ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER S45

SOCIAL SECURITY ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 3/2001, in force 25 June 2001
Act 2/2002, in force 1 January 2002
Act 8/2003, in force 14 November 2003
Act 4/2009, in force 9 March 2009
Act 5/2010, in force 29 October 2010
Act 6/2014, in force 30 October 2014
Act 7/2017, in force 1 December 2017
Act 14/2018, in force 3 January 2019 (S. 186 in force 31 August 2019)

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SOCIAL SECURITY ACT

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SOCIAL SECURITY ACT

PRELIMINARY

Interpretation

1. (1) In this Act—

"beneficiary" means a person entitled to benefit;

"benefit" means any benefit under this Act;

"Board" means the Social Security Board established under section 3(1);

"claimant" means a person who has claimed benefit;

"contribution" means a contribution under this Act;

"contributory period" means the prescribed period in respect of which the contribution is payable;

"contributory week" means a period of 7 days commencing from midnight between Sunday and Monday;

"Director" means the chief administrative officer appointed under section 6(1);

"employee" or "employed person" means a person who is insured by virtue of section 17(2)(a);

"Fund" means the Social Security Fund established under section 2(1);

"gratuities" includes service charges and tips payable to employees engaged in the service trades;

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

"insurable employment" means subject to section 17(3) any employment specified in section 17(2);

"insured" means insured under this Act;

"Investment Committee" means the Social Security Fund Investment Committee of the Board established by section 11(1);

(Am. in L.R. 15/12/2010)

"Minister" means the Minister responsible for the subject of Social Security;

"wages" means basic pay and overtime and any bonus or other pecuniary remuneration paid by way of reward for work done, but for the avoidance of doubt is hereby declared to exclude pensions and gratuities.

(2) For the purpose of this Act, a person shall be deemed to be over or under any age therein mentioned according to whether he has or has not attained that age and a person shall be deemed to be

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between two ages therein mentioned if he has attained the first-mentioned age but has not attained the second-mentioned age.

PART 1

ADMINISTRATION AND FINANCE

Social Security Fund

2. (1) There is hereby established a fund, to be called the Social Security Fund, into which shall be paid—

(a) all contributions;

(b) all rent, interest or investments or other income derived from the assets of the Fund;

(c) all sums recovered under this Act as fines, fees, penalties or costs;

(d) all sums properly accruing to the Fund under this Act, including the repayment of benefit; and

(e) such other sums as may be provided by the Consolidated Fund for the purposes of the Act or as may be received and accepted by the Board on behalf of the Fund.

(2) There shall be paid out of the Fund—

(a) all benefits;

(b) refunds of contributions; and

(c) all expenses properly incurred in the administration of this Act (including the grant of special credits under section 20).

Social Security Board

3. (1) There is hereby established a Board, to be called the Social Security Board, in which the Fund shall be vested and which, subject to this Act, shall be responsible for administering the Fund, and the Schedule shall apply in respect of the constituting of the Board and its proceedings.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to this Act, shall have power of purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(3) The Board shall have a Head Office in Anguilla, and service on the Board of any notice, order or other document shall be executed by delivering the same or by sending the same by post, addressed to the Director at the Head Office.

(4) The seal of the Board shall be kept in the custody of the Director and shall not be affixed to any instrument except by the authority of a resolution of the Board, and the sealing of any instrument

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shall be authenticated by the signature of the Director and of such other person as the Board may appoint for the purpose.

(5) The Board shall consider and advise upon all matters which may from time to time be referred to it by the Minister and shall furnish to the Minister such information as he may reasonably require about the operation of this Act.

(6) The Board shall render annual reports to the Minister by 31st of March each year and the Minister shall, as soon as possible after receiving any such report, lay a copy thereof before the House of Assembly.

Committees of the Board

4. (1) Subject to this Act, the Board may appoint such committees of the Board as it may think fit, but such committees shall include not less than 2 members of the Board and may include persons who are not members of the Board.

