

**VIRGIN ISLANDS**  
**SOCIAL SECURITY (NATIONAL HEALTH INSURANCE)**  
**REGULATIONS, 2015**

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may have been carried on or exercised;

- (b) dividends or interest;
- (c) any charge or annuity;
- (d) rents, royalties, premiums and any other profits arising from property;
- (e) any gains from the sale of shares of any real estate holding company by a non-resident corporate majority shareholder, only that part of the gains which is attributable to such real estate in the Virgin Islands;
- (f) any annual gains or profits not falling under any of the foregoing heads;

“immigration status”, in relation to a person, means any restriction or condition subject to which permission to reside in the Territory is granted to the person under the Immigration Ordinance, and includes any exemption from any such restriction or condition;

“prison” has the meaning assigned to it in the Prisons Act;

“resident” means a person who is legally residing in the Territory

- (a) by virtue of being a Belonger; or
- (b) in accordance with the Immigration and Passport Ordinance.

“senior” means a person who has attained the age of sixty-five years or over;

“unemployed adult” means a person who has attained the age of eighteen years and who is not

- (a) a dependant spouse or a dependent child;
- (b) a senior; and
- (c) an employee or self-employed;

“unemployed pensioner” means a person who is receiving a pension and is not an employee or self-employed;

“unemployed senior” means a senior who is not

- (a) receiving a pension; and

(b) an employee or self-employed;

“unemployed spouse”, in relation to a resident, means a person to whom the resident is lawfully married and who

(a) is not living apart from the resident under a deed of separation or order of the court;

(b) is not an employee or self-employed; and

(c) is a legal resident;

“ward of the State” includes a person who is residing at the Rainbow Children’s Home, the Virgin Gorda Elderly Home or the Adina Donovan Home for the Elderly and a person who is in custody at a prison.

## **PART II REGISTRATION OF BENEFICIARIES**

Application for  
registration.

3. (1) A resident who

(a) was a resident immediately before the coming into force of these Regulations, shall, within one month after the coming into force of these Regulations, or

(b) becomes a resident on or after the coming into force of these Regulations, shall within one month after he becomes a resident,

shall apply to the Director for registration as a beneficiary on such form as the Director may approve.

(2) Subject to subregulation (3), a resident shall submit the applications of each of his dependents, if any, together with his application.

(3) Where a person who is not registered as a beneficiary becomes the dependant of a resident after the resident has submitted his application, the resident shall submit the application of that person within one month after that person became his dependant.

(4) The Permanent Secretary of the Ministry responsible for the Rainbow Children’s Home shall, within one month after the coming into force of these Regulations, present to the Director, on such form as the Director may approve,

an application for each person who is resident at the Rainbow Children's Home.

(5) Where a person becomes a resident of the Rainbow Children's Home on a date after applications are presented to the Director under subregulation (4), the Permanent Secretary of the Ministry responsible for the Rainbow Children's Home shall, within seven days of that date, notify the Director, on such form as the Director may approve, that the person is a resident of the Rainbow Children's Home.

(6) The Permanent Secretary of the Ministry responsible for the Adina Donovan Home for the Elderly shall, within one month after the coming into force of these Regulations, present to the Director, on such form as the Director may approve, an application for each person who is resident at the Adina Donovan Home for the Elderly.

(7) Where a person becomes a resident of the Adina Donovan Home for the Elderly on a date after applications are presented to the Director under subregulation (6), the Permanent Secretary of the Ministry responsible for the Adina Donovan Home for the Elderly shall, within seven days of that date, notify the Director, on such form as the Director may approve, that the person is a resident of the Adina Donovan Home for the Elderly.

(8) The Permanent Secretary of the Ministry responsible for prisons shall, within fourteen days after the coming into force of these Regulations, present to the Director, on such form as the Director may approve, an application for each person who is confined or detained in a prison.

(9) Where a person is ordered to be confined or detained in a prison on a date after applications are presented to the Director under subregulation (8), the Permanent Secretary of the Ministry responsible for prisons shall, within seven days of that date, notify the Director, on such form as the Director may approve, that the person is confined or detained in a prison.

(10) The application of a resident who is employed shall be completed in part by the resident and in part by his employer.

(11) Subject to subregulation (12), a resident shall be responsible for the correctness of the information provided in his application and in the applications of his dependents who are minors.

(12) An employer shall be responsible for the correctness of any information provided by him in an application of a resident.

(13) Where the Director is satisfied that extenuating circumstances prevented a resident from submitting an application within the time specified in subregulation (1) or (3), the Director may extend the time specified in this regulation for the

submission of an application.

