



NIS' EMPLOYER'S GUIDE

Easy steps to compliance and securing your workers' financial future.



EMPLOYER GUIDE ... EASY STEPS TO COMPLIANCE

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INTRODUCTION

The *Employer Guide* is a booklet that gives general guidance only and must not be treated as a complete and authoritative statement of law on any particular issue.

The main objectives of this guide are:

- To assist employers in understanding their obligations under the National Insurance Act and Regulations
- To instill in all employers that sense of responsibility, which is essential to the smooth running of the National Insurance Services (NIS).

The aim of National Insurance Services is to provide social security protection to all residents of St. Vincent and the Grenadines. This is demonstrated through the provision of benefits to contributors such as sickness, maternity, employment, injury, invalidity, old age, survivors and funeral.

The National Insurance Services has a fiduciary responsibility in ensuring that benefits are paid to employees and other contributors in a timely manner, since they would be in a situation of loss or reduction of income which impacts significantly on their quality of life. Therefore, it is our desire to minimize the time between when a contributor submits a claim and the benefit is paid.

This can only be achieved if we get the full co-operation of all employers. Hence, it is imperative for all employers to register with NIS and to ensure that their employees too are registered. The employer also has the responsibility to pay the employees' contributions and submit all NIS documentation on time.



PART (A) INFORMATION RELATING TO THE EMPLOYER

Who is an Employer?

A person or body corporate (partnerships, companies or corporations) with whom an employee has entered into a contract of service whereby such person or body corporate is liable to pay salary, wages or other remuneration for service performed by the employee.

Employer Registration

Every new employer must register with the NIS within seven (7) days of employing the first employee. The employer must submit an Application for Registration as an Employer (*Form R3*) in order to obtain a registration number. In stating the “nature of business”, the employer should state the type of economic activity in which he/ she is engaged. If there is more than one type of business activity, show only the major activity.

In the case of Companies, employers should submit the *Certificate of Incorporation* and the *Articles of Association*.

OFFENCE	PENALTY
<p>NIS Act- Section 9</p> <p>Registration Regulation</p> <ul style="list-style-type: none"> Failure to register as an employer within 7 days of employing first employee <p>NIS Act- Section 12 (6)</p> <ul style="list-style-type: none"> Obstructing, impeding, hindering, molesting or refusing admission to a <i>Compliance Officer</i> without reasonable cause, while he is in the exercise of any of his powers or refusal or neglect to furnish any information or produce any document when required to do so. 	<p>Fine of \$200 or where offence consists of continuing any such contravention or failure after conviction a fine of \$200 with a further \$100 for each day on which it is so continued.</p> <p>Fine of \$5,000</p> <p>&</p> <p>Imprisonment for 6 months</p>



Contribution Deductions

At the end of every pay period contributions must be deducted from the employees' wages/ salary. Currently, the total rate of contribution is **13% of insurable earnings**. Of this total rate, the *employee pays 6%* and the *employer pays 7%*. **Insurable earnings** will correspond to all earnings up to \$62,400.00 per year or \$5,200 per month or \$1,200 per week.

The earnings of an employee on which contributions are payable include salaries/ wages, as well as:

- Overtime payment
- Payment for night or shift work
- Arrears on salary
- Holiday pay
- Family allowances
- Bonuses
- Commission
- Service charge
- Payments in kind
- Danger money

Remittance of Contributions

All employers are required to pay the NIS contributions within one (1) month after the end of the preceding month. The contribution payment must be made together with the *monthly remittance form* (Form C2) and the "*Turn Around Document*" (Form C5) that clearly shows:

- The name and registration number of the employer.
- The names and registration numbers of all employees and the month for which payment is being made.
- If there are weekly paid employees, the amount earned for each week should be indicated. This information must be submitted on a separate "Form c5"
- The name of the authorizing officer and signature.
- The insurable earnings and total 13% contributions



- The total amount of NIS contributions to be paid
- Gross wages/salaries

Payment may be made by post or in person at the NIS Offices in Kingstown and Union Island, and the mobile offices at Bequia and Georgetown

Contributions Penalty

When an employer fails to pay the NIS contributions within the prescribed time, he/she is guilty of an offence and is liable of the following fines.