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

Remuneration of the Board and its committees

5. There shall be paid out of the Fund—

(a) to the Chairman, and each member of the Board in respect of his office as such, such remuneration and allowances as the Governor in Council may determine; and

(b) to any person co-opted to a meeting of the Board, and to any person, not being a member of the Board, who serves on a committee of the Board, such remuneration and allowances as the Governor in Council may determine upon a recommendation by the Board.

Director

6. (1) The Governor shall appoint a fit and proper person to be the chief administrative officer of the Board on such terms and conditions as the Governor in Council may determine.

(2) The Director shall, subject to this Act and any direction by the Minister, be charged with the administration and control of the staff of the Board and for the management of the Fund and in particular for—

(a) the collection of contributions under this Act;

(b) the payment of benefit under this Act and of the expenditure necessary for the administration of the Fund;

(c) the investment of surplus money in the Fund in accordance with section 12(2); and
(Am. in L.R. 15/12/2010)

(d) accounting for all money collected, paid or invested under this Act.

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Delegation by the Director

7. (1) The Director may, in relation to any matter or class of matters, by writing under his hand, delegate to an officer or employee of the Board any of his functions under this Act, except this power of delegation, so that the delegated function may be performed by such officer or employee with respect to the matter or class of matters specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the performing of any function by the Director.

Deputy Director

8. (1) The Board shall appoint a fit and proper person to be the Deputy Director on such terms and conditions as are considered appropriate.

(2) The Deputy Director shall assist the Director in the performance of his duties under this Act.

(3) On the occurrence of a vacancy in the office of Director (whether caused by death, resignation or otherwise) or in the case of illness, absence or temporary incapacity of the Director from whatever cause arising, and for so long as such vacancy, illness, absence or incapacity exists, the Deputy Director shall exercise all the powers, duties and functions of the Director.

(Act 6/2014, s. 1)

Staff of the Board

9. (1) The Board may from time to time appoint persons to be officers or employees of the Board.

(2) The terms and conditions of employment of officers and employees of the Board (other than that of the Director) shall be prescribed from time to time by the Board.

(Am. in L.R. 15/12/2010)

Inspectors

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

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

(3) The premises or places liable to inspection under this section shall include any premises or place where an inspector has reasonable cause to believe that any persons are employed whether or not the same are used exclusively for residential purposes.

(4) An inspector shall for the purposes of this Act have power to enter at all reasonable times any premises or place liable to inspection under this Act and there make any examination or inquiry necessary for the purposes of this Act, and to require the production of any documents relating to contributions or liability to contribute to the Fund, for inspection by him on the premises or place, and to copy such documents or make extracts therefrom.

(5) The occupier of any premises or place liable to inspection under this section, and any other person who is or has been employing any person, and the servants or agents of any such occupier or other person shall furnish to an inspector all such information and shall produce for his inspection all such documents as the inspector may reasonably require.

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(6) Any person who without reasonable cause obstructs, impedes, hinders, molests or refuses admission to, an inspector in the exercise of any of his powers under this section or refuses or neglects to furnish any information or produce any document when required to do so under this section is guilty of an offence and is liable on summary conviction to a fine of $1,000.

Social Security Fund Investment Committee

11. (1) There is hereby established a committee to be called the Social Security Fund Investment Committee.

(2) The Investment Committee shall consist of—

(a) the Chairman of the Board;

(b) the Director of Finance;

(c) two persons nominated by the Minister who appear to have had experience and shown capacity in dealing with investments and related matters and of whom at least 1 shall be from the Anguilla private sector; and

(d) the Director;

and one of the nominated persons shall be designated by the Minister as Chairman of the Investment Committee.

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

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

(5) The Investment Committee shall give general or specific directions from time to time on the investment of money in the Fund which is surplus to current needs and the Director shall give the Investment Committee any information necessary for the proper discharging of its function.

Investment of money

12. (1) Money in the Fund may, subject to the approval of the House of Assembly, be lawfully expended by the Board in the purchase of any land or building deemed by the Board to be necessary for the proper administration of this Act.

