body) a suitable person as a member to act temporarily in the place of a member in the absence or inability, to act of that member.

7. (a) A member of the Board other than the Chairman and Deputy Chairman may at any time resign his office by notice in writing addressed to the Secretary to the Cabinet and transmitted through the Chairman, and from the date of the receipt by the Secretary to the Cabinet of such notice such member shall cease to be a member of the Board.

(b) The Chairman or Deputy Chairman may at any time resign office by giving notice in writing addressed to the Secretary to the Cabinet and such resignation shall take effect as from the date of the receipt of such notice by the Secretary to the Cabinet

8. The Cabinet may by notice in writing, at any time, if it is of the opinion that a member is unfit to continue in office or is incapable of performing his duties, or if it thinks it expedient so to do revoke the appointment of that member.

9. A member who ceases to be a member or ceases to be a Chairman v Deputy Chairman shall be eligible for reappointment.

10. The appointment, removal, death or resignation of the Chairman, Deputy Chairman or any other member shall be notified in the Gazette.

11. The quorum for any meeting of the Board shall be five including the Chairman or Deputy Chairman, one of whom shall preside at all meetings; the Director or Deputy Director shall be present at all meetings and the Board may act notwithstanding any vacancy in its membership.

12. 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.

13. 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.

14. The Board may invite 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 invited person shall have any right to vote.

15. 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 which is an item on the agenda for that meeting 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.

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

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## **SECOND SCHEDULE**

### **INSURABLE EMPLOYMENTS**

#### **(Section 18)**

1. Employment in Saint Vincent and the Grenadines under any contract of service or apprenticeship, written or oral, and whether expressed or implied.

2. Employment as aforesaid outside Saint Vincent and the Grenadines of a person domiciled in or having a place of residence in Saint Vincent and the Grenadines-

(a) as master or member of the crew of any ship registered in Saint Vincent and the Grenadines or 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 Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines or in any other capacity on board any such aircraft.

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

## **THIRD SCHEDULE**

# PART I

## *Enactment*

## *Extent of Repeal*

The Law Reform  
(Contributory Negligence Act) Act, 1963  
2. Workmen's Compensation Act, 1963  
The whole Act.

The definition of "employer" and it workman" in section  
Section 4.

## PART 11

## *Enactments*

## ~~-----~~*Amendments*

Protection of Employment Act, 1980

Delete Section 12 (4)

(No. 16/1980)

Bankruptcy Act 1928 Any provision of any Act respecting bankruptcy in force in Saint Vincent and the  
Grenadines as it relates to

"priority of debts" is amended by adding to the provision providing for payment in priority to all other  
debts, in alphabetical or whatever order as the next paragraph the following:

“contributions payable pursuant to the National Insurance Act 1986”

Income Tax Act, 1979  
2/1979)

Delete section 52 (1) (c) and insert (No, 2/1979) therefore (No.  
the following:

11 (c) as contributions pursuant to the National Insurance Act, 1986:

Provided that-

(i) nothing in this paragraph shall be construed as allowing any amount to be deducted from the income of any person in respect of any contribution paid by him on behalf of any person:

(ii) nothing in this paragraph shall apply to any employer's contribution which apart from this paragraph would be allowable as a deduction in computing the amount of any profit or gains.

(iii) a person who by virtue of any provision of the National Insurance Act 1986 suffers a deduction from him emoluments in respect of any contribution payable under that Act shall be deemed for the purposes of this paragraph to have paid a contribution equal to the amount of the deduction.

Passed in the House of Assembly this 23rd day of October, 1986

J. Clement Noel,  
Clerk of the House of Assembly

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