(14) A person who fails to submit an application before the expiration of the time as specified or extended under this regulation, shall, on applying for the registration of himself or his dependant spouse as a beneficiary under the NHI System, be required to pay

- (a) all the contributions that he would have been required to pay in respect of himself or his dependant spouse, as the case may be, if he had submitted the application before the expiration of the time as specified or extended under this regulation; and
- (b) three months' contributions in respect of himself or his dependant spouse, as the case may be,

and he or his dependant spouse, as the case may be, shall not have access to health care services or benefits under the NHI System until the expiration of three months from the date of the application.

4. An application shall be accompanied by such documentary evidence as the Director may require to support the accuracy of any information in the application, including

Documents for registration.

- (a) a birth certificate;
- (b) a belonger certificate or card;
- (c) a valid passport;
- (d) a valid work permit;
- (e) proof of immigration status;
- (f) a marriage certificate;
- (g) a deed poll; or
- (h) an affidavit in support of any fact.

Registration of beneficiaries.

5. (1) Upon receipt of an application, the Director shall

- (a) if satisfied that the applicant is a legal resident, cause the applicant to be registered as a beneficiary;
- (b) if not satisfied that the applicant is a legal resident, refer the

application to the Chief Immigration Officer and

- (i) approve the application if the Chief Immigration Officer certifies that the applicant is a legal resident; or
- (ii) refuse the application if the Chief Immigration Officer certifies that the applicant is not a legal resident.

(2) The registration of a person as a beneficiary shall have effect from the coming into force of these Regulations or the date on which the person became a resident, whichever is the later.

(3) A person shall not be registered as the dependant of more than one beneficiary.

Categories of  
beneficiaries.

6. Beneficiaries shall be registered in one of the following categories:

- (a) employed;
- (b) self-employed;
- (c) dependant spouse;
- (d) dependant child;
- (e) unemployed pensioner;
- (f) unemployed senior;
- (g) unemployed adult;
- (h) indigent; or
- (i) ward of the State.

7. (1) Upon the registration of a person as a beneficiary, the Director shall issue to that person an NHI membership card.

NHI membership  
cards.

(2) An NHI membership card

- (a) shall bear the full name of the beneficiary;
- (b) shall have imprinted on it the beneficiary's national health insurance number;
- (c) may bear a photograph of the beneficiary;

- (d) may state the date from which it has effect;
- (e) may state the date on which it expires;
- (f) may contain or have imprinted on it such other information as the Board may approve.

(3) An NHI membership card shall be presented to a health care provider for the purposes of identification, eligibility certification and utilisation recording.

8. (1) A beneficiary shall be responsible for the safe custody of his NHI membership card and that of any of his dependents who are minors.

Custody and replacement of NHI membership card.

(2) Where an NHI membership card is destroyed, lost, stolen or defaced, the person responsible for its safe custody shall report the matter to the Director, who shall, on the payment of the fee specified in Schedule 1, replace the NHI membership card.

9. On the death of a beneficiary, any person having possession or thereafter obtaining possession of the NHI membership card of the deceased beneficiary shall forthwith deliver it to the Director.

Return of NHI membership card on death of beneficiary.

Notification of termination of employment.

10. An employer shall, within seven days of the termination of employment of a person employed by him, notify the Director of such termination on such form as the Director may approve.

Notification of change in work status.

11. A beneficiary who changes his employer or his status as an employee, employer or self-employed person shall, on such form as the Director may approve, notify the Director of the change, within seven days of the date of the change.

Notification of new dependant.

12. Where a person who is registered as a beneficiary becomes the dependant of a resident who is registered as a beneficiary, the resident shall, on such form as the Director may approve, notify the Director of the change within seven days of the date of the change.

Notification of change in family status.

13. (1) A beneficiary who changes his family status shall, on such form as the Director may approve, notify the Director of the change, within seven days of the date of the change.

(2) For the purposes of subregulation (1), a person changes his family status where he becomes married, separated under a deed of separation or order of a court, divorced or ceases to be a dependant.

Notification of change in immigration status.

14. A beneficiary who changes his immigration status shall, on such form as the Director may approve, notify the Director of the change, within seven days of the

date of the change.

Notification of  
release from  
prison.

**15.** Where a person is released from prison, the Permanent Secretary of the Ministry responsible for prisons shall, on such form as the Director may approve, notify the Director of the release of that person, within seven days of the release.

Extension of  
time for  
notification of  
change.

**16. (1)** The Director may, in special circumstances, extend the time specified in regulation 10, 11, 12, 13 or 14 for the notification of a change.

**(2)** A person who fails to notify the Director of a change before the expiration of the time as specified or extended under regulation 10, 11, 12, 13, 14 or 16, shall, on notifying the Director of the change, be required to pay the fee specified in Schedule 1.

Termination of  
NHI coverage.

**17.** The Director shall terminate coverage under the NHI System in respect of a person who ceases to be a legal resident.