(2) The investment of money in the Fund not otherwise required shall, subject to any direction of the Board, be made by the Director in accordance with any directions of the Investment Committee.

(3) The Investment Committee shall submit a report of its work to the Board half-yearly and at such other times as the Board directs.

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Subsidiary

13. (1) Notwithstanding section 12(2) but subject to this section, the Board may—

(a) in accordance with the Companies Act*, establish a subsidiary in any place in Anguilla or elsewhere as it considers necessary; and

(b) invest or deposit in such subsidiary any money in the Fund not otherwise required.

(2) The subsidiary established under subsection (1) shall be for the purposes of investment and development but, notwithstanding anything to the contrary contained in its articles of incorporation, such subsidiary shall not—

(a) join or take part in forming a body corporate or acquire such other interest in a body corporate; or

(b) enter into a partnership with any other person;

except with the consent of, or in accordance with the terms of any general directions given by the Minister.

(3) Save with the consent of, or in accordance with the terms of any general directions given by, the Minister, the Board shall ensure that the subsidiary shall not dispose of any interest which it acquires in a body corporate or any other person unless the disposal is to the Fund.

(4) The Board may, upon the recommendation of the Investment Committee, give to the subsidiary general or specific directions from time to time as to the policy to be followed in the performance of the functions of the subsidiary and the subsidiary shall follow such directions.

(5) At the end of each financial year of the subsidiary, the subsidiary shall resolve what part of its net profit is—

(a) allocated to its reserve; and

(b) distributed by way of dividend to the Fund.

(6) Without prejudice to the Companies Act†, section 15 shall apply *mutatis mutandis* to the books of accounts and other books and records of the subsidiary established under subsection (1).

(7) For the purposes of this section, the Board may approve agents and correspondents within and outside of Anguilla.

(Act 4/2009, s. 1, as am. in L.R. 15/12/2010)

Temporary insufficiency of assets

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

* Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.
† Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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

Accounts and audit

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

(2) The accounts of the Fund shall be prepared in such form as may be prescribed in the financial regulations to be framed by the Minister and these regulations shall provide for the form and conduct of the accounts of the Fund and, in particular, for—

(a) the establishment and maintenance of different branches of such accounts; and

(b) the establishment and maintenance within the Fund of different reserves, for different purposes.

(3) The Board shall, with the approval of the Chief Auditor, appoint a qualified accountant to act as auditor of the Fund.

(4) The auditor appointed under subsection (3) shall audit the accounts of the Board in accordance with the directions of the Chief Auditor and provide audited financial statements to the Board not later than 3 months after the end of the financial year of the Board.

(5) Without delay after receipt of the audited financial statements from the auditor appointed by the Board, the Board shall forward them to the Chief Auditor.

(6) Section 59 of the Financial Administration and Audit Act applies in relation to the audited financial statements of the Board.

(Am. in L.R. 15/12/2006)

(7) Upon receipt of the certificate of audit and report of the Chief Auditor, the Board shall forward them, together with the audited financial statements of the auditor appointed by the Board and with a statement of the securities in which money forming part of the Fund is for the time being invested, to the Minister who shall lay them before the House of Assembly before the end of the year next following the year to which they relate.

(Act 8/2003, s. 75)

Review of operation of Act

16. (1) The Board shall with the assistance of an actuary approved by the Minister review the operation of this Act during the period ending with the 31st day of December 1983 and thereafter during the period ending with the 31st day of December in every third year, and on each such review shall make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of contributions to support benefits, having regard to its other liabilities under this Act, but the Minister may at any time direct that the period to be covered by any review and the report under this subsection shall be reduced and that the making of that and subsequent reviews shall be accelerated accordingly.

(2) The Minister shall, as soon as possible after receiving any report in accordance with subsection (1), lay a copy thereof before the House of Assembly.

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PART 2

INSURED PERSONS AND CONTRIBUTIONS

Insured Persons

Persons to be insured

17. (1) Subject to this Act—

(a) every person who on or after 1st January, 1982 being over the age of 15 years and under the age of 65 years, is gainfully occupied in an insurable employment shall be insured under this Act; and

(b) any person who on 1st January, 1982 is, or who subsequently becomes insured under this Act, shall thereafter continue throughout his life to be so insured.

