

NATIONAL PENSIONS ACT

Act 44 of 1976 – 22 October 1976

(unless otherwise indicated)

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|---|---|
| PART I – PRELIMINARY | 23. Orphan’s contributory pension |
| 1. Short title | 23A. Lump sum payment |
| 2. Interpretation | 23B. Refund of contributions to non-citizens |
| PART II – BASIC PENSIONS | PART V – INDUSTRIAL INJURY PENSIONS |
| 3. Basic retirement pension | 24. Industrial injury |
| 4. Widow’s basic pension | 25. Industrial injury allowance |
| 5. Orphan’s pension | 26. Disablement pension |
| 6. Guardian’s allowance | 27. Other allowances |
| 7. Child’s allowance | 28. Survivor’s pension |
| 8. Invalid’s basic pension | 29. Benefits for orphan and other dependants |
| 9. Inmate’s allowance | 30. Saving |
| 10. Disqualification | PART VI – ADMINISTRATIVE, FINANCIAL AND GENERAL PROVISIONS |
| 11. Rate of basic pensions | Sub-Part A – Administrative Provisions |
| PART III – INSURED PERSONS AND CONTRIBUTIONS | 31. Establishment of Board |
| 12. – | 32. Functions of Board |
| 13. Insured persons | 33. Duties of Minister |
| 14. – | 34. Determination of claims to benefits |
| 15. Persons voluntarily insured | 34A. Liability for payment of contribution |
| 16. Persons ceasing to be insured persons | 35. Payment of benefits |
| 17. Employer to pay contribution | 35A. Payment of benefit into bank account |
| 17A. Joint liability of employer and job contractor in the sugar industry | 36. Appeal Tribunal and Medical Tribunal |
| 17B. Contribution in respect of persons in receipt of Transition Unemployment Benefit | Sub-Part B – Financial Provisions |
| 17C. Employer may pay contributions to Director-General | 37. National Pensions Fund |
| 17D. Enforcement | 38. Investment of assets of Fund |
| 17E. Director-General to remit the amount of contribution paid | 38A. Actuarial valuation |
| 18. Contribution | 39. Accounts of Fund |
| 19. Privilege in respect of contributions | 39A. Pension cards |
| PART IV – CONTRIBUTORY PENSIONS | Sub-Part C – General Provisions |
| 20. Contributory retirement pension | 40. Restriction on benefits |
| 21. Invalid’s contributory pension | 41. Remarriage of surviving spouse |
| 22. Widow’s or Widower’s contributory pension | 42. Plurality of benefits |

SECTION

42A. Increase in amount of pensions	45J. Power to summon
43. Protection from liability	45K. Cessation of business
44. Benefit not to be assigned or attached	PART VII – MISCELLANEOUS
45. Offences	46. Regulations
45A. Surcharge on late contributions or late returns	47. Workmen’s Compensation Act
45B. Recovery of contributions, surcharge or benefit	48. Transitional provisions
45C. Arrears of contribution	FIRST SCHEDULE
45D. Jurisdiction	SECOND SCHEDULE
45E. Franking of documents	THIRD SCHEDULE
45F. Certificate admissible in evidence	FOURTH SCHEDULE
45G. Authentication of documents	FIFTH SCHEDULE
45H. Keeping of records and register	SIXTH SCHEDULE
45I. Persons leaving Mauritius	SEVENTH SCHEDULE
	EIGHTH SCHEDULE
	NINTH SCHEDULE

NATIONAL PENSIONS ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Pensions Act.

2. Interpretation

In this Act—

“agricultural worker” means—

- (a) a field labourer grade I or a field labourer grade II as defined in the Field-crop and Orchard Workers (Remuneration Order) Regulations 2008;
- (b) a field worker (male/female), a gardener or a young person as defined in the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983; or
- (c) a field labourer (female) or a field labourer (male) as defined in the Tea Industry Workers (Remuneration Order) Regulations 1984;

“annual earnings” means the remuneration during the 12 months immediately preceding the date on which an employee suffers industrial injury;

“apprentice” means any person contracted to serve an employer and to learn and be taught a designated trade;

“approved body” means a body specified in the Fourth Schedule;

“basic pension” means a pension or allowance payable under Part II;

“basic retirement pension” means a pension payable under section 3;

“benefit” means any pension or allowance payable under this Act;

“Board” means the National Pensions Board established under section 31;