New employer.

**18.** A beneficiary shall on commencing employment with a new employer, produce his NHI membership card to that employer.

Offences.

**19. (1)** A person who contravenes regulation 3(1) to (3) or regulations 10 to 14 commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, and if the offence is a continuing offence, to a further fine not exceeding one hundred dollars for every day or part of a day during which the offence has continued.

**(2)** A person who knowingly gives false information in an application commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

**20.** The Director shall cause the forms approved for the purposes of these Regulations to be made available to the members of the public.

Forms.

### **PART III CONTRIBUTIONS**

**21. (1)** Where a payment of wages is made to or for the benefit of an employee on or after the coming into force of these Regulations, there shall be payable

Rates of  
contributions.

(a) contributions by the employee in respect of himself and his dependant spouse at the rates specified in Schedule 2;

Schedule 2

(b) a contribution by the employer at the rate specified in Schedule 2.

**(2)** A self-employed person shall pay contributions in respect of himself and his dependant spouse at the rates specified in Schedule 2.

(3) The Social Security (Self-Employed Persons) Regulations, 1994 shall apply, *mutatis mutandis*, to the payment of contributions by self-employed persons.

(4) An unemployed adult shall pay contributions in respect of himself and his dependant spouse at the rates specified in Schedule 2.

(5) The contributions of dependent children, unemployed seniors, indigent persons, and of wards of the State shall be such sum as is appropriated by the House of Assembly in each financial year for that purpose.

(6) In calculating the amount of a contribution due by or in respect of an employee, the amount of any cents in a person's wages shall be disregarded.

(7) The Director may exempt a beneficiary from the requirement to pay contributions in respect of himself or his dependant spouse, where the beneficiary satisfies the Director that he or his dependant spouse will be living outside the Territory for at least six months in any calendar year.

(8) A person in respect of whom an exemption is granted under subregulation (7) shall not be entitled to receive benefits unless he gives the Director at least three months' notice of his desire to resume his entitlement to benefits and three months' contributions is paid on his behalf.

Upper income  
limit.

**22.** There shall be for every contribution year an upper income limit for contributions, being the maximum amount of income in respect of which such contributions are payable and the amount of such limit in respect of different pay periods shall be as set out in Schedule 3.

Schedule 3

Wages.

**23.** For the purposes of regulation 21, the wages for an employee shall consist of all gross earnings paid to or for the benefit of the employee including

- (a) overtime payments;
- (b) cost of living payments;
- (c) commission or profits on sales;
- (d) payments for night or shift work;
- (e) holiday pay or other amounts set aside out of the employee's remuneration throughout the year or part of the year payable to him periodically, except any pensions, gratuities or similar benefits under a scheme of insurance or social security.

Exemption from payment of contributions.

**24. (1)** An employer shall be exempt from liability to pay contributions for any week

(a) in which no work is done by the employee and in respect of which the employee receives no wages; or

(b) in which the employee is engaged as a full-time unpaid apprentice.

(2) Nothing in subregulation (1) shall be deemed to affect the liability of an employer to pay contributions for any week in which an employee is on vacation if wages are normally payable in respect of such a person.

Recovery by employer of contributions paid on behalf of employee.

**25. (1)** An employer shall, on or before making any payment of wages to an employee, deduct the contributions payable on behalf of that employee in accordance with these Regulations.

(2) Where, by reason of any error made in good faith, an employer, on making any payment of wages to an employee, fails to deduct therefrom the contribution or any part thereof payable by such employee, the employer may recover such contribution or part thereof from any wages payable to the employee during the ensuing year.

**26.** An employer shall record, in each contribution year in such form as may be authorised by the Director, the following particulars in respect of each of his employees:

Manner of recording contributions.

(a) the date of each payment of wages;

(b) the amount of such wages;

(c) the amount of contribution due in respect of the employer and employee in respect of such payment; and

(d) the number of weeks in which the employee was in insurable employment in the said contribution year.

**27. (1)** Within fourteen days of the end of each month, an employer shall transmit to the Director, together with such duly completed form as the Director may approve, the total amount of contributions due by the employer and his employees during the said month in compliance with the provisions of regulation 21.

Payment of contributions by employer.

(2) In addition to any other requirements, an employer shall, where the service of an employee is terminated, transmit to the Director all contributions due in respect of that employee within fourteen days from the end of the month in which the said employment is terminated.

(3) If an employer, by reason of an error made in good faith, has paid to the Director by way of contributions any amount exceeding what was due at a particular time, the excess payment may be set off against any contribution that falls due subsequently.

28. (1) If within the time prescribed by regulation

Employer failing  
to pay  
contributions  
due.