(2) For the purposes of this Act, insured persons shall be divided into the following classes, namely—

(a) employed persons, that is to say, persons gainfully occupied in employment in Anguilla, being employment under a contract of service;

(b) self-employed persons, that is to say, persons gainfully occupied in employment in Anguilla who are not employed persons.

(3) Regulations may provide for modifying the classifications aforesaid in relation to cases where it appears to the Minister desirable by reason of the nature or circumstances of a person's employment or otherwise, and such regulations may, in particular, provide—

(a) for treating as an employed contributor's employment—

(i) employment under a public or local authority constituted in Anguilla notwithstanding that it is not employment under a contract of service, or

(ii) employment outside Anguilla in continuation of employment in the service of an employer liable to employer's contributions under this Act;

(b) for treating as not being an employed contributor's employment or for disregarding—

(i) employment which is of a casual or subsidiary nature or in which the insured person is engaged only to an inconsiderable extent,

(ii) employment in the service, or for the purposes of the trade or business, or as partner, of the insured person's husband or wife, or

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

(c) for treating a person's employment as continuing during periods of holiday or incapacity for work and in such other circumstances as may be prescribed; and

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(d) for treating as not being insurable employment in the service of any international organisation or country, other than Anguilla, as may be prescribed.

(4) Insured persons shall be insured under this Act in respect of the several contingencies in relation to which benefits are provided under section 24(1) and there shall be payable to or in respect of any such person, in the prescribed circumstances, any benefit payable by virtue of that provision.

(5) For the avoidance of doubt, it is hereby declared that employment of persons by or under the Crown is insurable employment under this section.

Contributions

Source of funds

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

(2) Regulations shall provide for fixing, from time to time, the rates of contribution to be paid by such different categories of insured persons and employers as may be prescribed.

Contribution by employed persons and employers

19. (1) Except where regulations otherwise provide, an employer liable to pay a contribution in respect of a person employed by him shall be liable to pay also on behalf of and to the exclusion of such person any contribution payable by such person for the same contributory period, and for the purposes of this Act contributions so paid by an employer shall be deemed to be contributions paid by such person.

(2) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the wages of a person employed by him or otherwise recover from such person the contribution of the employer in respect of such person.

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from the pecuniary remuneration of a person employed by him the amount of any contribution paid or to be paid by him on behalf of such person and, notwithstanding anything in any enactment, such regulations may authorise such recovery to be made by deduction from the wages of such person.

Exemption from liability for, and crediting of, contributions

20. Regulations may provide for exempting insured persons and their employers from liability to pay contributions for such periods as may be prescribed.

Employment by more than 1 employer

21. Where an employed person is employed successively or concurrently in a contributory week or part of a contributory week by more than 1 employer, each employer shall be liable to pay to the Fund contributions with respect to the wages paid by each such employer to that person.

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General provisions as to payment and collection of contributions, etc.

22. Regulations may provide—

(a) for the registration of employed persons;

(b) for the registration of self-employed persons;
(Act 2/2002, s. 1)

(c) for the payment and collection of contributions;

(d) for the maintenance by employers of records of the payment of contributions;

(e) for treating, for the purpose of any right to benefit, contributions paid after the due dates as paid on such dates, or on such later dates as may be prescribed, or as not having been paid;

(f) for treating as paid for the purposes of any right to benefit, contributions payable by an employer on behalf of an insured person but not paid, if the failure to pay is shown not to have been due to any negligence on the part of such person;

(g) for treating contributions appropriate to the wrong category of person, or at the wrong rate, as paid on account of the contributions properly payable;

(h) for the return of contributions paid in error; and

(i) for any other matters incidental to the payment and collection of contributions under this Act.