OFFENCE	PENALTY
<p>NIS Act Section 37 (1)</p> <ul style="list-style-type: none"> • Failure to pay at or within the prescribed time any contributions. <p>Section 13 (4) NIS Contribution Regulations</p> <ul style="list-style-type: none"> • Failure to pay any contribution which employer is liable to pay 	<p>Fine \$4,000</p> <p>Payment into the fund the total amount which the employer failed to pay, a surcharge of 10% of the amount of the contributions which the employer was liable to pay for that month, and thereafter compound interest at the rate of 1% per month.</p>
<p>Section 25 NIS Contribution Regulations</p> <ul style="list-style-type: none"> • Failure to comply with provisions of NIS Contribution Regulations or with any direction or requirement of the Board given or made by virtue of the said Regulations. 	<p>Fine of \$500</p>
<p>NIS Act- Section 32 (1)</p> <ul style="list-style-type: none"> • Non-disclosure or misrepresentation of a material fact, whether fraudulent or not and as a result a benefit is received. 	<p>Repayment of the sum received</p>



OFFENCE	PENALTY
<p>NIS Act- Section 37 (2)</p> <ul style="list-style-type: none"> • Deduction or attempt to deduct or recovery or attempt to recover the whole or part of the contributions of the employee from the wages or other remuneration of the Employee. 	<p>Fine of \$10,000</p>
<p>NIS Act- Section 37 (3) False Statement or False Representation</p> <ul style="list-style-type: none"> • Producing or furnishing or knowingly allowing any document or information which is known to be false. 	<p>Fine of \$10,000 & Imprisonment of 9 months</p>

Where an employee works under the general control and management of a person other than his immediate employer, that person (*principal employer*) is regarded as the employer liable to pay the contributions.

The *immediate employer* is expected to furnish the *principal employer* with particulars of the employee's wages/ salaries to enable the principal employer to comply with the provisions of the NIS Act and Regulations.

Electronic Submission Software

Employers can submit the monthly "*Turn Around Document*" (Form C5) using our web-based software (*e-Submit+*) or by using a payroll software that can produce the file in the required format. This format can be obtained from the NIS IT Department.

Our software (*e-Submit+*) is user friendly and is available to employers who do not have a payroll system and who employ 1 to 100 employees.

Employers using their own payroll software can submit information via various media types (compact discs, USB flash drive etc).



Employer desirous of submitting their information electronically must apply to the NIS for permission to do so. Forms are available on the NIS website at www.nissvg.org

NIS personnel are available to work along with employers to ensure that the process is clearly understood, and to provide technical support for “*e-Submit+*” users.

Other information relating to the payment of contributions

- It is illegal for any employer to recover the employer’s part of the contribution from the employee. This constitutes an offence under the National Insurance Act.
- Contributions made to the NIS by employers and employees are regarded as allowable deductions for tax purposes.
- Where an employee works successively or concurrently in a contribution week or part of contribution week by more than one employer, each employer is liable to pay the NIS contributions with respect to the wages paid to that person.
- Any contributions paid in error are refundable on an application to the Executive Director of the NIS.
- Contribution is payable for the full week in which an employee attains age 16 or NIS Pensionable Age (NPA). However, if the pensionable age falls on Monday, no contribution is payable for that week.
- The employer is liable for the payment of contributions for any period during which an employee is on vacation, sick leave or maternity leave and receiving wages/ salaries.
- Contribution is not payable for the period during which an employee is receiving sickness or maternity benefit from the NIS.



Annual Returns

The employer is required to submit the *Form C1A* for each year by March 31st of the following year.

