

OBJECTS AND REASONS

This Bill would amend the *National Insurance and Social Security Act, Cap. 47* to

- (a) exempt the employees of the Barbados Water Authority from the requirement to pay contributions in respect of sickness benefit and unemployment benefit under the Act;
- (b) give effect to certain recommendations made in the Report of the Committee appointed to review the National Insurance and Social Security legislation;
- (c) empower the Board to increase the insurable earnings by order after taking into consideration the relevant national wage increase for the 2 years immediately preceding the order;
- (d) empower the Board to increase pensions and maternity and funeral grants having regard to either the average national wage increase or the average national price increase, as is appropriate, over a three-year period;
- (e) validate the following matters:
 - (i) the payment of an increase in pension benefits from the calendar year 2005;
 - (ii) the increase in insurable earnings from the calendar year 2005 as well as an increase from 1st October 1991 and the contributions collected in respect thereof;
 - (iii) the interest collected in respect of unpaid contributions.

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 2 of Cap. 47.
3. Amendment of section 12 of Cap. 47.
4. Amendment of section 14 of Cap. 47.
5. Amendment of section 18 of Cap. 47.
6. Amendment of section 19 of Cap. 47.
7. Insertion of new section 19A into Cap. 47.
8. Amendment of section 21 of Cap. 47.
9. Amendment of section 25 of Cap. 47.
10. Insertion of new section 25A into Cap. 47.
11. Amendment of section 38 of Cap. 47.
12. Amendment of section 43 of Cap. 47.
13. Amendment of section 50 of Cap. 47.
14. Amendment of Schedule to Cap. 47.
15. Validation.

BARBADOS

A Bill entitled

An Act to amend the *National Insurance and Social Security Act*,

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *National Insurance and Social Security (Amendment and Validation) Act, 2006*. Short title.

Amendment
of section 2
of Cap. 47.

2. Section 2 of the *National Insurance and Social Security Act*, in this Act referred to as the principal Act, is amended by inserting the following definitions in the appropriate alphabetical order:

" "head of mission" means an ambassador, high commissioner or other person by whatever title called, accredited by a sovereign power and recognised as a head of mission in Barbados by the Government of Barbados;

"hospital" means

- (a) any institution for the reception and treatment of persons suffering from illness or mental disorder;
- (b) any maternity home; and
- (c) any institution for the reception and treatment of persons during convalescence or requiring medical rehabilitation

and includes clinics, dispensaries and out patient departments maintained in connection with any such institution or home;

Schedule I.

"manager" and "owner" have in relation to a ship or vessel, the same meaning as that set out in paragraph (3) of Part I of *Schedule I*;

"member of the mission" means the head of mission and the members of the staff of the mission."

Amendment
of section 12
of Cap. 47.

3. Section 12 of the principal Act is amended

- (a) in paragraph (c) of subsection (3), by
 - (i) deleting the word "and" appearing at the end of subparagraph (iii);

(ii) renumbering sub-paragraph (iv) as sub-paragraph (vi);
and

(iii) inserting the following new sub-paragraphs
immediately after sub-paragraph (iii):

"(iv) the Barbados Water Authority,

Cap. 25. (v) any statutory board to which the *Pensions Act* applies, and";

(b) by inserting the following new subsection immediately
after subsection (3):

"(3A) The provisions of

(a) sub-paragraph (iv) of subsection (3)(c) shall
be deemed to have come into operation on
the 8th October, 1980; and

(b) sub-paragraph (v) of subsection (3)(c) shall,
in relation to the employees of any statutory
board to which that sub-paragraph applies, be
deemed to have come into operation on the
Cap. 25. day that the *Pensions Act* became applicable
to those employees."

4. The principal Act is amended by inserting immediately after
section 14 the following as section 14A:

Amendment
of section 14
of Cap. 47.

"Persons to
be treated as
employers.
Schedule I.

14A. In relation to an insured person who
is employed in any employment specified in
paragraphs 1 and 2 of Part IV of *Schedule I*, the person
so specified shall be treated as that person's employer in
that employment."

Amendment
of section 18
of Cap. 47.

5. Section 18 of the principal Act is amended

- (a) by inserting immediately after subsection (1A) the following as subsection (1B):

"(1B) An employer who contravenes the provisions of paragraph (a) or paragraph (b)(i) or (b)(ii) of subsection (1A) is guilty of an offence and is liable on summary conviction where the employer

- (i) is an individual, to a fine of \$2 500 or to imprisonment for one year or to both; or
 - (ii) is a body corporate, to a fine of \$5 000.";
- and

- (b) by deleting subsection (3) and substituting the following:

"(3) Any employer who deducts or attempts to deduct the whole or any part of the employer's contribution in respect of any person from his wages or other remuneration is liable on summary conviction to a fine of \$1 000 or to imprisonment for 6 months or to both such fine and imprisonment."

Amendment
of section 19
of Cap. 47.

6. Section 19 of the principal Act is amended

- (a) by deleting subsection (2);
- (b) by deleting subsection (3) and substituting the following:

"(3) Regulations made by virtue of this section providing for the payment of contributions by such means as the Board requires, may include provision for the payment into the Fund by any person who adopts any alternative method the use of which involves greater expense in administration, and for the recovery by the Board of the prescribed fees in respect of the difference in the expense of administration."

7. The principal Act, is amended by inserting the following new section after section 19:

Insertion of
new section
19A into
Cap. 47.

"Board to
increase
insurable
earnings.

19A. (1) With effect from 1st January 2005, the Board may by order increase the insurable earnings in respect of employed persons and self-employed persons for the purposes of this Act, taking into consideration the national wage increase for the calendar year 2 years immediately preceding the year in which the order is to take effect.