“charitable Foundation” has the same meaning as in the Foundations Act;

“charitable institution” —

- (a) in relation to an inmate, means an institution—
 - (i) in receipt of a grant from public funds; and
 - (ii) which supplies its inmates, free of charge, with board, clothing and lodging;
- (b) in relation to section 3 (2), has the same meaning as in the Income Tax Act;

“charitable trust” has the same meaning as in the Trusts Act;

“child” —

- (a) means a person who is under the age of—
 - (i) 20, in the case of a person who is receiving full-time education;
 - (ii) 15, in any other case; and
- (b) includes a stepchild and an adopted child;

“child’s allowance” means an allowance payable under section 7;

“completed month” means any month of the year;

“contribution” means a contribution payable under section 17 or 18;

“contributory pension” means a pension payable under Part IV;

“contributory retirement pension” means a pension payable under section 20;

“craft” includes a boat or an aircraft;

“dependent child” —

- (a) means a child who is living with, or wholly or substantially maintained by, the person concerned; but
- (b) does not include a child born 300 days or more from the date of death of the father;

“dependent’s pension” means a pension payable under section 29 (3);

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“disabled” means—

- (a) for the purpose of sections 8, 21 and 28 (3), suffering from a disablement of not less than 60 per cent and resulting from loss of mental or physical faculty;

- (b) for the purpose of section 26, suffering from a disablement of not less than one per cent and resulting from a loss of mental or physical faculty caused by an industrial accident or a prescribed disease;

“disablement pension” means a pension payable under section 26;

“document” includes the records and register specified in section 45H;

“domestic service” —

- (a) means employment in a private household; and
(b) includes employment as cook, driver, gardener, *garde-malade*, maid or seamstress;

“employee” means —

- (a) a person who works under a contract of service or apprenticeship, whether written or oral, express or implied, for another person but does not include a job contractor, by any name called, working under a contract for services;
(b) for the purpose of Part V and section 47, an employee, as defined in paragraph (a), who is an insured person or who would be an insured person had he attained the age of 18; or
(c) such other person as the Minister may prescribe;

“employer” means the employer of an insured person under section 13 (1);

“final”, in relation to a disablement pension, means an award based on an assessment which does not indicate that the claimant should be further medically examined;

“final retirement age”, in relation to an insured person, means the age he attains by adding 5 years to his retirement age;

“Fund” means the National Pensions Fund established under section 37;

“guardian’s allowance” means an allowance payable under section 6;

“industrial accident” means an accident referred to in section 24 (2);

“industrial injury” has the meaning assigned to it in section 24;

“industrial injury allowance” means an allowance payable under section 25;

“inmate’s allowance” means an allowance payable under section 9;

“insurable wage or salary”, in relation to an insured person, means —

- (a) where the terms and conditions of employment of the insured person are governed by a Remuneration Order, arbitral award or an agreement, whether oral or written, express or implied, the basic wage or salary prescribed in the Remuneration Order, award or agreement, or where the employer pays a higher wage or salary, the higher wage or salary so paid, but does not include any allowance by any name called, and whether paid in cash or in kind;

- (b) in any other case, all the emoluments received by the insured person, excluding any bonus or overtime;

“insured person” —

- (a) for the purpose of this Act, other than section 17 and Part V, means a person referred to in section 13 or 15;
- (b) for the purpose of section 17 and Part V, means a person referred to in section 13 (1); and
- (c) for the purpose of Part IV, includes a person in respect of whom contributions have been paid under section 17 (1) (a) or 18;

“invalid’s basic pension” means a pension payable under section 8;

“invalid’s contributory pension” means a pension payable under section 21;

“loss of mental or physical faculty” —

- (a) means an impairment of the proper functioning of part of the body or mind; and
- (b) includes any disfigurement;

“Minister” means the Minister to whom responsibility for the subject of social security is assigned;

“monthly earnings”, in relation to an insured person, means one-twelfth of his annual earnings;

“National Pensions Officer” means a public officer entrusted by the Minister with responsibility for carrying out the duties specified in this Act;

“NIC number” has the same meaning as in the Civil Status Act;

“NPF and NSF Investment Committee” means the NPF and NSF Investment Committee set up under section 38 (2);

“orphan” means a person whose parents, excluding step-parents, are dead, unknown, or have disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien;

“orphan’s contributory pension” means a pension payable under section 23;