- (a) an employer has not paid any contribution which he is liable to pay to the Director for that month and the Director is unaware of the amount, if any, which the employer is liable to pay, or
- (b) the employer has tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month

the Director may give notice in writing to the employer requiring him to render, within the time specified in the notice (being not less than five days), a written return showing the name of every employee to whom he made any payment of wages in respect of any period specified in such notice, together with such particulars regarding those employees as are specified in subregulation (2).

(2) The particulars referred to in subregulation (1) are

- (a) the amount of every payment of wages made during that period;
- (b) the total amount of contributions which the employer was liable to deduct during the period;
- (c) the total amount of contributions which was payable by the employer in addition to the amount deductible under paragraph (b); and
- (d) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(3) The Director shall ascertain and certify the amount of contribution which the employer is liable to pay in respect of any period.

(4) The production of the return made by the employer under subregulation (1) and of the certificate of the Director under subregulation (3) shall be good evidence that the amount of contribution to which the employer is liable to pay to the Director in respect of the period specified therein, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Surcharge for late or non-payment of contributions.

**29.** (1) Subject to subregulation (2), if, within the time limit provided in regulation 27, an employer has not paid any contribution which he is liable to pay for any particular month, he shall be liable to pay to the Director a surcharge equivalent to 10% of the amount of the contributions which he was liable to pay for that month.

(2) The Director may, if he is satisfied that the circumstances of the case so warrant, exempt an employer from the payment of the surcharge under subregulation (1).

Employer's non-payment of contributions not to affect employee's rights.  
Nil returns.

**30.** The failure of an employer to pay contributions in respect of an employee in accordance with regulation 27 shall in no way affect the benefits that an employee is entitled to under the NHI System.

**31.** An employer who during any contribution period has no employees in his service shall send to the Director a statement to that effect within one month of his ceasing to employ any persons.

#### **PART IV REFUNDS**

**32.** (1) Contributions paid by an employer under erroneous belief that such contributions were due, shall be refunded by the Director to the employer, as the case may be, if application to that effect is made in writing to the Director within the time specified in subregulation (4).

Refund of contributions paid in error.

(2) Subject to subregulation (3), contributions erroneously paid by an employer on behalf of an employed person and not recovered by the employer from that person, may be refunded by the Director to the employer instead of to that person.

(3) Where the contributions erroneously paid by an employer on behalf of an employed person are recovered by the employer from that person, the Director may refund such contributions to that person, or, with consent of that person in writing, to the employer.

(4) An application for the return of any contributions made under subregulation (1) shall be made in such form and in such manner as the Director may from time to time determine.

(5) Every application for a refund of contributions under subregulation (1) shall

be made within three years from the date of such payment.

**33. (1)** Where a person is employed during any contribution year by two or more employers, each such employer shall be liable to pay contribution in proportion to the wages paid to such person by each such employer.

Employment by two or more employers.

**(2)** Where an employee to whom subregulation (1) applies has paid contributions on wages exceeding the upper wages limit in any contribution year, such employee shall be entitled to a refund of the amount so paid on application to the Director.

## **PART V RECORDS**

**34.** An employer shall maintain a record showing in respect of each person employed by him

Records to be kept by employers.

- (a)** the date on which such employment commenced and the date of the termination of the employment;
- (b)** the date and amount of each payment of wages; and
- (c)** the date and amount of each payment of contributions to the Director under regulation 27.

Certificate of unpaid contributions.

**35.** Where an employer fails to pay the Director before the end of January of each year, the total amount of contributions which such employer is liable to pay in respect of the previous contribution year, the Director may prepare a certificate showing the amount of contributions remaining unpaid and due to the Board for that previous year and such certificate shall be sufficient evidence in any Court that the sum mentioned in the certificate is unpaid and due to the Board, and any document purporting to be such a certificate shall be deemed to be such a certificate issued by the Director until the contrary is proved.

Issue of certificate to employee at the end of year.

**36.** Within thirty days from the end of a contribution year or from the date of termination of employment, an employer shall give to each employee a certificate showing in respect of the employment

- (a)** the total amount of contributions deducted from the wages of the employee during the contribution year;
- (b)** the employee's total wages for the contribution year; and
- (c)** the number of weeks in the contribution year in which the employee was in insurable employment.

Inspection of records by employee.

**37.** An employee shall be entitled to inspect the record specified in regulation 34 in respect of him once in every period of three months.

## **PART VI FINANCIAL BENEFITS**

Reimbursement of expenses for services not available under the NHI System.

**38.** Where a health care service is listed and not available under the NHI System but is obtained in the Territory by a beneficiary from a health care provider who has not entered into a contract with the Board, the Board may, on application in writing by the beneficiary, approve the reimbursement to the beneficiary of the whole or part of the expenses incurred by the beneficiary in obtaining the service.