Voluntary insurance

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

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

PART 3

BENEFITS

Description of benefits

24. (1) Benefits payable under this Act shall be of the following kinds, namely—

(a) sickness benefit, that is to say, periodical payments to an insured person who is rendered incapable of work;

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(b) maternity benefit, that is to say, a payment of periodical payments to an insured woman or the wife of an insured man, in the case of her confinement;

(c) paternity benefit, that is to say, a payment of periodical payments to an insured man who is the father of the baby or the husband of an insured wife;
(Act 14/2018, s. 185(1))

(d) disability benefit, that is to say, a payment or periodical payments to an insured person who is rendered permanently incapable of work;
(Act 5/2010, s. 1)

(e) survivor's benefit, that is to say, a payment or periodical payments made in respect of an insured person who dies;

(f) funeral grant, that is to say, a payment on the death of an insured person, or the spouse of an insured person;

(g) age benefit, that is to say, a payment or periodical payments to an insured person who has reached 65 years of age;

(h) due to special and abnormal circumstances, unemployment assistance benefit in the form of payments to an insured person who is unemployed or underemployed;
(Act 7/2017, s. 2)

(i) employment injury benefit, that is to say, a payment or periodical payments to an insured person in respect of an injury or a prescribed disease arising out of or in the course of employment of an employed person.

(2) Notwithstanding subsection (1), no benefit shall be payable under this Act if and for so long as an insured person is in receipt of compensation paid under the Workmen's Compensation Act.

Non-contributory old age pension

25. (a) In addition to the benefits specified in section 24, a non-contributory old age pension shall be payable to such persons and under such conditions as may be prescribed by regulations made under this section.

(b) The regulations under this section may be made retroactive to the 1st day of January in the year in which it is made.
(Act 2/2002, s. 2)

Regulations as to rate of, and conditions for, benefit

26. Regulations shall provide for—

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

(b) the conditions subject to which and the periods for which benefit may be granted; and

(c) the date from which benefit is provided.

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Time and manner of making claims

27. (1) It shall be a condition of a person's right to benefit—

(a) that within the prescribed time, he makes a claim therefor to the Director on the form provided by the Director for the purpose or in such other manner as the Director may accept in the circumstances of the case; and

(b) that he produces such certificates, documents, information and evidence for the purpose of determining the right to benefit as the Director may require, and for that purpose attends at such office or place as the Director may appoint.

(2) Regulations may require employers to maintain such records, to make such reports and to furnish such information as may be prescribed for the purpose of establishing any person's title to any benefit.

Regulations as to time and manner of paying benefit; disqualifications; etc.

28. Regulations may provide—

(a) for disqualifying a person for the receipt of any benefit if he fails to make a claim therefor within the prescribed time, but any such regulation shall provide for extending the time within which the claim is to be made in the cases where good cause is shown for the delay;

(b) for the prevention of the receipt of 2 benefits and the adjustment of benefits in special circumstances;

(c) as to the time and manner of payment of benefit and the information to be furnished by any person when applying for payment;

(d) for adjusting the commencement and termination of benefit, or changes in the rate of benefit, so that, except in the case of sickness benefit, payments shall not be made in respect of any period shorter than a contributory week or at different rates for different parts of a contributory week;

(e) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period;

(f) for disqualifying a person for receiving sickness benefit, or such other benefit as may be prescribed for such period as may be prescribed if that person—

(i) has become incapable of work through his own misconduct,

(ii) fails without good cause to attend for or submit to such medical examination or treatment as may be required in accordance with the regulations, or

(iii) does any work as an employed or self-employed person;

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

(i) is absent from Anguilla, or

(ii) is undergoing imprisonment or detention in legal custody,

and for specifying the circumstances and manner in which payment of the whole or any part of the benefit may instead of being suspended be made during any such period to any prescribed person nominated by the beneficiary, or for the maintenance of any prescribed person who the Director is satisfied is a dependant of the beneficiary;

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

(i) in connection with the death of any person for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment to or among persons claiming as his personal representatives, legatees, next-of-kin, creditors or otherwise, and for dispensing with strict proof of title of persons so claiming; and

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

Appointment and remuneration of medical officers or referees and medical boards, etc.