“orphan’s industrial injury pension” means a pension payable under section 29 (1);

“orphan’s pension” means a pension payable under section 5;

“pay period” means such period as the Minister may prescribe;

“pension law” means an enactment which provides for the payment, by Government or a local authority, of —

- (a) (i) a pension; or
- (ii) a compassionate or other allowance, to a former employee in respect of his past employment; or

- (b) a pension to a person in respect of the past employment of his deceased spouse or parent;

“pension points” means the points calculated in accordance with the Third Schedule or the Eighth Schedule;

“permanent”, in relation to a disablement pension, means a final award of a pension for at least 8 years;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of social security;

“remarriage” means a second or subsequent marriage;

“remuneration” means such insurable wage or salary of an insured person as is set out in the Fifth Schedule;

“retirement age” means, in respect of a person whose month and year of birth are specified in column 1 of the Ninth Schedule, the date on which that person attains the age specified in column 2 of that Schedule;

“retiring age” means the retirement age or an age later than the retirement age at which an insured person elects to receive a contributory retirement pension;

“spouse” means the male or female partner of a civil or religious marriage;

“stepchild”, in relation to a person who claims a benefit, means a child of his spouse or deceased spouse who is not his own child;

“surcharge” means the surcharge leviable under section 45A;

“survivor’s pension” means a pension payable under section 28;

“week” means a period of 7 consecutive days;

“widow” means—

- (a) the surviving female partner of a civil or religious marriage; or
- (b) the surviving female partner of a civil or religious marriage whose spouse has disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien;

“widow’s basic pension” means a pension payable under section 4;

“widow’s contributory pension” means a pension payable to a widow under section 22;

“widower” means—

- (a) the surviving male partner of a civil or religious marriage; or
- (b) the surviving male partner of a civil or religious marriage whose spouse has disappeared in the circumstances specified in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien;

“widower’s contributory pension” means a pension payable to a widower under section 22.

[S. 2 amended by Act 7 of 1990; Act 25 of 2000; s. 35 (8) (a) of Act 20 of 2001 w.e.f. 1 August 2001; s. 13 (a) of Act 28 of 2004 w.e.f. 26 August 2004; s. 3 of Act 25 of 2005; s. 22 (a) of Act 18 of 2008 w.e.f. 1 July 2008; s. 12 (a) of Act 37 of 2011 w.e.f. 15 December 2011; s. 17 (a) of Act 26 of 2012 w.e.f. 22 December 2012; s. 16 (a) of Act 26 of 2013 w.e.f. 1 January 2014; s. 37 (a) of Act 9 of 2015 w.e.f. 1 December 2015; s. 37 (a) of Act 18 of 2016 w.e.f. 1 July 2016.]

PART II – BASIC PENSIONS

3. Basic retirement pension

(1) Subject to section 10 and such terms and conditions as may be prescribed, a person who has attained the age of 60 shall be qualified to receive a basic retirement pension.

(2) Notwithstanding section 44, a person qualified to receive a basic retirement pension pursuant to subsection (1) may request the Permanent Secretary that his basic retirement pension be paid to a charitable institution, charitable Foundation or charitable trust.

(3) A request under subsection (2) shall—

- (a) be made in such form and manner as the Permanent Secretary may determine;
- (b) be made not later than 15 days before the end of a month;
- (c) take effect as from the first day of the month immediately following the month in which the request is made; and
- (d) remain valid unless it is revoked by notice in such form as the Permanent Secretary may determine.

(4) Where a request is revoked under subsection (3) (d), the revocation shall—

- (a) be made not later than 15 days before the end of a month; and
- (b) take effect as from the first day of the month immediately following the month in which the revocation is made.

(5) A person making or revoking a request under this section shall forward, at the time of the request or revocation, a copy of the request or revocation, as the case may be, to the Director-General.

[S. 3 amended by s. 37 (b) (i) of Act 9 of 2015 w.e.f. 14 May 2015; s. 37 (b) (ii) of Act 9 of 2015 w.e.f. 1 December 2015.]

4. Widow’s basic pension

(1) Subject to subsection (2) and section 10, a person who is a widow shall be qualified to receive a widow’s basic pension as long as—

- (a) she is under the age of 60; and
- (b) she has not contracted a subsequent civil or religious marriage.