## **PART VII MISCELLANEOUS**

Death of an employer.

**39.** Where an employer dies, any obligation incurred by the employer before his death under these Regulations shall be performed by his personal representative.

Succession to business.

**40.** (1) Where there is a change of employer in respect of a business, trade or undertaking, any obligation incurred under these Regulations before such change shall be performed by the person who was the employer before such change.

(2) Where there is a change of employer in respect of a business, trade or undertaking, such change shall, within a month before the change, be notified to the Director in writing by the person who was the employer before the change.

## **SCHEDULE 1**

[Regulation 8(2), 16(2)]

### **Fees**

Fee for replacement of NHI membership card	\$10.00
Fee for late notification of change	\$10.00

## **SCHEDULE 2**

[Regulation 21(1), 21(2)]

### **Rates of Contributions**

Rate of contribution payable by employee	3.75% of insurable earnings
Rate of contribution payable by employer	3.75% of insurable earnings of each employee
Rate of contribution payable by self-employed person	7.5% of insurable earnings
Rate of contribution payable in respect of a dependant spouse	3.75% of insurable earnings of employed spouse
Rate of contribution payable by an unemployed adult	7.5% of insurable income

### **SCHEDULE 3**

[Regulation 22]

#### **Upper Income Limit**

Two times the upper wage limit for Social Security contributions.

Dated this                      day of                      , 2015.

Minister for Health and Social Development

**No 7 of 2014**

**VIRGIN ISLANDS**

**SOCIAL SECURITY (AMENDMENT) ACT, 2014**

**ARRANGEMENT OF SECTIONS**

*Section*

1. Short title and commencement.
2. Section 3 amended.
3. Section 18 amended.
4. Section 25 amended.
5. Part VI inserted.
6. Schedule amended.

I Assent

(Sgd.) Boyd McCleary, CMG, CVO,  
Governor.

27<sup>th</sup> April, 2014

**VIRGIN ISLANDS**

**No. 7 of 2014**

An Act to amend the Social Security Ordinance (Cap 266) so as to establish a National Health Insurance System and to provide for matters incidental thereto.

[Gazetted 22<sup>nd</sup> May, 2014]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and  
commencement.

1. (1) This Act may be cited as the Social Security (Amendment) Act, 2014.

(2) The provisions of this Act shall come into force on such date or dates as may be appointed by the Minister by Notice published in the *Gazette* and different dates may be appointed for different provisions and different purposes.

Section 3  
amended.

2. Section 3 of the Social Security Ordinance (hereinafter referred to as “the principal Act”) is amended by deleting subsection (2)(c) and replacing it as follows:

“(c) all expenses properly incurred in the administration of Parts I to V of this Ordinance.”

Section 18  
amended.

3. Section 18 of the principal Act is amended by deleting subsection (6)(c) and replacing it as follows:

“(6) Insured persons shall be insured under this Ordinance in respect of the several contingencies in relation to which benefits are

provided under section 25 and Part VI and there shall be payable to or in respect of any such person, in the prescribed circumstances, any benefits payable by virtue of the said section or Part.”.

4. Section 25 of the principal Act is amended in subsection (1), by inserting a new paragraph (h) as follows: Section 25 amended.

“(h) NHI benefits as prescribed under Part VI of this Ordinance.”.

5. The Principal Act is amended by inserting the following new Part VI: Part VI inserted.

## **“PART VI**

### **National Health Insurance System**

Interpretation  
under this Part.

57. In this Part, unless the context otherwise requires

“allied health care practitioner” has the meaning assigned to it under the Medical Act, 2000;

No. 4 of 2000

“beneficiary” means a beneficiary of the NHI System;

“Deputy Director” means the person appointed as a Deputy Director under section 9 for purposes of this Part;

“health care services” or “services” means the services that are determined under section 63 to be covered under the NHI System;

“health care provider” means a medical practitioner or allied health practitioner or health care institution duly contracted to provide health care and related services to beneficiaries under the NHI System;

“indigent person” means a person whose income is insufficient for the subsistence of himself or his family, as certified by the Chief Social Development Officer;

“medical practitioner” includes a person registered under Part I of the Medical Act, 2000 to practice in the Territory and a person practising medicine outside the Territory who is registered to practice medicine under the law of the place where he so practices; No. 4 of 2000

“NHI” means the National Health Insurance;

“NHI contribution” means a monetary contribution paid by the persons described in section 61 in accordance with regulations made under this Part and “contributor” shall be construed accordingly;

“NHI Division” means a division of the Board established under Section 59;

“NHI Fund” means the National Health Insurance Fund established under section 65;

“NHI System” means the National Health Insurance System established under section 58;

“record” means any record of information or data in any form and however compiled and includes writing or printing on any material whether stored on paper, electronically, magnetically, or on non-paper based form and any storage medium;

“registration” means the process of enrolling persons as NHI beneficiaries under section 62;

“resident” means a person who is legally residing in the Territory

(a) by virtue of being a believer; or

(b) in accordance with the Immigration and Passport Ordinance;

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Establishment of NHI System. **58.** There is hereby established a National Health Insurance System or NHI System which shall be the financing and purchasing mechanism for facilitating equitable access to health care services for all beneficiaries, in accordance with the provisions of this Part.

