

DEDICATION

I am dedicating this book to my parents Ruth and Egbert Glasgow, who through the years have taught me to live a principled life and to treasure everything that is 'true, honest, pure, just and of a good report."

ACKNOWLEDGEMENTS

I wish to express sincere thanks to all who have influenced the writing of this book, especially the following:

My friends and colleagues at the National Insurance Scheme who allowed me to use them as the target audience for testing and trying the cases, Mr. F.I. Jack for his painstaking effort in editing the manuscript, Mrs. Betty Medford and Miss Donnette Arrindell for using their typing skills, Miss Sharon Ashton and Mrs. Suzette Solomon for constantly reminding me "Miss Glasgow, you could do it", Mr. Richard Williams for encouragement and for helping with the graphics which lend variety to this book, Mr. Reginald Thomas for allowing me to use my skills in designing the cases, to my brothers and sisters who always reassured me that it was a noble venture. I am profoundly grateful to the National Insurance Board for sponsorship of this publication.

I have drawn heavily on excerpts from the NIS Legislation. I also thank all those who provided moral support. Lastly, I thank Almighty God for endowing me with the skills and abilities to present my thoughts in a lucid manner.

INTRODUCTION

Evolution of National Insurance in St. Vincent and the Grenadines

Prior to 1970, which was the year when the National Provident Fund was established in St. Vincent and the Grenadines, daily paid workers and domestic workers, suffered extreme financial hardships when they were no longer employable. As a result many persons who would have contributed to national development lived in abject poverty during their retirement years.

In 1970 (Act 1 of 1970) the Government at that time enacted the National Provident Fund to curb this problem. Under this act, 5 cents was deducted from the wages of daily paid workers, domestic workers and workers in the private sector who did not enjoy the benefits of pension schemes provided by their employers. A maximum amount of \$12.50 per month was deducted from the employee's wages. The employer matched this amount.

The NPF programme provided a lump sum payment to its members at age 60 (Age Benefit) or earlier in the event of invalidity (Incapacitation Benefit) or, to survivors (Death Benefit) on the death of a member.

Over time it was realized that the benefits provided by the National Provident Fund (NPF) were very limited and inadequate. As a result, in 1982, investigations were carried out with assistance from the International Labour Organization (ILO), which recommended that the NPF be replaced by a comprehensive Social Insurance Scheme to provide coverage (protection) for all employed persons.

The recommended date was 1 st August 1984. However, this Scheme was delayed until 1987 (incoming Government had to do a feasibility analysis).

The NPF Act (Act 1 of 1970) was repealed and replaced by the National Insurance Act #33 of 1986. The National Insurance Scheme began collection of contributions and other operations on 5 th January 1987.

The benefits that were introduced at inception were:

 Sickness, Maternity, Funeral Grants, Age, Invalidity and Survivors

In January, 1997 coverage was extended to include the self-employed population and the Employment Injury Benefit Branch was introduced.

Insured Persons

Every person over the age of 16 and under the age of 60 is to be insured under the National Insurance Act as regularly insured persons. For the purpose of Employment Injury all workers must be insured.

The scheme has evolved to the extent where National Insurance has virtually become a household word in St. Vincent and the Grenadines.

Be that as it may some persons are still having some difficulty in understanding the operation of the Scheme. From time to time they would call to make inquiries regarding issues relating to the operation of the NIS.

It has always been my pleasure to deal with these queries in a professional manner and to clarify any doubts that persons might have had.

This Book, "Walk Through" is intended to further clarify and explain your questions. I have attempted to use layman's language as far as possible since the legal jargon in the legislation might pose some difficulty. It is done in a question and answer format to allow for easy reading.

I invite you to walk through with me and relax comfortably with the NIS and all that it stands for.

Mineva C. Glasgow

Author

November 2001

TABLE OF STATUTES

The National Insurance Act - # 33 of 1986

The National Insurance (Benefits) Regulations - # 13 of 1994

The National Insurance (Classification Regulations) - # 7 of 1997

The National Insurance (Contributions Regulations) - # 21 of 1986

The National Insurance (Determination of Questions) Regulations - # 11 of 1995

The National Insurance (Employment Injury Regulations) - # 6 of 1997

The National Insurance (Financial & Accounting) Regulations - # 21 of 1996

The National Insurance (Persons Abroad & Voluntary Contributors) Regulations - # 8 of 1997

The National Insurance (Registration Regulations) - # 22 of 1986

The National Insurance (Reciprocal Arrangements – CANADA) Order - # 28 of 1998

The National Insurance (Reciprocal Arrangements – CARICOM) Order - # 14 of 1999

LIST OF ABBREVIATIONS

CARICOM - Caribbean Community

NIS - National Insurance Scheme

NPF - National Provident Fund

SR&O - Statutory Rules & Orders

SVG - St. Vincent & the Grenadines

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CHAPTER 1

BENEFITS

Overview

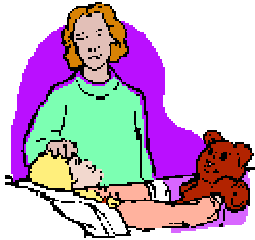
SR&O # 13 of 1994 covers the benefit aspects of the National Insurance Scheme. One might well say that the Benefit Section of the National Insurance Scheme offers the most challenges in that the scope of the legislation is extensive. There are several variations in conditions regarding benefit entitlements.

This is particularly evident in the short-term claims. The cases, which follow treat with virtually all situations that may arise regarding benefit claims.

The benefits are categorized as follows:

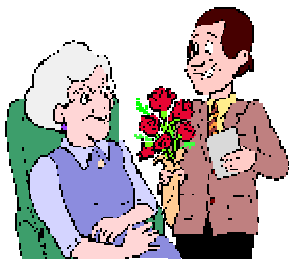
Short Term

1. Sickness Benefit
2. Maternity Benefit



Long Term

1. Age Pension
2. Invalidity Pension
3. Survivors' Pension
4. Funeral Grant



Checklist

Salient points

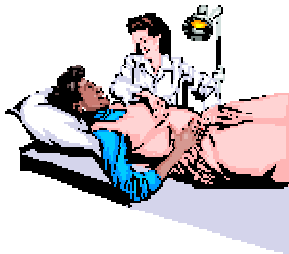
- ☞ Rules regarding cohabitation/marriage in Survivors' Benefits
- ☞ Wife claiming on her husband's/common-law husband's contributions
- ☞ Conditions for claiming Sickness and Maternity Benefits
- ☞ Conditions for Survivors' Benefit
- ☞ Benefits for surviving parents

- ☞ Conditions to be applied if an insured person seeks medical treatment outside of St. Vincent
- ☞ Credited contributions in relation to benefits
- ☞ Waiting days
- ☞ Linked claims
- ☞ Non-Contributory Assistance Age Pension (NAAP)
- ☞ Marriages contracted after person becomes pensionable
- ☞ Dual pension rights
- ☞ Disallowed claims
- ☞ National Provident Fund
- ☞ Rights to Funeral Grant
- ☞ Treatment of step-children, orphans and adopted children

Case 1

Sam and Ena have been living together in a house at Riley for the past six years. Sam works as a mechanic with Suentel Garage and they have been paying contributions on his behalf for the past three years.

Ena is not working but she is expecting twins in June. She is experiencing complications of pregnancy. Ena files a claim at the NIS for Sickness and Maternity benefits. Sam is also friendly with Phyllis who is expecting a baby in July. Sam also files a claim for Phyllis.



Question

Advise Sam regarding his benefits entitlement.

Answer

This question raises the issue about a woman's claim to a Maternity Grant on her husband's contribution.

The National Insurance (Benefits) Regulations SR&O #13 of 1994, Section 23 (1b) entitles a woman to receive a lump sum Maternity Grant if she or her husband has contributed to the National Insurance Scheme for at least twenty (20) of the thirty (30) weeks immediately preceding the week in which the child is born.

Section 23 (2) further states that the term 'husband' includes a single man living in a common-law relationship with a single woman with whom he lives in the **same** dwelling house.

The question states that Sam and Ena have been living together in a house at Riley for the past six years. For all intents and purposes, Sam and Ena are 'husband and wife'. Since Ena is not working then she falls within the stipulation in Section 23 (1b) because Suentel Garage has been paying contributions on Sam's behalf for the past 3 years. If the children are born alive then Sam can send in a claim for Ena and Ena will receive \$800.00 as Maternity Grant; \$400.00 for each live child.

Ena files a claim for Sickness Benefit but as the problem states Ena is not working. Although Sam and Ena live together, Ena cannot qualify for Sickness Benefit on Sam's contributions. The eligibility conditions for Sickness Benefit according to SRO #13 of 1994 are:

- ☞ The insured person must be between the ages of 16 and 60 years
- ☞ The insured must have paid or must have been credited with at least twenty-six (26) weekly contributions, eight (8) of which should have been paid in the thirteen (13) weeks before her illness.
- ☞ The insured person must have been employed immediately before the illness.

The final part of the question states that Sam is friendly with Phyllis who is also expecting a baby in July and he also files a maternity claim on Phyllis' behalf. Section 23 (3) of SR&O #13 of 1994 states plainly that a 'husband' can only make a claim for Maternity Grant for one woman. Since Sam is living with Ena and he has already claimed on Ena's behalf the claim for Phyllis will be disallowed.

N.B. In order to prove cohabitation a reputable person e.g. Justice of the Peace, Minister of Religion, Lawyer, Teacher must write a letter to that effect to the Executive Director, NIS. Both persons must be living together for at least three years.

Case 2

Edsonia is a native of St.Vincent. Edsonia worked as a secretary with Tuskolan Beach Hotel for four years. Edsonia is twenty-six years old. She died of tuberculosis. Her mother is sixty-five years old and Edsonia was the sole breadwinner. Her mother files claims to the NIS.

Question

Advise Edsonia's mother of her benefit entitlement.

Answer

In the normal course of events, Survivors' benefit is payable to the widow or widower, or the children of a deceased insured person, if at the time of death, the insured person: -

- was receiving Age or Invalidity Pension
- could have satisfied the eligibility conditions for an Invalidity Pension or Grant
- was already 60 years or older and would have been entitled to an Age Pension or Grant if he/she had submitted a claim.

Edsonia does not satisfy any of the conditions mentioned above but Tuskolan Beach Hotel had paid contributions on her behalf. She worked for four years, which means that a total of two hundred and eight (208) contributions had been paid. Edsonia was the sole breadwinner and her mother is sixty-five years old. Since her mother is over 60 and Edsonia had no husband or children, then Edsonia's mother will be entitled to a benefit for surviving parent. She will receive two-thirds of the amount that Edsonia would have received as an Age Pension.

It would be good if Edsonia's mother could get a reputable person to authenticate the claim that Edsonia was the sole provider for the home. In addition, Edsonia's mother will receive a Funeral Grant (lump sum) of three thousand dollars (\$3000.00).

Case 3

Jenique is employed as a Permanent Secretary in the Ministry of Health. She is 53 years old and should retire in 2002 from the Government Service. She is entitled to a gratuity at that time. Her husband Johnathan works with Utica Garments Factory. He receives a production bonus every year. In December 2000 Utica went into receivership and had to lay off Johnathan and all the other workers. They received severance payments.

Questions

- Advise Jenique about her entitlement at retirement
- She inquires about paying contributions on her gratuity to increase her pension. Explain how much contribution she would have to pay.
- Mr. Utica approaches you to find out how much contributions he has to pay on the production bonus and the severance pay. Please advise him.
- A new employer is hoping to establish a business at Diamond Industrial Estate and asks you what constitutes earnings for purposes of contributions. Kindly advise him.

Answers

1. Jenique will be 55 years old in 2002. When she retires at that age, she will not be entitled to any NIS Age Pension until she attains the age of 60 years. In the meantime she can seek work elsewhere and continue to make contributions. If she does not find employment with an employer then she can become self-employed and pay contributions into the Scheme or she can apply to the NIS Board to become a voluntary contributor.

2. Jenique will not be allowed to pay contributions on her gratuity because gratuity is not considered to be insurable income. Gratuity is a lump sum payment given on retirement for recognition of services rendered. The contributions would have already been paid during the working life.

3. Mr. Utica does not have any obligations to the National Insurance Scheme for the severance payments since severance payments represent an amount that is paid to an employee whose service is terminated prematurely. This is not insurable earnings.