- Form C1A

The employer is required to submit this form for the recently concluded year, in respect of all employees. This document presents the following information:

- 1) The employer's name and registration number
- 2) The total number of employees
- 3) The total gross pay and insurable earnings of all the employees
- 4) The total NIS contributions payable for the year (13%)

All information requested on this return must be given as fully and correctly as possible. Where an employer is a body corporate, society or other body of persons, the declaration and statement must be signed by an agent duly authorized to do so.

- Revised Form C1/I

This document is issued for each employee and it clearly shows the employee's:

- 1) Name and NIS number;
- 2) The monthly/weekly salary and insurable earnings;
- 3) The monthly employer and employee NIS deductions;
- 4) The number of weeks worked during the year;
- 5) It also shows the employer's name and registration number.

It is important that each employee sees, verifies and signs this document and submits to the NIS office by March 31st of each year. If the contribution data and other information are incorrect, then the employees would be required to state the correct information.

When an employee, who already has a registration card and in respect of whom a *Form C1/I* has already been issued to a previous employer becomes employed in another establishment, the new employer should obtain another *Form C1/I* from the NIS on behalf of that employee.



Records of employees' earnings are valuable and hence, the employer should always keep them in a safe place. These records should not be defaced or in any way tampered with. Loss or damage of records of employees' earnings should be reported promptly to the National Insurance Services.

Whenever a record is requested by the NIS Office, that employer should return the record to the Office promptly to facilitate the speedy processing of benefit claims among other things.

NIS Compliance Officer

A *Compliance Officer* is an officer of the National Insurance Services appointed and designated by the National Insurance Board to carry out the task of ensuring that all persons comply with the National Insurance Act and Regulations.

The National Insurance Act 33 of 1986 Section 12 (1) gives a *Compliance Officer* the power to enter at all reasonable cause to believe that persons are employed, and to make any examination or inquiry which is necessary to ascertain whether the provisions of the National Insurance Legislation are being complied with.

An employer or his agent, upon request by a *Compliance Officer*, must provide information on employees or persons who have been employed by him/her and produce all wage/ salary sheets, contribution documents and any other records as requested by the *Compliance Officer*.

All *Compliance Officers* are issued a Certificate of Appointment by the National Insurance Board. Before entering any premises or place, they are expected to produce this certificate. Employers should examine a Compliance Officer's Certificate of Appointment before delivering to them any records of the NIS or records of employee's earnings. Please note that anyone who:

- a) Willfully delays or obstructs a Compliance Officer in the exercise of any of his/her powers;
or
- b) Refuses or neglects to answer any question or furnish any information or produce any documents when required to do so is liable on summary conviction to a fine not exceeding six(6) months or to both fine and imprisonment



In the absence of the employer or his agent, occupier of the premises or place liable to inspection any person acting for the employer or agent, should furnish the Compliance Officer with such information and produce such documents as an Officer may require in order to carry out his functions.

Benefit Claims

All benefits are processed based on the wages/salaries submitted by the employer. As such, employers should facilitate their employees' benefit claims by:

- Submitting the payments on time;
- Ensuring that all registration numbers are quoted on the contribution documents;
- Signing the appropriate forms and
- Providing any information that may be required to process the benefit.

OFFENCE	PENALTY
NIS Act- Section 64 NIS Benefit Regulations <ul style="list-style-type: none">• Failure to comply with or contravention of provisions of NIS Benefits Regulations	Fine not exceeding \$250 or where offence continues after conviction any such contravention a further \$100 for each day on which it is so continued.



General Information

The National Insurance legislation places a considerable amount of responsibility on employers. This responsibility will be easily discharged if the following rules are adhered to:

- 1) Register as an employer within seven (7) days of employing someone.
- 2) Ensure that all employees are registered with the NIS.
- 3) Keep proper records of wages/ salaries paid to employees and the contributions deducted.
- 4) Pay contributions on a monthly basis.
- 5) Submit the fully completed turnaround document (*Form C5*) and the monthly remittance documents (*Form C2*) each month.
- 6) Return all end of year documents when requested by the NIS.
- 7) Inform the office in the event that the business is closed (preferably in writing).
- 8) In cases where an employee is injured on the job, the employer is required to submit a written report within 10 days to the NIS explaining the nature of the injury.
- 9) Keep all documents in a safe place.
- 10) Submit original documents only.
- 11) Cooperate with officers of the National Insurance Services who are always willing to offer assistance.