Establishment of the NHI Division. **59.** There is hereby established a division of the Board to be known as the NHI Division, which shall administer and manage the NHI System.

Functions of the NHI Division.

**60.** The NHI Division shall

(a) manage, monitor and administer the NHI System;

(b) carry out the registration of beneficiaries;

(c) maintain a record of all beneficiaries and contributors;

(d) collect contributions;

(e) process claims and pay from the NHI Fund benefits as are agreed between health care providers and the Board;

(f) supervise and control expenditures and make payments from the NHI Fund as authorised under section 65 (3);

(g) carry out registration of health care providers and facilities under the NHI System;

- (h) enter into contractual arrangements with such health care providers for the provision of NHI health care services;
- (i) maintain a record of all contracted NHI health care providers;
- (j) receive billing information and make payments from the NHI Fund to health care providers for health care services rendered to beneficiaries pursuant to agreements between health care providers and the Board;
- (k) determine all issues relating to payments to health care providers for services rendered to beneficiaries;
- (l) provide to the Director periodic reports, advice and information in relation to any matters relating to the NHI System as required under this Part;
- (m) monitor compliance of health care providers with regulations, standards and protocols relating to the provision of services; and
- (n) carry out any directions, perform such other functions and discharge such other duties as are given or assigned to the NHI Division by the Director.

Contributions.

61. (1) Notwithstanding section 18(1), all persons who are

- (a) employees in insurable employment pursuant to section 18(4);
- (b) employers of persons in insurable employment;
- (c) self-employed pursuant to section 18(4); and
- (d) recipients of income not originating from employment to which section 18(4) refers,

shall be required to pay contributions towards the NHI System.

(2) A person who fails to pay any contribution due under this Part shall be liable to pay the full cost of any medical services obtained by him or a person on whose behalf he is liable to pay such contributions.

(3) The Government shall pay the contributions of the persons exempted from the payment of hospital charges as specified under regulation 4 of the Public Hospital Regulations, 1927, on their behalf.

(4) The Social Security (Contributions) Regulations and the Social Security (Self-Employed Persons) Regulations, shall apply *mutatis mutandis* in respect of the method of payment and collection of contributions from and on behalf of

persons referred to in subsections (2) and (3) until such time as Regulations for the purpose are made pursuant to subsection (5) or section 71.

(5) The Minister may, by regulations, prescribe the contribution rates to be applied pursuant to this section.

Registration. **62.** (1) A resident shall be registered as a beneficiary of the NHI System under this Part.

(2) A resident shall be registered under the NHI System in the manner prescribed.

(3) Upon registration each person shall be issued an NHI membership card.

Beneficiary Entitlements. **63.** (1) Subject to such conditions and limitations as the Minister may prescribe by regulations, the following health care services shall be rendered by health care providers to beneficiaries under this Part

- (a) primary health care services including general medical or clinical practice services from public or private health care providers certified pursuant to section 64;
- (b) medically necessary hospital outpatient and inpatient services rendered by health care providers at public or private health care facilities including the services of diagnosis, treatment and emergency services;
- (c) diagnostic, laboratory and other medical examination services at public or private health facilities;
- (d) medicines, biologicals and medical supplies prescribed by NHI health care providers;
- (e) any other health care services which may be approved by the Board.

(2) A beneficiary is entitled to

- (a) choose his own medical practitioner; and
  - (b) access such health care services in the amount and subject to such conditions and co-payments,
- if any, in the manner prescribed by the regulations.

(3) Access to health care services shall be by utilising those services from registered NHI health care providers who offer general medical or clinical practice services and who enter into contracts with the NHI Division to provide such services, however that, in emergency cases such services may be provided by any other NHI health care provider as the case may be.

(4) For the avoidance of doubt, a beneficiary is not precluded from procuring private insurance coverage for the provision of health care services.

(5) Notwithstanding that a beneficiary has another health insurance plan the NHI system shall reimburse the health care provider or the beneficiary as applicable up to the maximum permissible fee for the services rendered or received.

(6) The Board may approve such services under subsection (1) that may be accessed overseas where the same is not available in the Territory.

Certification and  
Registration of  
Health Care  
Providers. **64.** (1) All health care providers shall be qualified and licensed in accordance with the laws governing their practice.