He would not have to pay on the production bonus. The bonus is a part of the profits that is paid to workers as an incentive. This is not considered to be salary.

4. Wages for purposes of contributions according to SR&O #21 of 1986 include:

- Overtime payment
- Payments for night or shift work
- Wages / salary received by or on behalf of the employed person (between \$60.00 per month - \$3,350 per month)
- Any allowances granted to the employee in lieu of salary
- Commission
- Holiday pay
- Service charge

Case 4

"Good Morning Officer, My name is Jane Francis. I was married to John Francis. He died in 1997 at the age of 42 leaving me with two children aged 4 years and 6 years. I came to the office and asked whether I would receive benefit; seeing that my husband was employed at one of this country's leading Industrial Departments for over 15 years. The lady told me yes and she gave me two (2) sets of forms. I started to receive benefits in the sum of \$57.50 per week. Sometime in 2000 I started to receive \$25.00 per week. I made a check with the NIS Office and I was told that my benefit had to be discontinued."

Questions

- You are the benefit officer and the lady approaches you; explain to her the type of benefits, which she received and the possible reasons for the discontinuity.
- What does the legislation state regarding benefits paid to the widow/widower at the time of death of wife/husband?
- What does the regulation stipulate for common law unions?

(a) If the man did not have a spouse, what would have happened to the Survivors' Pension?

(b) If he had neither spouse nor children what would have happened to the money

available for Survivors' Pension?

Answers

(1) Mrs. Jane Francis was qualified for the Survivors' Benefit under the National Insurance (Benefits) Regulations SR&O #13 of 1994 Section. 42. The qualifying conditions for a Survivors' Benefit are that the deceased person:

(a) should have been receiving Age or Invalidity Pension

(b) could have satisfied the prescribed conditions for an Invalidity Pension or Grant

(c) was sixty years of age or over and would have been entitled to an Age Pension or Grant if he/she had submitted such a claim.

She had started to receive benefits in the sum of \$57.50 per week. This means that her husband John Francis would have been entitled to a minimum Age Pension of \$50.00 per week. By virtue of his death she, the widow would receive 75 % of that, which is equivalent to \$32.50 and the children would have received minimum Survivors Benefit of \$12.50 each, hence the total of \$57.50 payable to Mrs. Francis.

According to Mrs. Francis, she started to receive \$25.00 per week in 2000 and she was told that her benefit had to be discontinued and she wanted to know the reason for that decision.

SR&O #13 of 1994 Section 5 explains that a Survivors' Pension payable to a widow shall cease on her re-marriage or if she cohabits with a man i.e. lives together with him in the same house. This might well have been the case with Jane Francis. The same situation applies in the case of a widower.

(2) The legislation states (SR&O #13 of 1994 section 44) that a widow/widower at the time of death of wife/husband is entitled to:

- If she/he is 50 years or over a Survivors' Pension for life, or a Survivors' Grant is payable.
- If she is under the age of 50 and she is an invalid, she will be paid a Survivors' Pension during her invalidity. She will continue to receive a pension for life if her invalidity ceases and she is over fifty years.
- If she is under the age of 50 she will be paid a benefit for one year unless she is pregnant at the time of her husband's death or if she has children whose ages at the time of her husband's death will make her eligible for pension for life.

(3) The stipulation for common-law union is the same as that for husband and wife but they must be living together for at least 3 years. (SR&O #13 of 1994 section 44)

(4) (a) If the man did not have a spouse, the full amount of Survivors' Pension or Grant may be paid to the children of the deceased (SR&O #13 of 1994 section 50 (3)).

(b) If John Francis did not have a wife or children then his benefit would have been paid to a surviving parent who was 60 years or over and who received at least 50 percent of his/her support (income) from him. If he had no surviving parent then the money will stay in the "pool" of funds at the National Insurance. The National Insurance is a social solidarity programme. Funds are 'pooled' together to share the risks of the members of the Scheme.

Case 5

Nequette, Shephette and Shantelle work with Islanders Photo Studio. During 2000 Nequette became pregnant and applied for thirteen (13) weeks Maternity Benefit. She received the allotted 65% benefit from NIS. Islanders Photo Studio paid the 35% as salary to Nequette.

Shephette received a back injury. She started to collect Sickness Benefit but she had to rush off to Barbados.

Shantelle who has three (3) dependent children was receiving Employment Injury Benefit. She still had another twenty-six (26) weeks to collect but she went to Layne's Hardware and stole two (2) locks. She was sentenced to three (3) months in prison.

Questions

(1) Nequette approaches you to find out about paying contributions, advise her.

(2) Explain to Islanders Photo Studio what will happen to Nequette during the thirteen (13) weeks when she receives NIS benefit payments.



(3) What should happen to Shephette's benefit?

(4) What would become of Shantelle's benefit?

Answers

(1) The questions raised by this problem concern the legislation relating to paying contributions and also to Benefits legislation.

Let us consider first, Nequette's case. She has qualified for the Maternity Allowance according to SR&O #13 of 1994. These qualifying conditions are:

- A woman must be between the ages of 16 and 60 years and;
- she must have been employed for at least thirty (30) contribution weeks and has paid or has been credited with at least twenty (20) weekly contributions immediately before the date of making the claim for Maternity Allowance.

SR&O #13 of 1994 Section 22 states that "*weekly rate of benefit shall be 65 percent of the sum of the insurable earnings or credits of the insured person in the 30 weeks stipulated in the qualifying conditions*".

The problem states that Nequette has received the 65% from the NIS. Additionally, she has received 35% salary from her employer, Islanders Photo Studio. It would appear that Nequette is concerned about paying contributions on the 35% that she has received as wages from her employer Islanders Photo Studio. Since the 65%, which she has received as benefits, payment from the National Insurance Scheme is not wages no contributions should be made on that. Although the 35% may be classified as wages it is not NIS deductible because SR&O #13 of 1994 Section 57 (1) makes it quite clear that "*for every contribution week for the whole of which an insured person receives sickness benefit or maternity benefit a credited contribution shall be credited to that person without actual payment thereof*".

Paragraph 3 of the same section states that *“credited contributions shall be valid for maternity benefit and shall be at the level of the weekly wages corresponding to, or most closely corresponding to, those on the basis of which the maternity benefit is paid. Provided that where maternity benefit is payable at different rates, during a contribution week, the credited contribution shall be at the highest level of weekly wages on which the benefit is paid”*.

(2) During the thirteen (13) weeks that Nequette receives Maternity Benefit from the NIS, Islanders Photo Studio is not under any obligation to make contributions on Nequette’s behalf. However, they should pay her 35% salary since the NIS would only pay her 65% of her average weekly insurable earnings.

(3) Shephette received a back injury. She would have submitted a claim for Sickness Benefit. She had already started to collect Sickness Benefit from the NIS, which means that she would have satisfied the qualifying conditions of:

(1) being between ages of 16 and 60 years

(ii) having paid or has been credited with at least twenty-six (26) weekly contributions, eight (8) of which would have been paid in the thirteen (13) weeks before her illness.

(iii) having been employed immediately before the illness.

Apparently, Shephette’s condition has deteriorated and she has to rush off to Barbados. Under normal circumstances and according to SR&O #13 of 1994 section 60 a person should be disqualified from receiving benefit for any period during which he/she is absent from St.Vincent & the Grenadines. However, Shephette had already started to receive the benefit and had to leave the state temporarily to receive treatment. In this case Shephette’s benefits will continue. This benefit may be deposited directly into her bank account or she may leave instructions to the NIS to pay to her agent.

(4) Shantelle’s situation is unfortunate. She was sentenced to three (3) months in prison. Shantelle cannot receive the Employment Injury benefit for the period that she is imprisoned (SR&O #13 of 1994 Sec. 63). However, her three dependent children cannot be punished for Shantelle’s crime. SR&O #13 of 1994 Sec. 63 paragraph 2 allows the National Insurance Board to make some form of payments to the dependants. However, they would only receive one half of the Employment Injury benefit that was payable to their mother, Shantelle.

Case 6

“Sir, I have a complaint that I want to lodge at your office. Since December 1982 I was employed at Marine’s and Generalty Insurance Co. I received salary of \$750.00 per month. In September 1996 I fell ill and I submitted a claim to the National Insurance Office. The claim covered a period of ten (10) days. To my surprise I only received an amount of about \$122.00. I want to know the reason for my receiving such a small amount.”

Question

You are the benefit clerk. Kindly explain to the gentleman the specific legislation that deals with his case and the reason for all that transpired in his particular situation.

Answer

The National Insurance (Benefits) Regulations SR&O # 13 of 1994 Section 9 entitles a person who is incapable of work as a result of illness to claim a Sickness Benefit.

Section 12 of the same regulations stipulates the eligibility conditions as being:

- the person must be between ages of 16 and 60 years inclusive, who
- has paid or has been credited with at least twenty-six (26) contributions into the National Insurance Scheme, at least eight (8) of which must have been paid in the thirteen (13) weeks before the illness.
- has been employed immediately before the illness.

The gentleman in question has qualified. He claims that he was given a ten (10) days sick leave from the doctor but that is based on his salary of \$750.00 per month. The \$122.00 that he received could never compensate. SR&O # 13 of 1994 Sec. 13 indicates that an insured person who qualifies for Sickness Benefit will not be entitled to receive any benefit for the first three (3) days. These days are called 'waiting days'. These are there to act as a buffer to ensure that a claim is not submitted for any frivolous reason and in any event most persons are granted two (2) days sick leave with full pay from the employer. Also, the same section 13 of SR&O #13 of 1994 does not allow payment for Sundays. Definitely the gentleman's ten (10) days would have included the three (3) waiting days and it may well be that two (2) Sundays would have been included in the ten (10) days or he may have returned to work before the expiry of the ten (10) days or he may have submitted the claim late hence the reason for receiving \$122.00.

Case 7

Jeptuni Lambert is 68 years old. He comes to the National Insurance Office on May 10, 2001 with an ID card stating that he worked at Children's Wear and he wants to be enlisted on the NAAP Programme.

Questions

- What documents do you need to verify Jeptuni's age?
- What conditions must Jeptuni satisfy to receive a NAAP benefit?
- If Jeptuni satisfies the requirements, to what other benefits would Jeptuni and his family be entitled?

Answers

(1) This case is based on the Non-Contributory Assistance Age Pension (NAAP) 1997, which is an amendment/addition to SR&O #13 of 1994 National Insurance (Benefits) Regulations.

In order to verify Jeptuni's age, one would need a birth certificate, passport or deed poll. In circumstances where it is nigh impossible to obtain any of these documents, e.g. if there are no relatives alive and the person is a national, then school records would be acceptable. This is a last resort.

(2) The conditions which are stipulated in section 37 A (1) state "*notwithstanding the provisions of this part a pension of \$20.00 per week to be known as the Non-Contributory Assistance Age Pension*

may be granted to persons who are residents of Saint Vincent and the Grenadines who satisfy the following conditions”.

- were 57 years or older on January 5, 1987;
 - are not engaged in remunerative (paid) employment;
 - do not have income equivalent to the Non-Contributory Assistance Age Pension benefit (e.g.) Social Welfare benefit or a regular income from any other source;
 - are not receiving any pension income from the National Insurance Scheme;
 - were actively employed for a significant number of continuous years prior to 5th January 1987
 - Satisfy the following residency requirement:
 - (i) is at the date of claim a resident of St.Vincent & the Grenadines;
 - (ii) has been living in St.Vincent & the Grenadines for at least 5 of the last 8 year
 - (iii) has been living in St.Vincent & the Grenadines for at least 25 years since his twentieth birthday.

(3) As long as Jeptuni satisfies the foregoing requirements, Jeptuni would be entitled to the \$20.00 per week NAAP benefit. On his death his relatives would be entitled to a Funeral Grant of \$1,500.00. On the death of his spouse/common law wife the relatives will be entitled to a Funeral Grant of \$750.00. If he has dependent children, Funeral Grant will be payable on their death as follows:

Under 3 years=	\$200.00
3 years =	\$225.00
4 years=	\$300.00
5 years=	\$375.00
6 years =	\$450.00
7 years =	\$525.00
8 years =	\$600.00
9 years=	\$675.00
10 years and over =	\$750.00

Case 8

Laura Gonzalez aged 33 years worked with Jopina Ltd. from January 1993. She worked until July 1994. They paid full contributions on her behalf. She went to the United States for three (3) months August, September and October 1994. When she returned to St. Vincent in November 1994, she fell ill and sent a claim to NIS.