PART (B) INFORMATION RELATING TO THE EMPLOYEE

Who is an Employee?

An employee is a person who performs services under a contract of service or apprenticeship with an employer. Further, under the NIS legislation an employee means:

- Anyone who is in receipt of wages of \$15 or more per week, or \$60 or more per month.
- Engage in full time, part time, casual or temporary employment.
- Who is between the age 16 and NIS pensionable age (NPA), and is working for an employer. For the purpose of Employment Injury Benefit, all workers (including those under 16 and those over NPA) should be registered with the NIS.

The following are minor exceptions to these stipulations:

- 1) Wage that amount to less than \$15 per week;
- 2) Employment without wages/ salaries by an employee's relative;
- 3) Employment of any person who is not a citizen of St. Vincent and the Grenadines who is accorded diplomatic or equivalent status, or a member of the armed forces of another country;
- 4) Employment of any person, who is not a citizen of this Country, by a recognized international government organization (otherwise than as a domestic worker);
- 5) Employment of a spouse whether or not under a contract of service.

The National Insurance Board has the power to hand down decisions on questions concerning:

- a) Whether a person is or was employed in insurable employment
- b) The class or category of insured persons in which a person is to be included.
- c) Who is liable for payment of contributions as the employer.

The decisions handed down by the Board on the above questions shall be final except on a point of law, in which case an appeal can be made to the High Court.



Contract of Service

To determine the nature of any contractual relationship the following factors must be examined:

- 1) Who is in control
- 2) Who owns the tool or equipment
- 3) Who has the chance to make a profit or loss

A *contract of service* exists if someone agrees that in consideration for wages or other remuneration he/she will provide the work and skill in the performance of service for another person. By so doing he/she agrees expressly or implicitly that in the performance of that services he/she will be subject to that person's control.

In the circumstances outlined above these conditions normally exist if the person (employee):

- 1) Has no control over the duties performed
- 2) Personally have to provide the service
- 3) Does not own the tools or equipment used (or only insignificant tools)
- 4) Has fixed hours of work
- 5) Has a salary or regular commission
- 6) Has no possibility of making a profit or loss

It should therefore, be noted that a person who enters into a contract for a fixed time or a specific task is still an employee once the above conditions exist.



Contract for Service

In the case where the above conditions do not hold in the contractual arrangement you may be considered as an independent contractor providing a service at cost.

An independent contractor normally is not under the control of another person. He /she may or may not personally be responsible for the execution of the job and there is the possibility he/she may be able to realize a profit or loss.

Independent contractors are also obligated to register with the NIS as self-employed persons and make contributions on their own behalf.

Employee Registration

An employer shall ensure that every employee is registered with the NIS within 7 days of commencing employment. The employee is required to complete an *application for registration (Form RI)* and submit with a copy of his/her birth certificate or passport and marriage certificate in the case of a married woman.

Upon registration the employee will be issued a National Insurance card, which shows his/her name and NIS registration number.

Although employees already registered under the *National Provident Fund (NPF) Act (No.1/1970)* shall be treated as registered members under the National Insurance Act, employees are still required to complete the application for registration under the NIS. They will be given the same registration number that was assigned to them under the NPF Act.



POINTS TO REMEMBER WHEN CLAIMING BENEFITS

Some or all of employees' benefits may be forfeited if the claims are not made within the prescribed time.

Benefit	Time for Claiming
Sickness	Not later than 15 days of visiting the doctor
Maternity	6 weeks before the date of confinement or 4 weeks within the date of confinement
Funeral	Grant within 6 months of death of the deceased person
Invalidity	Within 3 months of being declared an invalid
Age	Not later than 3 months of your retirement age (NPA)
Survivors'	Not later than 3 months from the death of the deceased person
Employment Injury	Not later than 15 days of the injury or job related.