(2) A health care provider may be registered by the Board upon application to the Director.

(3) The registration of a health care provider shall be renewed annually.

(4) The Board shall enter into agreement with any health care provider registered under subsection (2) for the provision of health care services to beneficiaries upon such terms as may be agreed and as may be prescribed within the agreement.

(5) An agreement between the Board and a health care provider shall provide for

- (a) the process by which beneficiaries shall be entitled to access services (including the referral process);
- (b) the services to be provided, in accordance with the regulations;
- (c) the rates of reimbursement for the services rendered;
- (d) the quality of health care expectations;
- (e) the processing and management of claims;
- (f) the terms of payment for services by the NHI System;
- (g) financial and clinical audit functions; and

(h) general responsibilities of the parties.

NHI Fund. **65.** (1) For the purpose of this Part, there is hereby established under the control and overall management of the Board, a fund to be known as the National Health Insurance Fund, hereinafter called the "NHI Fund", which shall be operated and maintained separately from the Social Security Fund established under section 3.

(2) There shall be paid into the NHI Fund

- (a) all contributions for the NHI System required to be paid under this Part;
- (b) all interests, rents and other income derived from the assets of the NHI Fund;
- (c) all sums recovered under this Part, as fines, fees, penalties or costs;
- (d) all sums properly accruing to the NHI Fund under this Part including any repayment of benefit, donations and grants;
- (e) such other sums as shall be provided out of the Consolidated Fund or as may be received by the Board on behalf of the NHI Fund for purposes of the NHI System only; and
- (f) any other monies legitimately applied for the implementation of the NHI System.

(3) There shall be paid or met out of the NHI Fund

- (a) monies solely for the purchasing and financing of NHI health care services for beneficiaries;
- (b) refunds of contributions;
- (c) costs and expenses properly incurred in the management and administration of the NHI System, including the purchase of real property, remuneration, allowances and other operating costs and such expenses as may be incurred by the Board in carrying out its functions with respect to the implementation of the NHI System;
- (d) monies, as approved by the Board, to meet the cost of health surveys, health studies and analyses, public education

programmes and the implementation of measures to promote wellness and prevent illnesses; and

(e) other expenditure as approved by the Board.

(4) Sections 14, 15 and 16 and the provisions of the Social Security (Financial and Accounting) Regulations shall apply *mutatis mutandis* to the NHI Fund, subject to any regulations, which may be made to provide for the financial organisation of the monies of the NHI Fund.

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(5) Subject to the provisions of this Part, the use, disposition, investment, disbursement, administration and management of the NHI Fund, including any subsidy, grant or donation received for operations of the NHI System shall be governed by an affirmative resolution of the Board.

(6) The Board shall set aside a portion of the accumulated NHI Fund as reserve funds, provided that the total reserves shall not be less than the expenditure of the NHI System for the previous three months.

(7) The Board shall maintain separate administrative, financial, accounting and other records with respect to the NHI Fund, including separate internal auditing, independent external auditing and separate administrative processing of benefit claims and appeals.

Investments and Loans. **66.** The Board shall not make any investments in or make any loans to any person, company, individual, health care provider or other entity whatsoever that may be involved in the provision of health care services, diagnostic treatment services, the provision of drugs or any other services that may be provided under the NHI System.

Actuarial Review. **67.** (1) Section 17 relating to actuarial review, shall apply to the NHI Fund in like manner as it applies to the Social Security Fund, save and except that the period to be covered by such review shall be after the first year from the coming into force of this Part.

(2) Notwithstanding subsection (1), the Board may, from time to time, direct that an Actuarial Review be undertaken as it deems necessary.

Grievance Procedures. **68.** (1) Where

(a) a beneficiary is aggrieved in respect of any violation of his entitlements under section 63;

(b) a health care provider

(i) is denied registration under the NHI System; or

- (ii) disagrees with the NHI Division on payments made on claims,

the matter shall be determined by the Director or, in his absence the Deputy Director, or any other person whom the Director may authorise to act on his behalf.

S.I. 1981 No. 17 (2) For the purpose of any complaints to which subsection (1) refers, the provisions of the Social Security (Decisions and Appeals) Regulations shall apply *mutatis mutandis* to a grievance under this section.

Confidentiality. 69. (1) Each person engaged in the administration of the NHI System, any committee appointed under section 5 for the purposes of this Part, any agent of the Board, any member of a tribunal constituted under section 32, shall preserve confidentiality with respect to all matters that come to his knowledge in the course of his employment or duties pertaining to beneficiaries, and any health care services rendered and payments made therefor and shall not disclose or communicate any such matters to any other person except as required for the performance of his functions or as otherwise provided under this Ordinance, any other enactment authorising such disclosure or by order of a court.