Questions

- Laura came to NIS to check on her claim. Advise Laura about the status of her claim.
- Assume that Laura had returned to St. Vincent in early September, would that have made a difference?
- Under what circumstances might a claim be disallowed or discontinued?

Answers

(1) Laura submitted a claim for Sickness Benefit. The qualifying conditions are identified as:

- the person must be between the ages of 16 and 60 years
- has paid, or has been credited with at least twenty-six (26) weekly contributions, at least eight (8) contributions in the thirteen (13) weeks before the illness and
- has been employed immediately before the illness.

The problem states that Laura went to the United States for three (3) months, August, September and October 1994. This means that she would not have been employed immediately before the illness. Therefore, she would not have the required eight (8) contributions in the thirteen (13) weeks before the illness. Laura's claim will have to be disallowed.

(2) Even if Laura had returned to St. Vincent in early September she still would not have qualified because she would not have had the required eight (8) out of thirteen (13) weeks contributions before the illness.

(3) Under Section 16 of SR&O #13 of 1994, a claim might be disqualified for any of the following reasons:

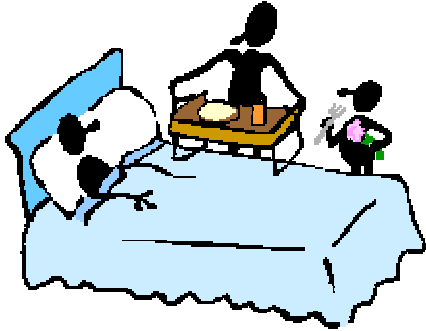
(a) the claimant has become incapable of work through his/her own misconduct

(b) the claimant refuses to attend a medical examination on the request of the Director

(c) (i) the claimant engages in any behaviour that will retard his recovery, or fails to answer any reasonable enquiry by an officer of the Board regarding his conduct in relation to his illness

(ii) the claimant's whereabouts is unknown

(iii) engages in paid labour



The claim might also be disallowed if:

- ☞ the claim is submitted late
- ☞ the claimant is not insured under the NIS
- ☞ the claimant is not gainfully employed
- ☞ the claimant has attained maximum payment
- ☞ the claim is submitted for three (3) days and less
- ☞ the claimant is over 60 years and submits a claim for Sickness or Maternity Benefit
- ☞ the claimant has since returned to work
- ☞ the claimant is a pensionable officer with government – cannot receive Sickness Benefit
- ☞ the medical certificate is invalid
- ☞ the claimant was on vacation leave and not sick leave.

Case 9

Drina and Sandrina aged 12 years and 15 years respectively are the two (2) surviving children of Letesha Priam who worked for ten years with Cheno Ltd. Their father Lanceford who is 46 years old is a known mental case. Drina and Sandrina were the named beneficiaries to their mother's NPF benefit. Sandrina and Drina live with their Aunt Thordina in Bequia but she has suffered a stroke, which left her speechless and paralysed on her right side. Drina and Sandrina went to live with Thordina's neighbour.

Questions

- For what benefit do Drina, Sandrina and Lanceford qualify?

- To whom should benefits be made payable? Why?
- Given Thordina's condition, what should happen to the benefits?
- What would happen to the NPF benefit?

Answers

(1) Since Letesha Priam worked for 10 years with Cheno Ltd., she would have been entitled to an Age Pension. Therefore, her children Drina and Sandrina and her husband Lanceford would be entitled to Survivors' Benefit.

(2) Section 55 (1) SR&O # 13 of 1994 makes provision for persons unable to act. The age of majority in St. Vincent & the Grenadines is 18 years old. Drina and Sandrina are aged 12 years and 15 years respectively. Since they are children then they will be categorized as being unable to act. Lanceford is a known mental case so he too is unfit to act. In any event one cannot legally enter into a contractual agreement with a person of unsound mind.

In Drina and Sandrina's case the benefit should be made payable to their Aunt Thordina who is their guardian.

In Lanceford's case the Board may upon written application being made to it, appoint somebody to act on Lanceford's behalf.

(3) Thordina is paralysed. This means that she is no longer able to be guardian for Sandrina and Drina. They have been sent to live with a neighbour. The Board should be notified (in writing) that the neighbour now has charge of the children and she will be entitled to receive the benefits since she is now the bonafide guardian of the children.

(4) Where the Board is satisfied that any sum or part of the NPF fund is needed for the benefit of the children under age 18 years the Board may pay that sum to an adult who satisfies the Board that he will apply the sum so paid to the benefit of the persons under 18 years. In this case Thordina (later the neighbour) has satisfied this requirement. Of course, the application should be done in writing.

Case 10

Joancilla worked as a factory hand at Shilah Garment Factory. Joancilla was given the responsibility to iron some finished garments. During the process the iron slipped from the ironing board and chopped off Joancilla's little toe and her fourth toe. The doctor recommended that Joancilla should travel to Barbados. She did not have any money to travel to Barbados so she approached the NIS for help. She received a benefit from the NIS. Joancilla returned to work after six weeks. This time an abscess came up on her right hand and she was hospitalized for four weeks. During the time she was in the hospital her husband Johnathan who was employed with Gibcon's Construction fell from the scaffolding on Dembas' public school and died on the spot.

Questions

- What benefit was Joancilla entitled to following the first accident?
- What should the NIS have done when Joancilla approached them?
- Advise Joancilla about her benefits rights regarding the abscess.
- Can Joancilla claim any benefit following Johnathan's death? If so, what are they?

- Johnathan had an 18-year-old son whose legs and hands were amputated? Is he eligible for any benefit? Explain.
- State under what other circumstances can benefits be duplicated?

Answers

- According to SR&O # 6 of 1997 National Insurance (Employment Injury Benefit) Joancilla is entitled to Employment Injury Benefit since she was injured during the course of her employment. She is also entitled to disablement in the form of a Disablement Grant since she has permanently lost two (2) toes (5% injury). She is also entitled to medical expenses that were reasonably incurred.
- The case states that Joancilla approached the NIS after the doctor advised her to travel to Barbados. She informed the NIS that she did not have any money. The National Insurance has an obligation to refund reasonable medical expenses that are incurred as a result of treatment obtained outside the state. This is normally done when the person returns. However, Section 15 of SR&O #6 of 1997 makes allowance for direct payment for medical expenses by the Board. This means that the Board can assign the medical expenses that are due to the insured directly to the medical practitioner or institution from which the treatment was obtained. This section of the legislation could have been invoked in Joancilla's situation.
- Joancilla was entitled to receive Sickness Benefit since the abscess was not a work-related disease.
- Yes, Joancilla can claim Death Benefit due to Employment Injury even if she is receiving Sickness Benefit. Under normal circumstances a person cannot claim more than one benefit at a time from the National Insurance Scheme. In situations where this arises the person is paid the benefit first awarded unless the other benefit is payable at a higher rate and in this case the higher of the two benefits is paid.

However, section 24 (2) #6 of 1997 allows for full duplication of Death Benefit with Sickness Benefit so that Joancilla is duly eligible to receive Death Benefit as a result of the death of her husband Johnathan. She can also claim Funeral Grant.

- The case infers that Johnathan's son is an invalid. Although he is 18 years old he is entitled to a Death Benefit as long as the invalidity continues.
- Section 24 (2) states that:-

☞ Injury Benefit could be duplicated with Age Benefit or Death Benefit

☞ Disablement Benefit with Sickness Benefit, Maternity Benefit, Survivors Benefit, Death Benefit or Age Benefit

The other circumstances under which benefits can be duplicated are:

☞ Death Benefit with Sickness Benefit, Maternity Benefit, Injury Benefit, Invalidity Benefit, Age Benefit or Disablement Benefit.

☞ Any other benefit may be duplicated in full with Funeral Grant

Case 11

Salma is employed at Richelle's Boutique. She makes a claim for Maternity Benefit. She is paid for a full thirteen (13) weeks. Subsequently, the NIS is informed that Salma returned to work after six (6)

weeks. The NIS calls in Salma but she does not have any money to repay. Subsequently Salma sends in a sickness claim for one hundred (100) days and the claim is honoured. At the end of the year Salma is filing her income tax return. She is itemizing her deductions. She has paid NIS contributions in the sum of three hundred and sixty dollars (\$360.00).

The Manager of Richelle's Boutique informs the NIS that Salma's Sickness Benefit should be made payable to them because Salma is indebted to the Boutique in the sum of \$200.00.

Questions

(1) How should NIS deal with Salma regarding the payment of the surplus Maternity Benefit?

(2) Salma approaches you regarding using the NIS contributions on her income tax returns. Advise her.

(3) How should NIS treat Salma's indebtedness to Richelle's Boutique?

Answers

(1) Section 32 (1) of the Principal Act # 33 of 1986 makes it categorically clear that any person who non-discloses or misrepresents any material fact to the NIS whether fraudulently or otherwise for the purpose of receiving any benefit to which he/she was not entitled shall be asked to repay the sum that was received.

Salma claims that she does not have the money to repay. However, she subsequently submits a claim for Sickness Benefit, the Act in Section 32 (2) allows the NIS to recover the money from the Sickness Benefit to cover the money that Salma had previously received fraudulently as Maternity Benefit. If the amount of Sickness Benefit cannot cover the previous amount then the NIS will have to press a criminal charge against Salma to recover the money.

(2) The Principal Act # 33 of 1986 Section 5 allows employers and employees to include contributions made to the NIS as allowance deductions for income tax purposes. Salma can therefore use the contributions on her income tax returns.

(3) Salma's indebtedness to Richelle's Boutique is outside the scope of the NIS. The Principal Act # 33 of 1986 Section 33 makes it plain that benefits from the NIS cannot pass to any trustee or other person acting on behalf of creditors. Richelle's Boutique will have to press charges against Salma for recovery of the \$200.00

Case 12

Dorothy Lynn is an age pensioner at the NIS. She receives pension at the rate of \$75.00 per week. Dorothy marries Benn who is also an age pensioner but he is receiving pension at the rate of \$150.00 per week.

(1) If Benn dies what type of benefits will Dorothy receive? Why?

(2) If Dorothy had children for Benn under the age of sixteen (16) what would have happened?

Answers

(1) Dorothy Lynn and Benn are age pensioners with the National Insurance Scheme. If Benn dies Dorothy will only be entitled to a Funeral Grant, which is a benefit that is payable on the death of an insured person or invalidity or age pensioner or the spouse or dependent child of any of the persons mentioned above (SR&O #13 of 94, section 38)

Dorothy cannot receive any Survivors' Pension since she would have married Benn after he started to receive the Age Pension (Section 42 (4) SR&O #13 of 1994).

If they were married before he started to receive a pension then Dorothy would have been awarded a Survivors' Pension. In this case she would have received 75% of Benn's Age Pension or \$112.50. She would have stopped receiving the \$75.00 Age Pension since the Survivors' Benefit would have been higher, Section 46 SR&O #13 of 1994.

(2) Even if Dorothy had children for Benn under sixteen (16) years they would not have been entitled to Survivors' Benefit because the marriage was contracted after Benn became an age pensioner (SR&O #13 of 1994 Section 42 (4)).

Case 13

Sinbad is a 40-year-old Security Guard who worked for seven (7) years at Jeloni Salon and Restaurant. Sinbad was involved in a vehicular accident and died subsequently. He had two (2) children with Rhona aged 3 years and 15 years. They are living with their mother Rhona. His wife Sharmin was 37 years old at the time of his death.

Questions

- Advise Sharmin about her entitlement to Survivors' Benefit. If Sharmin were an invalid, what would have happened?
- Advise Rhona about her children's entitlement to Survivors' Benefit?
- If Sharmin had adopted Rhona's children, would it have made a difference to her Survivors' entitlement?