(1A) Subject to subsections (1B) and (2) and section 10, a person whose spouse has disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien, shall be qualified to receive a widow's basic pension as long as—

- (a) she is under the age of 60;
- (b) she does not contract a subsequent civil or religious marriage; and
- (c) the spouse remains untraceable.

(1B) In the case of a person referred to in subsection (1A), that person shall become eligible to the pension after the expiry of 3 months from the date on which the case of disappearance or missing person, as the case may be, was reported to the police.

(2) No widow's basic pension shall be payable unless the National Pensions Officer is satisfied, by documentary evidence or otherwise, that the partners had contracted a civil or religious marriage.

[S. 4 amended by s. 12 (b) of Act 37 of 2011 w.e.f. 15 December 2011; s. 17 (b) of Act 26 of 2012 w.e.f. 22 December 2012.]

5. Orphan's pension

(1) Subject to subsection (2) and section 10, an orphan shall be entitled to an orphan's pension as long as—

- (a) he is—
 - (i) under the age of 15; or
 - (ii) in the case of an orphan who is receiving full-time education, under the age of 20; and
- (b) he is not married.

(2) An orphan's pension shall be—

- (a) paid to the guardian of the orphan or such other person having the custody of the orphan as the National Pensions Officer may determine; and
- (b) devoted by the person receiving it for the exclusive benefit of the orphan.

[S. 5 amended by Act 7 of 1990.]

6. Guardian's allowance

(1) Subject to subsection (2), where an orphan's pension is payable to a person under section 5 (2) (a), that person shall be qualified to receive a guardian's allowance.

(2) No person shall be qualified to receive more than one guardian's allowance irrespective of the number of orphans for whom he acts as guardian and not more than one guardian's allowance shall be paid in respect of the same household.

7. Child's allowance

(1) A person shall be qualified to receive a child's allowance where—

- (a) he has one dependent child or more; and
- (b) subject to subsection (2), he is qualified to receive—
 - (i) a widow's basic pension;
 - (ii) an invalid's basic pension; or
 - (iii) a survivor's pension.

(2) A person who is in receipt of a child's allowance shall not cease to receive such allowance by reason only that—

- (a) he has ceased to be qualified to receive a widow's basic pension or a survivor's pension; or
- (b) he has ceased to be qualified to receive an invalid's basic pension on the ground that he has attained the age of 60.

(3) Where more than one person is qualified to receive a child's allowance in respect of the same child, the allowance shall be paid to such of those persons as the National Pensions Officer may determine.

(4) A child's allowance shall—

- (a) subject to paragraph (b), be paid in respect of each child;
- (b) not be payable to any person in respect of more than 3 children.

8. Invalid's basic pension

(1) Subject to section 10 and such terms and conditions as may be prescribed, a person shall be qualified to receive an invalid's basic pension where—

- (a) he is disabled and is likely to be so disabled for a period of at least 12 months; and
- (b) he is under the age of 60.

(2) The National Pensions Officer shall, when awarding a pension under subsection (1), specify—

- (a) the period which shall not be less than 12 months for which the pension is to be payable;
- (b) that the applicant will have to be re-examined at the end of such period as he may determine.

(3) Any person who suffers from one of the injuries specified in the first column of the Sixth Schedule shall be awarded the percentage of disablement specified in the second column of that Schedule.

[S. 8 amended by s. 37 (b) of Act 18 of 2016 w.e.f. 1 July 2016.]

9. Inmate's allowance

Where a person, who is otherwise qualified to receive a basic pension, is disqualified under section 10 from receiving that pension, he shall be qualified to receive an inmate's allowance.

10. Disqualification

No person shall be qualified to receive a basic pension other than an inmate's allowance where he is an inmate of a charitable institution.

[S. 10 amended by s. 13 (b) of Act 28 of 2004 w.e.f. 26 August 2004; s. 4 of Act 25 of 2005 w.e.f. 1 July 2005.]

11. Rate of basic pensions

Basic pensions shall be at the rates specified in the Second Schedule.

[S. 11 amended by s. 13 (b) of Act 28 of 2004 w.e.f. 26 August 2004; s. 5 of Act 25 of 2005 w.e.f. 1 July 2005.]

PART III – INSURED PERSONS AND CONTRIBUTIONS

12. —

13. Insured persons

(1) Subject to subsection (2) and to the other provisions of this Act, every person who—

- (a) is an employee of a category specified—
 - (i) in the first column of the First Schedule; and
 - (ii) in regulations made for the purposes of this Part;
- (b) has attained the age of 18; and
- (c) is under retirement age,

shall become an insured person.