(2) Every health care provider, its employees or agents shall preserve confidentiality with respect to all matters that come to his knowledge in the course of his employment or duties pertaining to the rendering of health care services to beneficiaries, and shall not disclose or communicate any such matters to any other person except as required for the performance of his duties or functions or as otherwise provided under this Ordinance, any other enactment authorising such disclosure or by order of a court.

(3) Notwithstanding subsection (2), every beneficiary is deemed to have authorised his health care provider which provided a health care service to the beneficiary to give the Director, and every health care provider shall give to the Director, particulars of services provided to the beneficiary

- (a) for the purpose of obtaining payment under the NHI System for the service;
- (b) for the purpose of enabling the NHI Division to monitor and control the
  - (i) delivery of health care services; and
  - (ii) payments made under the NHI System for health care services.

(4) Where confidential information is required to be disclosed all names and identifying numbers, symbols or other particulars shall be excised from the relevant documents, unless disclosure of the names and other identifying information is necessary for purposes including but not limited to

(a) disclosure to any court of competent jurisdiction within the Territory, or under the provisions of any law of the Territory;

(b) disclosure for the purpose of

(i) criminal proceedings; or

(ii) disciplinary proceedings as more particularly set out in subsection (5), whether within or outside the Territory, relating to the exercise by counsel or attorney, auditor, accountant, valuer or actuary of his professional duties; or

(iii) disciplinary proceedings relating to the discharge by a public officer of his duties; or

(iv) research and surveillance as approved by the Director.

(5) Where, in the course of administration of the NHI System under this Part or the Regulations, the Director or a committee appointed under section 5 for the purposes of this Part, has reasonable grounds to believe that a medical, dental or allied health care provider is incompetent or has committed professional misconduct, the Director or the committee, as the case may be, shall give to the regulatory body governing the medical, dental or allied health care provider,

(a) information pertaining to the nature of the health care services provided by the medical, dental or allied health care provider;

(b) information concerning a patient's diagnosis given by the medical, dental or allied health care provider;

(c) such other information pertinent to the care of that patient, including the patient's personal information.

(6) A person who discloses information contrary to the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding twenty five thousand dollars or to a term of imprisonment not exceeding two years or both.

Subrogation. **70.** (1) Where as a result of negligence or other wrongful act or omission of another, a beneficiary suffers personal injuries for which he receives health care

services, the Board is subrogated to any right of the beneficiary to recover for the cost for past health care services received in relation to such injuries, and the cost that will probably be incurred for future health care services in relation to the said injuries.

(2) For purposes of subsection (1), the Board is empowered to sue in the name of a beneficiary for the recovery of costs for health care services rendered to or for future health care services in respect of a beneficiary as provided in subsection (1).

(3) For the purposes of subsections (1) and (2), payment under the NHI System for health care services rendered or to be rendered to a beneficiary shall not be construed to affect the right of the beneficiary to recover the amount so paid in the same manner as if such amounts are paid or to be paid by the beneficiary.

(4) Any person who commences an action to recover for loss or damages arising out of negligence or other wrongful act of a third party causing injury or disability and in respect of which NHI health care services have been provided, is required to include a claim on behalf of the Board for the cost of NHI health care services and shall forthwith pay over the sum recovered to the Board.

(5) Insurance providers against which any claim for damages under subsections (1) or (2) are made shall notify the Director of any negotiations for settlement of any such claim and no settlement of a claim for damages shall be binding on the Board unless approved by the Director.

(6) Subrogation shall not, however, extend to the recovery of costs against a health care provider or health care facility if the negligence or wrongful act or omission upon which the action is based occurred in the course of providing health care services that the health care provider or health care facility, as the case may be, is authorised to provide and in such circumstances as may be prescribed.

Regulations. 71 (1) The Minister may, with the approval of the Cabinet, make regulations for the efficient administration of the provisions of this Part and for prescribing anything that is required to be prescribed.

(2) Regulations made pursuant to this Part shall be subject to a negative resolution of the House of Assembly.”.

Schedule  
amended.

6. The Schedule to the principal Act is amended by deleting paragraph (1) and replacing it as follows:

“1. The Board shall consist of nine persons appointed by the Minister with the approval of the Cabinet, of whom

- (a) one shall be the Director or in his absence his Deputy;
- (b) three shall represent Government one of whom shall be the Chief Medical Officer;
- (c) two shall represent employers;
- (d) two shall represent employed persons, and
- (e) one shall be a private health practitioner,

however that, members of the House of Assembly shall not be eligible for appointment to the Board.”.

Passed by the House of Assembly this 8<sup>th</sup> day of April, 2014.

(Sgd.) Ingrid Moses-Scatliffe,  
Speaker.

(Sgd.) Phyllis Evans,  
Clerk of the House of Assembly.