Answers

(1) SR&O #13 of 1994 makes it clear that Survivors' Benefit is payable to the widow of an insured person who would have satisfied the eligibility conditions for receiving the same. Sinbad worked seven (7) years at Jeloni Salon and Restaurant so he would have satisfied the conditions. Sinbad was 40 years old when he died and his wife Sharmin was 37 years old. The case states that Sharmin had no children therefore, she would be only entitled to Survivors' Pension for a period of one year. If Sharmin were incapable of self-support (invalid) she would receive a Survivors' Pension for the duration of her invalidity. If the invalidity does not cease before she attains the age of 50 years then the Survivors' Pension would be payable for life.

(2) Rhona's children would be entitled to Survivors' Benefit although they were born out of wedlock. The 3-year-old child will receive Survivors' Benefit until she attains age 16 or age 18 years if she is in full-time education. The 15-year-old child will receive Survivors' benefit until she attains age 16 years. If she is still at school the NIS will write the school to ascertain whether he/she will be continuing in full-time education.

(3) If Sharmin had adopted Rhona's children they would have been regarded as her own children and she would have been entitled to a Survivors' Pension for life since the 3-year-old child would have taken her age up to 50 years. If she chose to be remarried or if she had cohabited before the 3-year-old child attained age 16 years then the pension would have ceased.

Case 14

Alladin was a self-employed fisherman. One day he and his 30-year-old wife Jodi who was employed with Tameco Restaurant were travelling to Petit Martinique. The Boat capsized and both of them drowned and no one found the boat or the bodies. Three children, Joma (12), Janie (4) and Sunell (7) survived them. They went to live with their maternal grandmother.

Questions

- Who would receive the Funeral Grant for Jodi and Alladin?
- If Jodi and Alladin had died of natural causes, what type of benefit would the children be entitled to?
- If Alladin had died of natural causes and he was survived by his pregnant wife Jodi and the three children would it make any difference to the benefits payable?

Answers

(1) Jodi and Alladin died at sea and their remains were not found so no one is entitled to receive a Funeral Grant. Funeral Grant is only payable when expenses for burial have been incurred.

(2) If Jodi and Alladin had died of natural causes then the children would have been entitled to Survivors' Pension. Their maternal grandmother would receive an Orphan's Pension on their behalf. Orphan's Pension is calculated at 50% of the Age Pension earned up to the date of death. She would receive the Survivors' Pension until each child reaches age 16 years or 18 years if they continued in full-time education.

(3) If Alladin had died of natural causes then Jodi would have received 75% of the Age Pension earned up to the date of death as Survivors' Pension. Since Jodi would have been pregnant at the time of Alladin's death then when the baby was born Jodi would be entitled to Survivors' Benefit until the child attained the age of 16 years or 18 years if he/she is in full-time education. The children would receive 25% of the Age Pension earned up to the date of death as Survivors' Pension. Depending on the

salary they might receive the minimum Survivors' Pension of \$12.50 per week. If she had one child he/she would receive the full 25% of the Age Pension earned up to death as Survivors' Pension until age 16 years or 18 years.

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CHAPTER 2

EMPLOYMENT INJURY

Overview

The Employment Injury Benefit was introduced in 1997 by SR & O # 6 of 1997. Each worker, irrespective of age is covered under the Employment Injury Regulations. The contribution for Employment Injury is 0.5%, which is payable solely by the employer. The benefits available under Employment Injury are: -

- Employment Injury Benefit
- Disablement Grant/Pension
- Constant Attendance Allowance
- Death Benefit
- Medical Expenses
- Funeral Grant



Checklist

Salient points

- Linked claims
- Waiting days
- Reasonableness in relation to medical bills
- Conditions relating to Constant Attendance
- Employer & Employee negligence

Case 15

"Hello Officer, I am John Lewis and I am working at the Lewis Punnett Home. One day I fell down and broke my hip. The doctor gave me 30 days leave. When the 30 days were finished I had to go back. Up to now I can't walk and the bills cost over \$3,000.00."

Questions

- Under which legislation is this person governed?
- Explain the specific sections that are relevant to his situation?
- Advise him about his entitlement.

Answers

(1) It is clear from the facts of this problem that the person is covered under the Employment Injury legislation #6 of 1997. He/she is entitled to Employment Injury Benefit, which is a payment to insured persons who cannot work because of an injury sustained as a result of an accident or alleged accident arising out of or in the course of employment.

This is spelt out clearly in SR&O #6 of 1997 Section 3 (1).

(2) The thirty (30) days sick leave was insufficient based on the extent of the injury, therefore, John had to return to the doctor for additional sick days. According to SR&O #7 of 1997 Sec. 3 (4) any further period of incapacity resulting from a previous injury shall be treated as one continuous period of incapacity.

Section 6 of SR&O #6 of 1997 also allows Injury Benefit for a maximum period of fifty-two (52) weeks from the date of the initial accident. John Lewis is therefore, entitled to sick leave of fifty-two (52) weeks. It must be borne in mind, however, that John should make regular visits to the doctor so that he/she can ascertain his progress. If the injury extends beyond fifty-two (52) weeks, John may become entitled to a Disablement Pension or Grant. If it were a case where John had lost a part of his body he may have been entitled to a Disablement Pension or Grant even before the fifty-two (52) weeks expired.

(3) John states that he has already spent \$3,000 in medical bills. Section 12 of SR&O #6 of 1997 allows for payment of reasonable medical expenses incurred by the claimant. As long as John submits all bills and receipts for drugs, medication, doctor's fees, travelling etc. he will be reimbursed.

Case 16

Dennis works as a labourer for Hopeless PLC. He is paid \$42.50 per week. One day Dennis needs to use a ladder to carry out some work. He collects a ladder from Eric in the stores but when he is half way up the ladder Dennis steps on a faulty rung and falls to the ground, cutting his shoulder. He goes to the doctor and the doctor gives Dennis twenty (20) days sick leave with effect from 10 th July 1999. Dennis takes the sick leave to Hopeless. Hopeless sends the claim to the NIS on the 27/07/99.

Eric is 56 years old. He receives \$380.00 per week from Hopeless. Hopeless fires him for negligence and he cannot find employment. He is wondering how this will affect the NIS pension.

Hopeless employs Dentonia, aged 14 years to assist while Dennis is on leave, Dentonia receives \$12.50 per week as travelling money, \$5.00 per week as money for food and a cash allowance of \$20.00 per week. Hopeless submits a Form C5 to NIS but Dentonia's name is not included.

Dennis who was 57 years old at the time of the accident returned to work with Hopeless. He is still angry with them because he felt he was not treated right. He works with them in the day and at evenings he sells coconuts and makes up to \$650.00 per month. The NIS Compliance Officer visits Dennis' Coconut stall and asks to see his records. Dennis orders the officer out of his place stating that "NIS is nothing but a Scheme".

Question

Discuss the issues in the case.

Answer

The facts disclosed by this problem indicate that Dennis falls from a ladder during the course of his employment. The fact that one rung of the ladder is faulty is immaterial. Since the work was a normal part of the course of his duty then Dennis should be entitled to Employment Injury Benefit according to the National Insurance (Employment Injury Benefits) Regulations SR&O # 6 of 1997.

The same regulations stipulate that if a person is injured on the job then there is a set of principles to follow. These include:

- reporting the accident to the employer or someone in authority as soon as possible.
- visiting the doctor immediately and asking him/her to certify the injury on the Medical Report form
- completing and signing the claim and submitting it to the National Insurance Office within fifteen (15) days from the date of the accident.

Dennis was injured on 10 th July. This means that his claim should have been submitted to the National Insurance Office by July 25 th. He took the claim to Hopeless PLC and Hopeless submitted it on July 27 th; therefore, the claim is two (2) days late. As a result of the late submission, Dennis will lose two (2) days of his benefit. If he has incurred medical expenses as a result of the injury he will be reimbursed for the bills that he has submitted. On his return to work Dennis is still angry with Hopeless for the apparent injustice. As a means of supplementing his income he opts to sell coconuts. He receives up to \$650.00 per month from this vending. This seems to suggest that Dennis is self-employed and should be registered as a self-employed person since he is still within the insurable age. However, the NIS classification regulations # 7 of 1997 would not allow a person to be employed and self-employed at the same time. Notwithstanding, Dennis was insolent and acted outside the law to accost the Inspector and to order him out of his place in that disrespectful way. According to the principal Act #33 of 1986 section 12 (6) the NIS can bring an action against Dennis for obstructing the Inspector in the course of his duty and Dennis can be fined up to \$750.00 if he is found guilty.

Eric was apparently fired for his negligence in taking a faulty ladder to Dennis. He is 56 years old and wants to ensure that he receives a reasonable pension on attaining his 60 th birthday. It would appear that Eric couldn't find any job. In order to maintain the same level of pension Eric can opt to become a voluntary contributor to the scheme or he can become self-employed. If Eric opts to become a voluntary contributor (SR&O #8 of 1997) then he must apply to the National Insurance Board for a certificate of voluntary insurance within thirteen (13) weeks of being terminated with Hopeless

(Section 8 (2) SR&O #8 of 1997). His contribution will be based on the average insurable earnings that was paid during the three years prior to the date of the cessation of employment (Section 8 (4) SR&O #8 of 1997).

Hopeless has employed Dentonia as a relief worker to assist during Dennis' absence. She is under 14 years. This means that Hopeless should pay the 0.5% which represents the Employer's contributions to Employment Injury. Failure to include her name on the Form C5 is in breach of the National Insurance (Contributions Amendment Regulations SR&O #15 of 1997) and the Inspector who is assigned to Hopeless District will have to get Hopeless to include her name on the Form C5 and to pay the short payment on Dentonia's behalf. If Dentonia was 16 years or older she would have been categorized as a regular employee and Hopeless would have had to pay full contributions on her behalf (2.5 % taken from Dentonia's salary and 3.5% paid by Hopeless).

Case 17

Theolinda is a student nurse who works with the Government of St. Vincent and the Grenadines. One day she is sent out with the ambulance for a patient. On the way back to the hospital the driver pulled the brakes suddenly. As a result Theolinda suffers strains to the neck. She has to be taken to Barbados for treatment. For four (4) months Theolinda has to hire somebody to take care of her.

Questions

- Under what legislation is Theolinda covered?
- What benefits are available to Theolinda?
- What must Theolinda do to claim these benefits?

Answers

- Theolinda is covered under SR&O #7 of 1997, the National Insurance (Employment Injury Benefits) Regulations.
- Theolinda is entitled to receive the Employment Injury Benefit and the Medical Expenses. She must submit all bills and receipts for treatment undertaken in St. Vincent and Barbados. Since Theolinda would have informed the National Insurance Scheme about the treatment in Barbados then she would be reimbursed for all expenses that have been reasonably incurred.

The problem states that Theolinda had to hire somebody to take care of her for four (4) months. Theolinda cannot claim the Constant Attendance Allowance because the problem does not state that Theolinda is disabled. The Constant Attendance Allowance is attached to the Disablement Benefit. It is payable for periods during which the disabled person needs the constant attendance of another. It is not payable during periods when the disabled is institutionalised e.g. in a hospital receiving full time care.

- In order for Theolinda to claim the Employment Injury Benefit and the Medical Expenses Benefit, she would have had to report the injury to her supervisor as soon as the incident occurred and have them submit an injury report to the NIS within ten (10) working days. She

must go to the Doctor to have him/her authenticate the accident and then submit a duly signed form within fifteen (15) days of the accident. For the medical expenses she must submit all bills and receipts for expenses that were reasonably incurred.

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CHAPTER 3

PRINCIPAL ACT

Overview

The National Insurance Scheme was established by Act # 33 of 1986. The Act sets out in broad detail all the major operations of the National Insurance Scheme. These broad details are for most part set out in Statutory Rules and Orders that cover specific aspects of the Scheme. From time to time it becomes necessary to answer questions relating to the Principal Act.

Checklist

Salient points

- ☞ Composition of the Board
- ☞ Investment Committee
- ☞ Appeal Tribunal
- ☞ Compliance issues



Case 18

The National Insurance Scheme has planned a consultation and you are asked to chair the proceedings. A trade union representative turns up at the meeting. During the question and answer period he asks you about the composition of the Board and whom they represent.

Questions

(1) Kindly address the question.

(2) The Employer's Federation Chairman asks about the persons who sit on the Investment Committee and what is the main function of the Committee.

Kindly advise him.

Answers

(1) The First Schedule of the Principal Act #33 of 1986 sets out the composition of the Board. The Board shall consist of nine (9) members appointed by Cabinet as follows.