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

(2) There shall be paid out of the Fund to a medical officer or medical referee or professional person appointed under such regulations, and to a member of a medical board so established, such salary or other remuneration as the Board with the prior approval of the Governor may determine and such expenses incurred in connection with the work of such medical officer, medical referee or member or professional person as may be so determined.

Repayment of benefit improperly received

30. (1) If it is found that any person by reason of the non-disclosure or misrepresentation by him of a material fact (whether such non-disclosure or misrepresentation was or was not fraudulent) has received any sum by way of benefit, while he was not entitled to that benefit, he shall be liable to repay the sum so received by him.

(2) Where any person is liable to repay any sum received by him by way of benefit, that sum may be recovered, without prejudice to any other remedy, by means of deductions from any payment of benefit to which he thereafter becomes entitled.

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Benefit to be inalienable

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

PART 4

ADJUDICATION AND LEGAL PROCEEDINGS

Determination of claims and questions

32. (1) Regulations may provide for the determination by the Board, by the Director, or by a person or tribunal appointed or constituted in accordance with the regulations of any question arising under or in connection with the regulations or any entitlement to benefit, and subject to the regulations, the decision in accordance therewith of any such question shall be final.

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may in relation to the determination of questions in accordance with the regulations include provision—

(a) as to the procedure to be followed, the form of any document, the evidence to be required, and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;

(b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision, or for producing any evidence;

(c) for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths or affirmations to witnesses; and

(d) as to the representation of 1 person at the hearing of a case by another person whether having professional qualifications or not;

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

(3) Notwithstanding anything in any enactment, the decision of the High Court in a reference or appeal shall be final, and the Court may order the Board to pay the costs of any person whether or not the decision is in favour of the Board and whether or not the Board appears on the reference or appeal.

Interim payments, arrears and repayments

33. (1) Regulations may provide with respect to matters arising—

(a) pending the determination under this Act (whether in the first instance or on appeal or review) of any claim for benefit or of any question affecting the right of any person to benefit or to the receipt thereof; or

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

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

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

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

(c) for treating any benefit paid to any person which it is subsequently decided was not payable, or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit; and

(d) for treating benefit paid to a person in respect of a child as properly payable for any period notwithstanding that by reason of a subsequent decision another person is entitled to benefit in respect of that child for that period; and for reducing or withholding accordingly, any arrears payable for that period by virtue of that subsequent decision.

Remuneration of persons and tribunal appointed under section 32

34. There shall be paid out of the Fund to any person appointed under regulations made under section 32(1) and to a member of tribunal constituted under such regulations such salary or other remuneration as the Board with the approval of the Governor may determine and such expenses incurred in connection with the work of such person or member as may be so determined.

Offences and penalties

35. (1) Any person who fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable under this Act to pay commits an offence and for each such offence is liable on summary conviction to a fine of $1,000 and, in default of payment of such fine, to imprisonment for a term of 1 month.

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contributions of the employer in respect of any person from the wages or other remuneration of such person commits an offence and is liable on summary conviction to a fine of $1,000 and, in default of payment of such fine, to imprisonment for a term of 1 month.

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

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

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

commits an offence and is liable on summary conviction to a fine of $1,000 or to imprisonment for a term of 1 month.

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General provisions as to prosecutions

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

(2) Any such officer, although not a barrister or a solicitor, may prosecute or conduct before the Magistrate's Court any such proceedings aforesaid.

(3) Notwithstanding any provision in any enactment fixing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of 6 months from the date on which evidence sufficient in the opinion of the Board to justify a prosecution for the offence comes to its knowledge or within the period of 3 years after the commission of the offence, whichever period last expires, and for the purpose of this subsection a certificate purporting to be signed on behalf of the Board as to the date on which such evidence came to its knowledge shall be conclusive evidence thereof.

(4) In any proceedings for an offence under this Act, the wife or husband of the accused shall be competent to give evidence against the accused, but the wife or husband shall not be compelled to give evidence or in giving evidence to disclose any communication made to her or him during marriage with the accused.