(2) For the purposes of subsection (1), the national wage increase shall be computed in such manner as is approved by the Board."

8. Section 21 of the principal Act is amended

Amendment
of section 21
of Cap. 47.

(a) in subsection (1),

(i) by deleting paragraph (d) and substituting the following:

"(d) invalidity benefit, that is to say, a payment or periodical payments to an insured person who is incapable of work as a result of a specific disease or bodily or mental disablement which is likely to remain permanent;" and

(ii) by deleting paragraph (h) and substituting the following:

"(h) unemployment benefit, that is to say, a payment or periodical payments to an insured person who is temporarily unemployed.";

(b) by deleting subsection (7) and substituting the following:

"(7) For the purpose of a grant payable under subsection (1)(c), "spouse" includes

- (a) a single woman who is living together with a single man in the same household for a period of not less than 2 years prior to the date of the birth of the child of that woman;
- (b) a single man who is living together with a single woman in the same household for a period of not less than one year prior to the date of the birth of the child of that woman and whose name appears on the birth certificate as the father of the child;

and for the purposes of this subsection "single man" and "single woman" shall include a widower and a widow respectively."

Amendment
of section 25
of Cap. 47.

9. Section 25 of the principal Act is amended by deleting the opening words and substituting the following:

"Subject to section 25A, regulations shall make provision for the following:".

Insertion of
new section
25A into
Cap. 47.

10. The principal Act is amended by inserting the following new section after section 25:

"Board to
increase
benefits.

25A. (1) With effect from 1st January 2005, the Board may by order increase the amount payable as pension, maternity and funeral grant having regard to either

- (a) the average national wage increase; or
- (b) the average national price increase,

over a three-year period, whichever is lesser, but in no case shall an increase be given unless the Board obtains a certificate from an actuary to the effect that such increase would not, in his opinion, impair the ability of the Fund to maintain a target reserve ratio of 5 times its expenditure up to the year 2030.

(2) For the purposes of subsection (1), the average national wage increase and the average national price increase for the three-year period shall end on 31st December of the year 2 years immediately preceding the year in which the order is to take effect and shall be computed in such manner as is approved by the Board."

11. Section 38 of the principal Act is amended by deleting subsection (4) and substituting the following:

Amendment
of section 38
of Cap. 47.

"(4) Any person who

- (a) wilfully delays or obstructs an inspector in the exercise of any power under this section; or
- (b) refuses or neglects to answer any questions or to furnish any information or to produce any documents when required so to do under this section

shall be liable on summary conviction

- (i) to a fine of \$1 000 or to imprisonment for 3 months or to both in the case of a first offence; and
- (ii) to a fine of \$5 000 or to imprisonment for 6 months or to both in the case of a second or subsequent offence

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

Amendment
of section 43
of Cap. 47.

12. Section 43 of the principal Act is amended

(a) by deleting paragraph (b) of subsection (4) and substituting the following:

"(b) all reasonable costs, including court costs and charges incurred in recovering the sums owed.";

(b) by inserting immediately after subsection (5) the following new subsection:

2001-34. "(5A) Contributions due shall until paid, be a charge on the property and assets of the employer in respect of which they are owed, and that charge shall rank equally in relation to all debts referred to in section 10M of the *Bankruptcy and Insolvency Act, 2001* and prior to all other liens and demands as affecting the property and assets."

Amendment
of section 50
of Cap. 47.

13. Section 50(2) of the principal Act is amended by adding the words "or the Board" after the words "as appear to the Minister".

Amendment
of Schedule to
Cap. 47.

14. *Schedule I* to the principal Act is amended

(a) in Part I,

(i) by deleting paragraph 1 and substituting the following:

Schedule. "1. Employment under any contract of service or apprenticeship made in Barbados whether written or oral and whether express or implied (in this *Schedule* referred to as a "contract of service).";

- (ii) by adding immediately after paragraph 5 the following as paragraphs 6 and 7:

"6. Employment of a casual nature for the purposes of any game or recreation where the persons employed are engaged or paid through a club.

S.I. 1967
No. 49.

7. Any employment specified in Part I of the *First Schedule* to the *National Insurance and Social Security (Classification) Regulations, 1967.*";

- (b) in Part II, by adding immediately after paragraph 6 the following as paragraphs 7 and 8:

S.I. 1967
No. 49.

"7. Employment specified in any paragraph of Part II of the *First Schedule* to the *National Insurance and Social Security (Classification) Regulations, 1967.*

8. Employment specified in any paragraph of the *Second Schedule* to the *National Insurance and Social Security (Classification) Regulations, 1967.*"; and

- (c) by adding immediately after Part III the following as Part IV:

"PART IV

Employment In Respect Of Which Persons Are Treated As Employers

1. The owner (or the managing owner or manager, if there is more than one owner) of the fishing vessel in any employment which is insurable employment shall be treated as the employer.

2. The person from whom the use of the vehicle or vessel is obtained under any contract of bailment (other than a hire purchase agreement) shall be treated as the employer where the employment is specified in paragraph 5 of Part I of this *Schedule*."

Validation. 15. (1) The increase in relation to all pension benefits paid from the calendar year 2005 shall be deemed to have been validly and lawfully paid.

(2) The increase in insurable earnings from

(a) calendar year 2005; and

(b) 1st October 1991 in the amount of \$9 300 per calendar quarter and \$37 200 per annum;

and the contributions collected in relation thereto, shall be deemed to have been validly and lawfully increased and collected.

S.I. 1971
No. 1.

(3) All interest charged and collected in respect of contributions which were not paid in accordance with regulation 4 of the *National Insurance and Social Security (Self-Employed Persons) Regulations, 1970*, shall be deemed to have been validly charged and collected as if an unpaid national insurance certificate under section 43 of the principal Act had been issued in relation thereto.