- Two members representing Government;
- Two members representing employers
- Two members representing employed persons
- Two members who have experience in matters relating to business administration, finance, accountancy or banking
- The Executive Director or in his absence the Deputy Executive Director

The members representing employers shall be done in consultation with the Employers Federation. Those representing employees shall be done in consultation with the Trade Union Congress. The Cabinet shall name the Chairman and the Deputy Chairman to the Board. The Executive Director or Deputy Executive Director of the NIS may not assume the positions of Chairman or Deputy Chairman of the Board.

(2) The Principal Act #33 of 1986 Sec. 13 states that the Investment Committee shall consist of five (5) members as follows:

- The Chairman of the National Insurance Board who is also the Chairman of the Investment Committee
- The Executive Director of the National Insurance Scheme
- Three Board members who shall be nominated by the Minister with responsibility for National Insurance. Cabinet must approve these names.

The main function of the Investment Committee is to advise and make recommendations to the Board on matters relating to investment of surplus funds that are not currently used for paying benefits and administrative expenses. The guidelines that are used by the St. Vincent & the Grenadines National Insurance Scheme are "safety, liquidity and yield" as stipulated in the Mission Statement.

Case 19

Trevor Zaccheus is a prominent lawyer in St. Vincent & the Grenadines. His client Landa Toby is dissatisfied because the NIS has not honoured her claim for Survivors' Benefit for her son Timmy who

is 17 years old and is attending the Community College. She has written to the Board requesting a hearing.

Questions

- (1) How many persons should sit on the Appeal Tribunal? How should this Tribunal be comprised?
- (2) What is the tenure of the Chairman?
- (3) Should a lady sit on the panel for this particular case? Why, if not, why not?
- (4) Should Trevor be allowed to chair the panel in this case? Why? If not, why not?

Answers

SR&O # 11 of 1995 – The National Insurance (Determination of Questions) Schedule outlines the composition of the Appeal Tribunal.

1. The Tribunal should comprise three (3) members as follows:

a) Chairman who should be a legal practitioner of at least five (5) years experience. He should be appointed by the Minister with responsibility for Social Security and this should be communicated in writing.

b) Two (2) members, one representing employers and one representing employees. These must be appointed by the Board from among a standing panel of persons representing employers and employees.

2. The Chairman's tenure is two (2) years, but he shall be eligible for reappointment for a further two-year term. He should not hold office for more than two (2) terms.

3. Where the claimant is a woman it is good practice to have at least one (1) woman on the Tribunal if this is practicable.

4. Although Trevor is a prominent lawyer he should not be allowed to sit on this panel. Landa is his client; therefore he will have a conflict of interest and will not do justice in the circumstance.

Case 20

Rapunzel Hair Studio has opened a salon at Buccament Bay. The Salon was in operation since 1997. One (1) of Rapunzel's workers came to the National Insurance Office to inquire if Rapunzel had been making contributions. The search showed that Rapunzel had not even registered. The employee was told that the matter would be dealt with.

Subsequently, the Compliance Department decided to go down to Buccament to investigate this matter. Rapunzel refused to allow them entry to her business. Later, she called the NIS office and told one of the Inspectors that he could come to see the records at 7:30 pm the following night. The Inspector went at that time without informing the Compliance Manager and Rapunzel threw acid in his head.

Questions

- (1) What action can the NIS take against Rapunzel?
- (2) What action can the Inspector take against Rapunzel?
- (3) Can the Inspector claim Employment Injury Benefit?
- (4) If Rapunzel had given the Inspectors access to her business. What should have happened?

Answers

(1) Rapunzel Hair Studio has already violated SR&O #22 of 1986 by failing to register the Hair Studio within the seven (7) days stipulated time. Having received the information, the Compliance Officers are within their rights to investigate the matter. On arriving at Rapunzel's she refused to allow them to enter her premises. In doing this she has violated Section 12 (6) of Act #33 of 1986 which forbids an employer or his agent to refuse admission to an inspector in the exercise of his duty unless they have reasonable cause to do so. In light of this violation the Act gives the NIS the right to bring a charge against Rapunzel. On summary conviction she is liable to pay a fine of \$750.00 or to serve a prison term for as long as 6 months.

(2) The Inspector was acting outside the scope of his employment to go to Rapunzel's Studio without informing the Compliance Manager about his intention. The NIS therefore cannot take any action against Rapunzel on his behalf. However, he can bring a criminal charge against Rapunzel for causing serious bodily harm.

(3) No. The accident took place outside his working schedule. He was acting on his own behalf. If the NIS had given him permission to visit Rapunzel at that time then the NIS would have accepted liability and he would have been entitled to Employment Injury Benefit.

(4) If Rapunzel had given the Inspectors access to her business then they would have had to produce their NIS ID Card and state the purpose of their visit. After declaring their intentions they should then have asked Rapunzel to produce all documents relating to contributions to the fund i.e. wages record and all other related documents. They have the permission to copy extracts from these records.

N.B. The stipulated working hours are between 8.00 a.m. to 4.15 p.m.

Case 21

The National Insurance Scheme was established on 5 th January 1987. Since its inception the Scheme has expanded its operations and in January 1997 the Employment Injury Branch was added to the sphere of operations.

The Short Term Benefit Branch and the Long Term Benefit Branch have been in operation since 1987 and 1989 respectively. Coverage was extended to the self-employed in 1997.

Questions

- (1) What is the principal Act that established the NIS?
- (2) According to the Regulations where did the initial funds come from to set up the Employment Injury Branch?
- (3) Suppose there is an insufficiency of funds in the Long term Branch, what should happen?
- (4) What benefits are payable under the Short Term Branch? The Long Term Branch?

Answers

(1) The National Insurance Scheme was established by Act # 33 of 1986. The Act is sub-divided into seven (7) sections as follows: -

Part I - Preliminary – Short Title and Commencement

Part II - Administration and Finance

Part III - Insured Persons and Contributions

Part IV - Benefits

Part V - Adjudication and Legal Proceedings

Part VI - Miscellaneous

Part VII - Repeals and Transitional Provisions

(2) SR&O #21 of 1996 (The National Insurance Financial and Accounting Regulations) section 4 paragraph (a) states that when Employment Injury Benefits specified in section 27 (1) of the Act are implemented for the first time the Board may transfer such amount as it thinks fit to the Employment Injury Benefits Branch account from either the Short Term Benefit or the Long Term Benefit Branch.

(3) SR&O #21 of 1996 section 4 (b) – If there is a temporary insufficiency in any one branch, the Board may authorize the transfer of any amount that may be necessary from another branch; and section 4 (c) of the same regulation states that amounts so transferred shall be repaid to the lending branch by the borrowing branch as soon thereafter as possible with payment of interest at such rate as the Board may determine. Paragraph 4 (d) further states, that if the insufficiency continues then the Board may authorize the transfer of any amount that may be necessary from another branch.

(4) According to #21 of 1996 (Accounting and Financial Regulations) – The Short Term Benefit Branch comprises Sickness Benefit and Maternity Benefit and the Long Term Benefit Branch comprises Age Benefit, Invalidation Benefit, Survivors' Benefit and Funeral Grant.

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CHAPTER 4

CLASSIFICATION REGULATIONS

Overview

As the name suggests the Classification Regulations, SR & O # 7 of 1997 classifies workers as employees, self-employed persons and non-insurable persons. It also classifies persons or entities that should be treated as employers.



Checklist

Salient points

- ☞ Status of clubs, associations etc
- ☞ Status of Diplomats, Ambassadors
- ☞ Self-employed persons
- ☞ Status of Government Ministers
- ☞ Regular employees and employers

-

Case 22

"Good Morning Mistress, is this the National Insurance Office?"

"Yes, it is."

"I need some information. Would you be able to help me?"

" Yes, please tell me."

"I have some people working with me. They are working as captains and mates on board our ships. They are nationals of St.Vincent & the Grenadines. We pay their salaries. The company is registered in St.Vincent & the Grenadines. Although we pay their salaries, they are really on contract so we do not see them as regular workers. Should we still pay NIS contributions for them?"

Question

- React to this conversation citing the relevant legislation to support your answer.

Answer

The Classification Regulation SR&O # 7 of 1997 categorizes workers as employees, self-employed and employers (among other things).

The person who makes the inquiry is the employer since he states that the persons are working with him. The crux of the matter centers around whether he should be paying contributions on their behalf since they are working on a contractual basis as mates and captains on board their ships.

The issue at hand is not the contract. This is a secondary matter because these mates and captains are working for salaries with a company that is registered in St.Vincent & the Grenadines and they are also nationals of St.Vincent & the Grenadines.

One can assume that they are between the ages of 16 years and 60 years, which is the first criterion that is needed to ensure insurability status. Having satisfied this requirement it is necessary to determine their salary. This has not been stipulated but it is reasonable to assume that they are receiving more than \$60.00 per month given the nature of the jobs. The First Schedule of SR&O #7 of 1997 paragraph 5 categorizes persons who work on board any vessel as an employed person, therefore the company should take steps to have the persons registered and start to pay their contributions immediately.

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Case 23

The Governor-General, the Speaker of the House of Assembly, the Minister of Finance, the Ambassador to the OAS and the Ambassador's wife who works for the British High Commission office in St.Vincent approach you regarding their insurability status.

.

Question

Advise them accordingly.

Answer

This is a straightforward question based on the Classification Regulations SR&O #7 of 1997. The Second Schedule categorises the Governor-General, the Speaker of the House of Assembly and all members of the House of Assembly as self-employed persons. The registration procedure for a self-employed person is very simple. Collect a registration form from the National Insurance Office, select a wage category that best represents your income, and return the completed form to the NIS. A number will be assigned and contributions can be paid either weekly or monthly based on the person's preference. If the person was previously employed with an employer he/she will retain the same NIS number.

The Ambassador to the OAS will be categorized as an employee. According to the First Schedule of the Classification Regulations (SR&O #7 of 1997 paragraph 2 (a)), any citizen of St.Vincent & the Grenadines who is employed in any employment where he is accorded diplomatic status in his official capacity is an employee.

The Ambassador's wife who works for the British High Commission Office in St.Vincent & the Grenadines is wholly engaged in that employment and receives a salary, therefore, she is a bona fide employee and the British High Commission is duty bound to deduct and make contributions on her behalf.

Case 24

O'Keefe and O'Reilly Co. is a partnership that was established on 4 th March 1989. They employ fourteen (14) persons in their business. They have been paying their contributions regularly. In 1998 Mr. O'Keefe approached you and said that he wanted to contribute on behalf of O'Reilly and himself. O'Keefe's wife is also employed for about eighteen (18) hours a week on a contractual basis as a stenographer. O'Reilly's son is employed as a pilot on his aircraft "Swangingo", which transports goods weekly to the Grenadines.

Questions

- (1) Advise Mr. O'Keefe about making contributions for himself and O'Reilly
- (2) Should O'Keefe make contributions on behalf of his wife?
- (3) Should O'Reilly's son be registered as an employee?

Answers

- (1) This case is based on SR&O #7 of 1997 – National Insurance (Classification) Regulations.

According to the First Schedule, the fourteen (14) regular employees are treated as employees. The issue at hand though covers Mr. O'Keefe and Mr. O'Reilly. As is indicated in the problem, O'Keefe and O'Reilly are partners and O'Keefe wants to find out about their contribution status. The Second Schedule of SR&O #7 of 1997 specifies employment in respect of which subject to the provisions of regulation 3(2) persons are treated as self-employed persons (O'Keefe and O'Reilly are not employees, they are the owners of the business)

As owners of the business they are covered by paragraph 3 of the Second Schedule which sets out the conditions for such persons. These are: -

- (i) where the person is employed as an agent paid by commission or fees:
- (ii) where the person so employed shares in the profits or on any combination of profits and fees.
- (iii) where the person employed is dependent for his/her livelihood from the business, other than as an agent.
- (iv) where the person is employed by more than one employer as an agent and he is not treated as a regularly employed person.

Based on the above stipulations such a person is self-employed. For all intents and purposes O'Keefe and O'Reilly can make contributions as self-employed persons.