(5) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as that body is deemed to be guilty of that offence and is liable to be proceeded against and penalised accordingly.

Recovery of contributions on prosecution

37. (1) In any case where a person has been convicted of an offence under section 35(1) of failing to pay a contribution, he shall be liable to pay to the Fund a sum equal to the amount which he failed to pay.

(2) On any such conviction as is mentioned in subsection (1), if notice of intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the person concerned to pay other contributions during the 2 years preceding the date of the offence, and on proof of such failure the persons concerned shall be liable to pay to the Fund a sum equal to the total of all the contributions which he is so proved to have failed to pay.

(3) Where any person is charged with any offence as is mentioned in subsection (1) or (2) and a probation order is made in respect of such offence, subsections (1) and (2) shall apply as if the making of the order were a conviction.

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

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

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

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

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

Civil proceedings

38. (1) All sums due to the Fund under this Act shall be recoverable as debts due to the Board and, without prejudice to any other remedy, may be recovered summarily as a civil debt, but any sums due by way of contributions shall, from such date as may be prescribed, bear interest at the rate of 10% per annum or such other rate as may be prescribed.

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

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

Proceedings for benefits lost by employer default

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

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

(3) Proceedings under this section may, notwithstanding any enactment to the contrary, be brought at any time within 1 year after the date on which the person concerned would, but for the employer's failure or neglect, have been entitled to receive the benefit in question.

PART 5

MISCELLANEOUS

Crown servants

40. This Act shall apply to persons employed by or under the Crown in like manner as if the Crown were a private person, with such modifications as may be made therein by regulation for the purpose of adapting the provisions of this Act to the case of such persons, but this Act shall not affect adversely any vested rights of an employee under any pension or superannuation scheme in existence before 1st January, 1994.

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Persons employed aboard ships, vessels or aircraft

41. (1) Without prejudice to the generality of any other power to make regulations, the Minister may make regulations modifying in such manner as he thinks proper the provisions of this Act in relation to persons who are or have been employed on board any ship, vessel or aircraft.

(2) Regulations made under subsection (1) may in particular provide—

(a) for the insurance under this Act of persons who are or have been employed on or after 1st January, 1982 on board ships, vessels, or aircraft, notwithstanding that they do not fulfil the conditions of section 17;

(b) for excepting from insurance under this Act or from liability to pay contributions, any persons employed as aforesaid who neither are domiciled nor have a place of residence in Anguilla;

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

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

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

Reciprocal agreements with other countries

42. For the purpose of giving effect to any agreement with the Government of any other part of the Commonwealth or the Government of any other country, being an agreement which provides for reciprocity in matters of social security, it shall be lawful for the Minister by order, to modify or adapt the provisions of this Act in their application to cases affected by the agreement.

Exemption from stamp duty

43. (1) Stamp duty shall not be chargeable upon any draft or order or receipt given in respect of any benefit or upon any receipt given in respect of any other payment out of the Fund under section 2(2) or upon any receipt given by an officer or employee of the Board for or in respect of any sum payable to the Fund.

(2) Nothing in subsection (1) shall be deemed to exempt any person from liability to pay stamp duty on any power of attorney or on any documents other than those mentioned in subsection (1) which are otherwise liable to duty under the Stamp Act.

Power to make regulations

44. (1) The Minister may make such regulations as are required by this Act to be made.

(2) Such regulations may modify or affect the operation of any provision of this Act as he may consider necessary or desirable generally for giving effect to the principles of this Act.

(3) Notwithstanding anything to the contrary in any other law, where no penalty is specified for any offence under this Act or the regulations, regulations may provide a penalty of $1,000 for each

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offence being a contravention of or failure to comply with any regulation, or where the offence consists of continuing any such contravention or failure after conviction thereof, $1,000 together with a further $250 for each day on which it is so continued.