(2) Since O'Keefe's wife is employed on a contractual basis for eighteen (18) hours a week, she can be classified as a regularly employed person provided that she receives salary over the minimum \$60.00 a month and satisfies the other conditions for an employed person (between ages 16 – 60 etc.). She can also be classified as a self-employed person according to schedule 2 of #7 of 1997 section 6, which states that "employment of a married person, whether or not under a contract of service by or as a partner of, or in similar association with his or her spouse as the case may be where that employment is in trade or business and the spouse is ordinarily engaged therein for not less than sixteen (16) hours in a contribution week." Since she is a stenographer for the business one may conclude that she is indirectly engaged in the business. If however, Mrs. O'Keefe falls outside the scope of that definition she is still covered under section 4 of the second schedule, which covers "employment under a contract of service by the insured person's spouse."

(3) O'Reilly's son is employed as a pilot on "Swangingo." According to the First Schedule, a pilot is classified under employment of a casual nature in section 6 (b), therefore, O'Reilly's son should be registered as an employee.

Case 25

Rovers Sports Club is one of the big Football clubs in St. Vincent & the Grenadines. It is basically a charitable organization but it has an office at Sion Hill and employs a Manager who is paid \$1,500.00 per month from Club funds and a coach who is paid \$1,800.00 per month from grants and subsidies to the club.

Additionally, one (1) of the Club's members goes around to assist with cleaning and he is given a stipend of \$13.00 per week.

Questions

- (1) Should Rovers Sports Club make contributions on behalf of the Manager and the coach?
- (2) Who is the employer?
- (3) Should contributions be deducted from the club member who assists with the cleaning?
- (4) Which category of workers is not treated as employed or self-employed?

Answers

This case covers Classification Regulations SR&O #7 of 1997 which sets out (classifies) persons to be treated as employees, self-employed persons, those who are neither employed or self-employed and employment in respect of which persons are treated as employers.

(1) Although the problem states that Rovers Sports Club is a charitable association it also shows that the Club hires a Manager and a Coach who receive salary at the rate of \$1,500.00 and \$1,800.00 per month respectively. This suggests that they are employees based on Regulation 2 (1) of Act #33 of 1986. Therefore, Rovers Sports Club should be duly registered as an employer and should have its Manager and Coach registered and should make contributions on their behalf.

(2) Based on SR&O #7 of 1997 Fourth Schedule Section (1) "A club shall be treated as an employer where the employment is for the purpose of any game or recreation where the persons so employed are engaged or paid for that employment through the club," thus Rovers Sports Club is the employer for the Coach and the Manager.

(3) The club member who assists with the cleaning is not employed or self-employed according to the Third Schedule of SR&O #7 of 1997, section 1 since he only receives a stipend of \$13.00 per week.

(4) According to SR&O #7 of 1997 the Third Schedule, paragraphs 1-6, "Employment which is treated as not being employment either as an employee or as self-employed include: -

☞ Employment of a casual nature in which the person concerned is engaged only to an inconsiderable extent and the wages in any week from the employer amount to less than \$15.00.

☞ Employment without pecuniary remuneration by the employee's father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half- brother, half -sister.

☞ Employment of any person who is **not** a citizen of St. Vincent and the Grenadines who in his official capacity is accorded **diplomatic or equivalent status**.

☞ Employment or service of any person who is **not** a citizen of SVG as a member of the armed forces of any country other than SVG.

☞ Employment otherwise than as a domestic worker of any person who is not a citizen of SVG by an international Government of SVG.

☞ Employment of a married woman on a contract of service in partnership with her husband for less than sixteen (16) hours a week.

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CHAPTER 5

REGISTRATION & CONTRIBUTIONS

Overview

The Registration and Contributions aspects of the National Insurance are covered under SR&O #21 & #22 of 1986. These regulations stipulate the time frame for registration of employers and employees. They also provide information on matters relating to payment of contributions and the criteria to be used in relation to document submission for National Insurance purposes.



Checklist

Salient points

- ☞ Nil returns
- ☞ Contribution documentation
- ☞ Agency
- ☞ Earnings/wages for NIS purposes
- ☞ Refunds

Case 26

Joni Blaize is a 22-year-old lady who works at Jemima Enterprises four (4) days per week at a rate of \$600.00 per week. She works three (3) days with Katash Ltd for \$240.00. Katash Ltd does not open its business in June and July. Jemima Enterprises employed Jason, a 64-year-old man as a handyman. Jason is paid salary at the rate of \$160.00 per week. When Jemima's C5s are sent to the NIS, Jason's contributions are recorded. Mr. Jemima (the owner of Jemima Enterprises) died in a plane on his way back to St. Vincent and Mr. Jeremy was appointed as agent to the business.

Questions

- Which Company should pay Joni's contribution?
- What records should Katash Ltd send to NIS for June and July? Why?

- Should Jason be treated as a regularly employed person? Why?
- What should happen to Jemima Enterprises' contribution following the death of the owner, Mr. Jemima?

Answers

(1) Section 23 of the Principal Act # 33 of 1986 states specifically that an employed person who is employed by more than one employer in any contribution week should have contribution paid on his/her behalf by each employer with respect to the wages paid by each employer. In this case Jemima should pay the 3.5 % and Katash should pay the 3.5 % on Joni's behalf. Joni's weekly wages from both employers total \$840.00 per week. The maximum weekly deduction for NIS is \$750.00. SR&O #21 of 1986 makes provision to have the excess contribution refunded. Of course Joni has to apply to the Board to recover the excess amount.

(2) Since Katash Ltd. is a duly registered employer under the Registration Regulations #22 of 1986, then Katash is expected to submit NIL Returns to the NIS for the months of June and July. If Katash Ltd fails to submit a NIL Returns to that effect then the NIS will have to assume that the employer is non-compliant and an assessment will be made and Katash Ltd. can be made to pay the amount that is normally payable on behalf of the persons who are in their employ.

(3) SR&O #21 of 1986 stipulates the conditions for payment of contributions. Since the regular insurable age is between ages 16 years and 60 years then Jemima Enterprises is under no obligation to pay a regular contribution for Jason. However, they should pay the 0.5% contribution, which represents Employment Injury. Jason's contributions can be treated as contributions paid in error. The Board will have to refund the contributions paid in error to Jemima Enterprises and also to Jason. Jemima will have to make an application in writing to the Board within two (2) years from the date on which the contribution was paid (SR&O #21 of 1986 Secs. 17 (11 & 4{2})).

(4) SR&O #21 of 1986 Sec. 22 states that following the death of an employer/owner then his personal representative/agent shall accept liability for anything which the owner would have been liable to do. In this case, Mr. Jeremy as agent would have to make contributions on behalf of Jemima Enterprises' workers.

Case 27

Darby Ltd has opened a factory shell at Overland. Mr. Darby began operations on 16 th March 2001. He has employed sixteen (16) persons – a Manager, a Financial Comptroller, a Company Secretary, a Production and Operations Manager, six (6) Clerical Officers and six (6) trainee apprentices.

The Manager and Financial Comptroller receive \$5,500 per month, the company secretary receives \$4,500, the Production and Operations Manager receives \$3,700, the Clerical Officers salaries range between \$1,000 - \$2,000 and the training apprentices are paid \$50.00 per week.

The Financial Comptroller and five (5) clerical officers were previously employed.

Questions

(1) Mr. Darby approaches you as an officer at the NIS regarding his operations. Advise Mr. Darby about his obligations

(2) What documents should Mr. Darby send to NIS on a monthly basis and at the end of the year?

(3) For which workers should Mr. Darby make deductions?

Answers

(1) Since Darby Ltd is a new company Mr. Darby must register the business with the National Insurance Scheme. According to the National Insurance (Registration Regulations SR&O # 22 of 1986), an employer has seven (7) days within which he should register the business (Section 4 (3) SR&O #22 of 1986). He should submit an application for Registration as an employer form (Form R.3). Among other things he should state the nature of the business and whether the business is a sole trader, partnership, company or corporation.

Since the Financial Comptroller and five (5) clerical officers were previously employed, they do not have to be re-registered. However Mr. Darby should ensure that they fill in the form R1B to indicate that they have transferred to his employ. They will retain their previous NIS numbers.

The onus is on Mr. Darby to ensure that the Manager, the Company Secretary, the Production and Operations Manager, the other clerical officers and the six (6) trainee apprentices (they receive salary of \$50.00 per week, although they are in training) are registered with the National Insurance Scheme immediately. Under no circumstance should they be registered later than fourteen (14) days after he has employed them (SR&O #22 of 1986, section 4 (6&7)). The application for registration as an employee form (Form R1) is available at the National Insurance Office. These forms must be duly signed and returned by the employer.

(2) At the end of each month Mr. Darby must send in his monthly remittance form (Form C2) and a completed Form C5 (all sections must be completed).

At the end of the year Mr. Darby should submit the certified record of employees earnings (Form C1/1) for each employee in his employ. This form must be completed in triplicate. He should also submit a Form C1A, which is a summary sheet with information pertaining to employees whom he would have employed during a particular year.

(3) He should make deductions for the sixteen (16) workers in his business since they all fall within the category of employees as stipulated in the Classification Regulations.

Case 28

Andrews Construction Company employs fourteen (14) persons. Mr. James George is the Manager and he receives a salary of \$5,000.00 per month. Andrews Construction pays their contributions at the end of each month. In December 1999, Mr. George comes to the counter and calls the contributions supervisor and tells him that the company had deducted too much from his salary and he needs the overpayment now.

John Lambert who is employed with Andrews Construction is also employed with Naptah Engineering as a handyman. He is paid salary at the rate of \$2,000.00 per month. His salary at Andrews is \$1,750.00 per month. Enrico John is 65 years old and worked at Andrews for twenty-four (24) weeks before he decided that it was time for him to quit. Andrews paid full contributions for Enrico John.

Questions

(1) Should the Contribution Supervisor give George the excess money? Advise George.

(2) How should Lambert's contributions be dealt with?

(3) What should happen to Enrico's contribution? If he had paid for fifty (50) weeks what would have happened?

Answers

(1) The SR&O # 21 of 1986 makes allowance for refunds of contributions paid in error. However, there is a particular procedure, which must be followed. The National Insurance Scheme will do a reconciliation to ascertain whether George's claim is authentic. If, in fact he has overpaid, the NIS will refund the excess contribution. However, George cannot come to the counter and make a demand. He must apply to the Board through the Executive Director and the application must be made within twelve (12) months of the contribution year for which he is claiming the refund.

(2) Both employers shall make contributions on Lambert's salary. The excess contribution i.e. any amount over the ceiling of \$3,250.00 per month will be refunded to Lambert after the NIS has completed its reconciliation process. The same procedure of applying for the refund still obtains.

(3) Since Enrico is already 65 years old then Andrews should not have paid full contributions for him. They were only liable for the 0.5%, which represents Employment Injury. In this case, Enrico will be refunded all the money that was paid on his behalf. Even if he had paid fifty (50) contributions the same thing would have held.

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CHAPTER 6

NATIONAL PROVIDENT FUND

Overview

The National Provident Fund was established by Act # 1 of 1970. It offered limited coverage to workers who were mainly engaged in the Agricultural Sector and similar enterprises. Age, Incapacitation and NPF Survivors' Benefits were offered under this arrangement. The NPF Act was repealed by the National Insurance Act, Act # 33 of 1986. However, persons who were duly registered under the National Provident Fund are still entitled to their benefits for which they qualify.



Checklist

Salient points

- ☞ Relationship with minors
- ☞ Beneficiaries
- ☞ Benefit Entitlements

-

Case 29

McCathy, aged 39 years is married to Matrel who is 37 years. They have been separated for five (5) years and McCathy's brother is in charge of the children. McCathy died in a vehicular accident and he has about five hundred (500) contributions with the NIS. His mother is the named beneficiary under the NPF, but she too has died.

Question

Who is entitled to receive McCathy's Funeral Grant, his Survivors' Benefit and his NPF benefits?

Answer

The National Provident Fund was established by Act #1 of 1970. According to this Act a person may name a beneficiary so that in the event of death the benefit may be transferred. In this question McCathy's mother was the named beneficiary but she died. This means that no one is legally entitled to his NPF Survivors' Benefit unless they produce letters of administration. (The Court will decide who is entitled)

Regarding the NIS benefit, SR&O #13 of 1994 sets out the eligibility conditions for Survivors' Benefit and Funeral Grant.

Section 38 (2) states that "a funeral grant shall be paid to any person who has paid or to any person who gives the Director an undertaking in writing to pay, the whole or part of the funeral expenses of the deceased...." The case seems to suggest that McCathy's brother was the one who presented the receipt. Therefore, he will receive a lump sum payment of \$3,000.00.

The case states that McCathy and his wife have been separated for five (5) years. This does not indicate legal separation or divorce; therefore, McCathy's wife Matrel will be entitled to Survivors' Benefit since McCathy has paid five hundred (500) contributions. She is 37 years old. Several conditions apply to Survivors' Benefit, but in this particular instance Section 44 par. (c) applies. This

states that if the widow is under 50 years and has children eligible for Survivors' Benefit, a Survivors' Pension will be payable until the last surviving child achieves the age of majority (18 years) if in full-time education or age 16 years if he/she is not in full-time education. Section 43 (2) of SR&O #13 of 1994 states that "Survivor's benefit in respect of dependent children payable shall be paid to the widow or widower, or other person having custody of the dependent children." The 25 % of the Survivors' Benefit (Pension), which is payable to the children should be paid to McCathy's brother since he is in charge of the children.

Case 30

Leandra and Dugal registered with the NPF in 1978 when they were employed at Ali's Mechanic Shop. Ali made deductions from their salary on a monthly basis. Dugal turns 60 years in 2001. His wife Leandra works as a vendor. She is 47 years old. She has contributed for thirteen (13) years to the NPF. Both of them have not contributed to the NIS.

Question

Dugal comes to you to seek advice concerning their NPF 'money' now that the NIS is established. Advise him.

Answer

Ali's mechanic shop made payments on Leandra's and Dugal's wages based on the stipulations in NPF Act # 1, 1970.

Under that Act Employers paid equal matching contributions to their employees' contributions up to a maximum of \$25.00 per month or \$300.00 per year. Interest was calculated on this bi-annually (June & December) at a rate of 2 ½ percent per year compounded.

When the National Insurance Act was enacted by Act # 33 of 1986, the assets of the National Provident Fund were transferred but the rights of the registered person were not automatically transferred to the National Insurance Scheme, i.e. persons still retained their rights under the NPF. If that person was still employed then he/she would have started as a NIS registered person bearing the same number as the one that was held under the NPF. However, a separate application had to be made for NIS.

In the case of Leandra and Dugal they have not contributed to the National Insurance Scheme. Since Dugal turned 60 years in 2001 he is entitled to his NPF Age Benefit. On his birthday he should come to the National Insurance Office with his birth certificate or passport so that his age can be verified. He will be given the appropriate claim form and his benefit will be calculated and paid on the same day.

When Leandra turns 60 years, a similar thing will be done for her. If she dies before reaching age 60 years, her beneficiary will receive a Death Benefit. If she becomes incapacitated, an Incapacitation Benefit will be paid.

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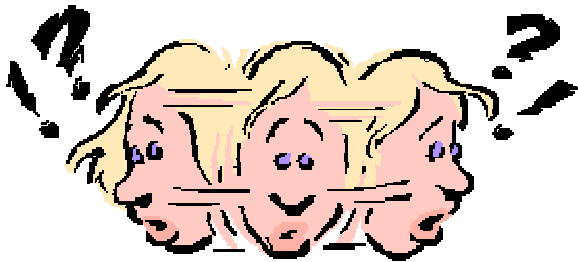
CHAPTER 7

DETERMINATION OF QUESTIONS

Overview

SR & O # 11 of 1995 – The National Insurance (Determination of Questions) Regulations sets out the types of reserved questions that the National Insurance Board can determine. It also specifies appeals that could be sent to the Appeal Tribunal and the procedure that should be followed for determination of questions.

Checklist



Salient points

- ☞ Time for Appeal
- ☞ Composition of the Appeal Tribunal
- ☞ Hearing before the Tribunal
- ☞ Questions for Determination

Case 31

Evans Linley worked with Samosa's Electrical Engineering for five (5) years. During that time his contributions were paid consistently. One day Evans was in the process of climbing a pole to make a connection, his foot accidentally caught a live wire and he was thrown off the pole. Evans sustained injuries to his back and his shoulders. After spending six (6) months in intensive care, Evans was sent to the Lewis Punnett Home. His sister appealed to the Appeal Tribunal.

Questions

- What type of reserved questions can the NIS Board determine?
- What types of questions can the NIS Director determine?
- What is the function of the Appeal Tribunal?
- Under what circumstances can a person claim Disablement benefit?
- Advise Evans about his claim to disablement benefit

Answers

(1) According to the National Insurance (Determination of Questions) Regulations SR&O # 11 of 1995 the National Insurance Board may determine Questions regarding Insurability i.e. whether persons were registered in insurable employment according to the terms set out in Act # 33 of 1986. It may also determine questions relating to classification, i.e. whether the person was an employee, employer, self-employed or whether the employee is not treated as being an employee or self-employed person (SR&O # 7 of 1997).

The Board also determines questions relating to contributions i.e. the person who is or was responsible for making payment on behalf of any employee.

The Board is also responsible for determining which children should be granted Survivors' Benefit.

(2) The NIS Director can determine all Questions as to right to benefit. He also has the option of referring any question to the Appeal Tribunal. Additionally, the Director can determine all other questions **except** Reserved Questions and Disablement Questions.

(3) The Appeal Tribunal determines appeals made by claimants arising from decisions of the Director. It is also the responsibility of the Appeal Tribunal to determine references from the Director and points of law from the Medical Board.

(4) According to SR&O #6 of 1997 (The National Insurance Employment Injury Benefit) Regulations Section 7 an insured person is entitled to a Disablement Benefit if he suffers as a result of an accident/employment injury resulting in loss of physical or mental faculty (over one percent disability). Before a person can claim Disablement Benefit he/she must exhaust the fifty-two (52) weeks injury benefit; except in cases where the initial injury resulted in loss of irreparable physical or mental faculty (over 1 percent).

(5) Based on the facts of the case, Evans' case warrants Disablement Benefit. However, Evans has been confined to the Lewis Punnett Home. In these circumstances Evans cannot utilize the benefits that are due to him since he is institutionalized (in-patient in a Government institution).

If Evans had dependants then the Director could use his discretion and pay the benefit to Evans' dependants.

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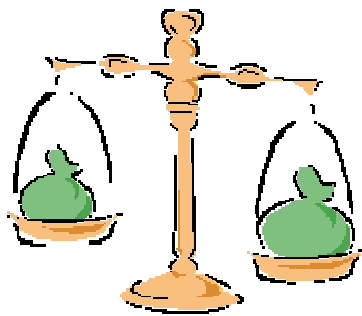
CHAPTER 8

ACCOUNTING REGULATIONS

Overview

The Accounting Regulations #21 of 1996 sets out the broad parameters that govern the financial operations of the National Insurance Scheme. It specifies the budgetary control process and the autonomy of all the benefit branches.

Checklist



Salient points

- ☞ Internal audit
- ☞ Accounting controls
- ☞ Distribution of Reserves

Case 32

The National Insurance Scheme puts two (2) advertisements in the Searchlight Newspaper as follows:

Wanted

* An Internal Auditor

* A Clerical Officer to work in the Employment Injury Branch of the Benefit

Division.

Questions

1. How many Benefit Branches are currently in operation at the National Insurance Scheme? Name them. Categorize the different benefits offered under each branch.
2. What are the functions of an Internal Auditor?

Answers

In keeping with the Accounting Regulations #21 of 1996 four (4) benefit branches are currently in operation at the National Insurance Scheme. These are:

- The Long Term Benefit Branch
- The Short Term Benefit Branch
- The National Provident Fund Branch in respect of benefits to be paid out of the National Provident Fund.
- The Employment Injury Benefit Branch

The Long Term Benefit Branch comprises Age Benefit, Invalidity Benefit, Survivors' Benefit and Funeral Grant.

The Short Term Benefit Branch comprises Sickness and Maternity Benefits.

The Employment Injury Benefit Branch comprises Medical Expenses, Injury Benefit, Disablement Benefit, Constant Attendance Allowance, Death Benefit and Funeral Grant payable on death due to employment injury.

The National Provident Fund Branch comprises Age Benefit, Survivors' Benefit (Death Benefit) and Incapacitation Benefit.

(2) The functions of the Internal Auditor include:

1. Examining and certifying every payment voucher, accounting transfer authority and receipt.
2. Testing all benefits awarded to ensure regularity and conformity with the stipulations in the NIS Act and Subsidiary Regulations.
3. Checking that all income which is due to the Scheme is received and accounted for unless the Board by its express authority decides to write it off as irrecoverable.
4. Assisting in the exercise of budgetary control by continuously reviewing the income and expenditure statement and reporting when the estimate as approved by the Board are either over or under.
5. Examining and certifying the correctness of any accounts that the NIS keeps in any other agency (e.g. the Post Office Accounts) and the Annual Accounts that are prepared by the National Insurance Scheme.
6. Ensuring that the National Insurance Scheme has a code of instructions designed to facilitate accounting controls or providing safeguards against error or fraud.

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CHAPTER 9

VOLUNTARY CONTRIBUTIONS

Overview

SR&O # 8 of 1997 established the National Insurance (Persons Abroad and Voluntary Contributors) Regulations. This legislation allows persons who have ceased working in insurable employment but who wish to maintain a record of contribution to the National Insurance Scheme to do so.

This also obtains for persons who have left St. Vincent & the Grenadines who continue to be gainfully employed and who wish to continue to be covered under the St. Vincent & the Grenadines National Insurance Scheme. However, such persons must receive permission from the National Insurance Board.

Checklist



Salient Points

- ☞ Eligibility conditions
- ☞ Time frame for registration
- ☞ Benefits available

Case 33

Ann John was employed as a nurse with the Government of St. Vincent between 1987-1999. Ann who is 49 years resigned her position at the end of December 1999 to take up residence in England. She will continue to work as a nurse in England. Her annual salary for the years 1997-1999 was as follows:

Years ----Salary

1997= \$27,480.00

1998 =\$27,480.00

1999 =\$28,200.00

Question

Ann approaches you as the Benefit Clerk to inquire whether she will be able to continue paying contributions. Kindly advise her

Answer

SR&O # 8 of 1997 sets out the eligibility conditions for voluntary contributions thus:

Any person who:

- ☞ is 16 years of age and under the age of 60
- ☞ ceases to be compulsory insurable.
- ☞ has paid at least one hundred and fifty (150) contributions into the National Insurance Scheme.
- ☞ is ordinarily resident in St. Vincent & the Grenadines.

It also makes provisions for persons who elect to be insured as voluntary contributors.

Ann John was employed with the Government of St. Vincent & the Grenadines as a nurse between the years 1987-1999. During these years the Government would have made contributions on Ann's behalf. Ann has resigned her job to take up residence in England and she will continue to work as a nurse. However, she wants to find out if she could continue making contributions to the St. Vincent & the Grenadines National Insurance Scheme.

The regulations allow Ann to be treated as a voluntary insured person since she has satisfied the prescribed eligibility requirements. However, Ann must apply to the National Insurance Board within thirteen (13) weeks after she ceases to be compulsorily insured. The Board will consider her application. If the Board responds positively to her application (it normally does) then the Board will require Ann to pay contributions based on her average annual insurable earnings during the last three (3) years for which she was employed. In this case her average annual insurable earnings would be \$27,720.00. Her monthly contributions would be calculated as 5.5% of that which would be \$127.05 per month or \$1,524.60 per year. This payment may be made on a yearly basis within the year in which it becomes due, and must be paid fully before Ann reaches age 60.

During her tenure as a voluntary insured person Ann's contribution would be valid for Age Benefit, Survivors' Benefit and Funeral Grant.

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CHAPTER 10

CARICOM RECIPROCAL AGREEMENT

Overview

With the introduction of Social Security/National Insurance in the Caribbean, all employed persons were required to register and pay contributions. In cases where persons migrated they were at a disadvantage if they had not made sufficient contributions in any one country to secure a retirement pension.