(4) Any power conferred by this Act to make regulations may be exercised—

(a) either in relation to all cases to which the power extends or in relation to all such cases subject to specified exceptions or in relation to any specified cases or class of cases; and

(b) so as to make, as represents the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision,

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

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

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

Regulations to be laid before the House of Assembly

45. (1) All regulations shall be laid before the House of Assembly as soon as may be after they are made and, if within a period of 30 days beginning with the day on which such regulations are so laid, the House of Assembly resolves that the regulations be annulled, they shall thereupon cease to have effect but without prejudice to anything previously done thereunder or to the making of new regulations.

(2) In reckoning any period of 30 days specified in subsection (1), no account shall be taken of any time during which the House of Assembly is dissolved or prorogued or during which the House of Assembly is adjourned for more than 14 days.

Operation of private schemes

46. (1) Nothing in this Act shall be deemed to prevent an employer from operating any private scheme providing, for any person who is or has been employed by him, benefits of any kind whether similar to benefits under this Act or greater.

(2) Where any such employer desires to modify any such scheme in operation before 4th November, 1980 such modification shall have prior approval of the Minister.

Protection of contributions in certain cases

47. (1) In any case where—

(a) any warrant of distress is executed against the property of an employer and the property is seized or sold in pursuance of the execution; or

(b) on the application of a secured creditor, the property of an employer is sold;

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the proceeds of the sale of the property shall not be distributed to any person entitled thereto until the court ordering the sale has made provision for the payment of any amounts due in respect of contributions payable by the employer.

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

Citation

48. This Act may be cited as the Social Security Act, Revised Statutes of Anguilla, Chapter S45.

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‡ Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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SCHEDULE

(Section 3(1))

CONSTITUTION AND PROCEEDINGS OF THE SOCIAL SECURITY BOARD

Composition of Board

1. The Board shall consist of 7 persons appointed by the Minister of whom—

(a) one shall be the Director;

(b) two shall represent Government;

(c) two shall represent employers; and

(d) two shall represent employed persons;

but members of the House of Assembly shall not be eligible for appointment to the Board.

Members representing employers

2. The members representing employers shall be appointed as being persons who appear to the Minister to be representative of employers generally throughout Anguilla.

Members representing employed persons

3. The members representing employed persons shall be appointed as being persons who appear to the Minister to be representative of employees generally throughout Anguilla.

Designation of Chairman

4. The Minister shall designate 1 member of the Board to be Chairman, and a member to be Deputy Chairman who shall function as chairman in the absence, at any meeting, of the Chairman.

Alternate members

5. The Minister shall appoint 1 alternate member for each representative category identified in sections 1 (b), (c) and (d).

Term of representative members

6. The representative members of the Board shall hold office for such period not exceeding 3 years as may be determined by the Minister. Any member of the Board shall be eligible for re-appointment.

Resignation and vacancy

7. A member of the Board may at any time, by notice in writing addressed to the Minister, resign his office; and if a member becomes in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister shall in such manner as he thinks fit declare the office of the member vacant.

Quorum

8. The quorum for any meeting of the Board shall be 4 including the Chairman (or Deputy Chairman in the absence of the Chairman) and the Board may act notwithstanding any vacancy in its membership.

Alternate member's right to vote

9. An alternate member may attend any meeting, which a member from his representative category is unable to attend, and shall have a right to vote.

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Voting

10. The decision of the Board shall be by a majority of votes; the chairman of the meeting shall have a deliberative vote and in the event of an equality of votes shall have an additional or casting vote.

Minutes

11. Minutes of each meeting shall be kept in proper form by such officer of the Board as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the Chairman or Deputy Chairman, as the case may be.

Persons invited to meeting

12. The Board may invite any 1 or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such invited person shall have any right to vote.

Conflict of interest

13. If any member of the Board or other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matter, he shall, at the meeting and as soon as is practicable after the commencement of the meeting, disclose the fact of his interest and shall not take part in the discussion, consideration or voting on such contract or other matter.

Board may determine procedure

14. Subject to the Act, the Board shall have the power to regulate its own proceedings.

(Act 3/2001, s. 1)

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