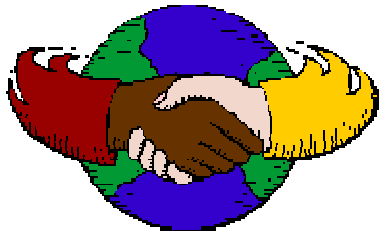
In 1999 the CARICOM Agreement was ratified. Fourteen (14) countries signed on to this Agreement. To date, the contracting parties are Antigua & Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Suriname and Trinidad & Tobago.

The purpose of the CARICOM Agreement is to protect the benefit rights of, and to give equality of treatment to migrant and itinerant workers

Checklist

Salient Points

- ☞ Totalization and determination of benefits
- ☞ Contributions in respect of different categories of itinerant workers
- ☞ Submission of claims
- ☞ Documents to accompany claims



Case 34

Samuel is employed with Trans Atlantic Shipping Co., which plies in all of the countries of the Caribbean except Suriname and Belize. Samuel is an Antiguan but he lives in Suriname. Trans Atlantic Shipping Company has its headquarters in Antigua. Samuel wants to know where he should be registered.

Questions

- (1) What agreement would allow Samuel to register as an insured person?
- (2) What countries are parties to this agreement?
- (3) What is the scope of this agreement?
 1. Advise Samuel concerning his right to insurance under this agreement?
 2. If Samuel was previously employed in SVG and had paid two hundred (200) contributions to NIS SVG and he had paid three hundred (300) contributions in Suriname. How would his benefits be calculated?

Answers

- (1) Samuel will be allowed to register under the CARICOM Agreement No. 21 of 1999 (National Insurance [Reciprocal Arrangements] (CARICOM) order, 1999. The main purpose of this agreement is to protect the benefit entitlement and give equality of treatment to migrant and travelling workers i.e. persons who move from country to country based on the nature of their employment or persons who might have to migrate to another CARICOM country because of marriage etc.
- (2) The contracting parties to the CARICOM Agreement are Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Suriname and Trinidad & Tobago.
- (3) The CARICOM Agreement covers
 - (a) Invalidity Pensions
 - (b) Disablement Pensions
 - (c) Old Age or Retirement Pensions
 - (d) Survivors' Pension
 - (e) Death Benefit in the form of pensions
- (4) Under the CARICOM Agreement Samuel could be insured in Antigua where Trans Atlantic Shipping Co. has its headquarters. The case does not state whether Trans Atlantic Shipping Co. has an agency or subsidiary in Suriname. However, this is immaterial. The fact that Samuel lives in Suriname and works there and Suriname is a contracting party to the CARICOM Agreement means that Samuel could be insured in Suriname.
- (5) Since Samuel would have contributed two hundred (200) contributions to SVG and three hundred (300) contributions to the Suriname Scheme, he would be entitled to an Old Age or Retirement Pension. This would be calculated using the principle of totalization i.e. pooling the insurance periods served in both countries. In SVG a person requires at least five hundred (500) contributions to qualify

for an Old Age contributory pension. The minimum payable is \$50.00 per week. In Suriname a person requires at least five hundred (500) contributions to qualify for an Old Age contributory pension. The portion of the pension to which Samuel would be entitled in SVG is: -

$$\frac{200}{500} \times 50.00 = \$20.00$$

If in Suriname the minimum pension is \$75.00 then he would be entitled to:-

$$\frac{300}{500} \times 75.00 = \$45.00$$

However, in St. Vincent & the Grenadines the qualifying age for pension is 60 years and the qualifying age in Suriname is 65 years. It means that St. Vincent would have to pay Samuel directly.

Case 35

Swazo has a shipping company in SVG. He has a fleet of ten (10) ships. Alban is a St. Lucian who is regularly employed with Swazo's Co. and works with M.V. Sterling, which flies a St. Lucian flag. His contract was signed initially for eighteen (18) months but there was a storm at sea and the ship floundered so Alban's contract was extended to twenty-six (26) months.

Questions

1. Where will Alban be insured? Why?
2. Would it have made a difference if M.V. Sterling was flying a Barbadian flag and Alban was asked to extend his contract to thirty (30) months because another worker was sick?

Answers

1. Although Alban is a St. Lucian he is employed with Swazo's Shipping Company which is registered in St. Vincent. Alban will have to be insured in St. Vincent. (He is employed on board the M.V. Sterling, which flies a St. Lucian flag with a contractual arrangement for eighteen (18) months, so he is subject to the legislation of SVG.) The case indicates that a storm arose at sea which caused the ship to flounder and Alban's contract was extended to twenty-six (26) months. Alban will still be subject to St. Vincent's legislation because it was as a result of the storm that his contract was extended. However, there will have to be an agreement between St. Vincent and St. Lucia.
2. Alban will still be insured in SVG because Swazo's Co. is his regular employer and the Company is located in SVG although the ship is flying a Barbadian flag. If Alban was asked to extend his contract due to unforeseen circumstances (sickness in this case) he will still remain insured in SVG but St. Vincent and Barbados will have to come to an agreement.

Case 36

Jolani has worked in Trinidad & Tobago, St. Kitts and Guyana. She has satisfied the eligibility requirements for a pension in Trinidad & Tobago (700 contributions). She has paid two hundred and fifty (250) contributions in St. Kitts and two hundred and fifty (250) contributions in Guyana.

Question

Advise Jolani about her insurability status under the CARICOM Agreement.

Answer

The case states that Jolani has satisfied the eligibility requirements for a pension in Trinidad & Tobago. This means that Trinidad & Tobago is duty bound to pay Jolani her full pension. There is no need for Trinidad & Tobago to consider the contributions that have been paid in St. Kitts and Guyana (Article 18).

Guyana with the two hundred and fifty (250) contributions will be required to consider a basic pension and will therefore only use contributions paid in other countries to satisfy the requirements for a basic pension. In most of the countries under the CARICOM Agreement, the requirements for a basic pension are five hundred (500) contributions.

Guyana will have to use the calculations as required by its own legislation to arrive at a notional pension and would pay to the claimant the proportionate part.

If in Guyana the basic pension is 30% of average weekly earnings and the average weekly earnings is \$150.00, the proportionate basic pension would be:

$30\% \text{ of } \$150.00 = \$45.00 \text{ (notional pension)}$

$\text{proportionate pension} = 250 \times 45.00 = \$11,250.00$

500

Since the notional pension is below the minimum pension which is paid in Guyana, this will have to be upgraded to the minimum pension before calculating the proportionate part.

Similarly the proportionate pension paid by St. Kitts would be 200 of the notional

500

pension.

Since Jolani had already qualified for a full pension in Trinidad & Tobago, the additional contributions had already been given full consideration and cannot be applied again to contributions paid in Guyana and St. Kitts.

Case 37

Tarzan has worked in St. Lucia, Barbados and Grenada but he has not worked long enough in any one country to satisfy the requirements for a full benefit in any one of them. However, he has paid three hundred (300) contributions in St. Lucia, four hundred (400) contributions in Barbados and three hundred (300) contributions in Grenada. The minimum number of contributions required for a pension is five hundred (500) contributions.

Question

Tarzan attains the age of 60 and wants to know about his pension rights. Advise him.

Answer

Tarzan was truly an itinerant worker. His itinerary did not allow him to settle too long in any one country. However, Tarzan has contributed and should not be deprived of his pension.

Articles 17 and 19 of the CARICOM Agreement allows for totalisation i.e. pooling together all the contributions made on a person's behalf to allow for calculation of a pension. Using totalisation therefore, Tarzan's notional pension would be as follows:

$$300 + 400 + 300 = 1,000$$

Each country would calculate its notional pension in accordance with its own legislation and use the one thousand (1,000) contributions as if they had been paid in that country.

The actual amount payable by each country shall bear a direct ratio to the notional amount which the number of contributions paid or credited in that particular country bears to the total number of contributions paid in St. Lucia, Barbados and Grenada.

St. Lucia would therefore pay 3/10 of its notional pension. Barbados would pay 4/10 of its notional pension and Grenada would pay 3/10 of its notional pension.

In cases where provision is made for a minimum pension and the notional pension is less it should be upgraded to the minimum pension and the amount actually paid shall be a proportionate part of the minimum pension.

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CHAPTER 11

CANADA RECIPROCAL AGREEMENT

Overview

SR & O # 28 of 1998 established the Agreement on Social Security between the Government of St. Vincent & the Grenadines and the Government of Canada. This Agreement allows persons "who have resided or worked both in Canada and in St. Vincent & the Grenadines to qualify for pensions from either or both countries."

It is also designed to ensure continuity of Social Security protection for persons who for one reason or another have to be sent from "one country to the other in the course of his or her employment."

[Checklist](#)



Salient point

- ☞ Applicable legislation
- ☞ Totalization
- ☞ Available benefits
- ☞ Export of benefits

Case 38

Jerome and his wife Jemina migrated to Canada in 1960. Jerome was 28 years old and his wife Jemina was 25 years old. Jerome obtained a job with Ottawa Waterways and Industrial Plant Ltd. in 1961. Jemina was never employed in Canada. Jerome's and Jemina's union produced two (2) children. Jerome became disabled at age 63. His children Jerome (Jr.) aged 22 years and Jerima aged 19 years attend Humber College in Canada. Jemina is 66 years old. Jemina and Jerome returned to St. Vincent after Jemina's 65th birthday.

Questions

1. For what benefit does Jemina qualify?
2. For what type of benefit would Jerome qualify at age 63?
3. Would Jerome (Jr.) and Jerima qualify for any benefit?

Answers

1. Although Jemina never worked in Canada she may qualify for a Canada Old Age Security Pension. The qualifying conditions are the person: -

- ☞ must be age 65
- ☞ has resided in Canada for at least one year since reaching age 18
- ☞ was a Canadian citizen or legal resident of Canada at the time of departure from Canada.

2. Jerome would have qualified for a Disability Pension at age 63. The qualifying conditions for this are that the person:-

- ☞ has become disabled
- ☞ has not yet reached age 65 and
- ☞ has made contributions to the Canada Plan since January 1966.

Jerome's disability has rendered him incapable of gainful occupation therefore he has to receive disability pension until he dies.

3. Jerome (Jr.) and Jerima are totally dependent on their father Jerome because they are full-time students at Humber College. This means that both of them will be covered for benefits under the Canada Pension Plan (Disability Pension). This benefit will be payable until age 25 if they remain in full-time education.

Case 39

Arielle went to Canada at age 29 and spent 18 years in Canada between 1966-1984, she returned to St. Vincent in 1985 and in 1987 she landed a job as Marketing Manager of the Tampico Marketing Corporation. Arielle worked there between 1987 and 2000. She turned 60 years in December 2000.

Questions

1. What will happen to Arielle's contribution that she has paid in Canada?
2. Is Arielle entitled to a pension in St. Vincent and the Grenadines?

Answers

1. Arielle made contributions in Canada between 1966-1984 before deciding to return to St. Vincent and the Grenadines. She turned 60 years in December 2000. Arielle was a legal resident of Canada. This qualifies her to receive a benefit under the Canada Pension Plan. The qualifying conditions for a Canada Pension Plan Retirement Pension are as follows: -

- ☞ the person should have contributed to the Canada Plan since January 1966.
- ☞ has reached age 60 but has not yet reached age 65 and is no longer contributing to the Canada or Quebec Pension Plan and to the National Insurance Scheme of St. Vincent & the Grenadines.

Arielle will have to collect the relevant claim forms from the National Insurance Office or from the International Operating Security Programmes, Human Resources Development Canada. She should make her submission and the relevant pension will be sent to her.

2. Arielle worked for ten years in St. Vincent & the Grenadines. At age 60 she is entitled to receive a full pension of 30% based on her average insurable earnings of her best three years salary. On attaining age 60 she should submit the claim form to the NIS and her pension will be calculated.

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THE END

About the Book

Do you want to know how you can take up residence in any CARICOM Country without losing your benefits rights? How to claim any benefit under the St. Vincent & the Grenadines National Insurance Scheme? What are your benefits under the CANADA Reciprocal Agreement? How you can become a Voluntary Contributor? Who is a self-employed person? How you can become insured under the National Insurance Act?

This book answers these questions and many more.



About the Author

Mineva C. Glasgow is a graduate of Caribbean Union College, the University of the West Indies and the University of London. She is currently serving as the Deputy Executive Director of the St. Vincent & the Grenadines National Insurance Scheme.

She has written several plays, skits and monologues.