(2) Subject to subsection (3), where an employee who is an insured person under subsection (1) is employed after reaching retirement age, he shall remain an insured person until he ceases to be employed or he reaches final retirement age, whichever is earlier.

(3) Where a person is an insured person after reaching retirement age and—

- (a) has elected to receive his contributory retirement pension—
 - (i) no contribution shall be payable by him in respect of any period following the end of month in which he reaches retirement age; and
 - (ii) his employer shall, in relation to him, pay the contributions determined in accordance with the appropriate rate specified in the third column of the First Schedule until he ceases to be employed or he reaches final retirement age, whichever is earlier; or

- (b) has not elected to receive his contributory retirement pension, his employer shall, in relation to him, pay the contributions determined in accordance with the appropriate rate specified in the second and third columns of the First Schedule until he elects to receive his contributory retirement pension or he reaches final retirement age, whichever is earlier.

[S. 13 repealed and replaced by s. 22 (b) of Act 18 of 2008 w.e.f. 1 July 2008.]

14. —

15. Persons voluntarily insured

Where the Minister has made regulations for this Part in relation to any person who—

- (a) has attained the age of 18;
- (b) is under retirement age; and
- (c) makes an application in the prescribed manner to the Minister to be an insured person,

that person shall become an insured person as from such day as the Minister may, on approval of the application, specify.

[S. 15 amended by s. 22 (c) of Act 18 of 2008 w.e.f. 1 July 2008.]

16. Persons ceasing to be insured persons

Subject to section 13 (3), every person shall cease to be an insured person on the date from which he elects to receive his contributory retirement pension under section 20 (2).

[S. 16 amended by s. 35 (8) (b) of Act 20 of 2001 w.e.f. 1 August 2001.]

17. Employer to pay contribution

(1) Subject to sections 17A to 17E, the employer of every insured person shall—

- (a) pay to the Minister, in such manner as may be prescribed—
 - (i) where he employs one insured person, the amount of the contribution at the appropriate rate specified in the second and third columns of the First Schedule in respect of any remuneration paid to that insured person;
 - (ii) where he employs more than one insured person, the total amount of contributions payable at the appropriate rate specified in the second and third columns of the First Schedule in respect of the remuneration paid to all his insured persons;
- (b) submit to the Minister, in such manner as may be prescribed, a record of every insured person employed by him together with a statement setting out the remuneration paid to the insured person and the corresponding contributions.

(2) The employer of every insured person shall, at the time of paying to the insured person his remuneration for any period, deduct from the remuneration of the insured person the contribution at the appropriate rate specified in the first column of the First Schedule in respect of that remuneration.

(2A) Notwithstanding subsections (1), (2) and (3), where an insured person—

- (a) in the domestic service of an employer; or
- (b) being an agricultural worker in the service of an employer who is an individual,

earns remuneration which does not exceed 3,000 rupees, in the aggregate, during any period in a month, from that employer or concurrently from that employer and any other employer—

- (i) no deduction from the remuneration of the insured person shall be made by the employer; and
- (ii) Government shall pay the contribution of the insured person into the Fund.

(2B) Where an insured person referred to in subsection (2A) is employed by more than one employer and earns remuneration which exceeds 3,000 rupees, in the aggregate, in a month—

- (a) the insured person shall inform the employer from whom he receives less than 3,000 rupees in a month, accordingly; and
- (b) that employer shall deduct the relevant contribution from the remuneration of the insured person.

(2C) Notwithstanding subsection (1), an insured person or his employer, or both, may opt to pay a contribution on wage greater than that specified in the Fifth Schedule.

(2D) Where an option has been made under subsection (2C)—

- (a) the insured person shall inform the employer of his option; and
- (b) the employer shall inform the Ministry of the option in such form as may be prescribed.

(3) The amount of a deduction under subsection (2) shall not be recoverable by the employee from the employer.

(4) Notwithstanding any enactment or any agreement, no employer shall deduct from the remuneration of an insured person any contribution determined in accordance with the third column of the First Schedule and required to be paid by him under subsection (1).

(5) Where the Minister is satisfied that it is not reasonably practicable to collect the contributions payable by an employer in relation to any insured person, the Minister may, by written notice, require any person—

- (a) who, by virtue of any enactment or agreement, is required to pay wages or salary to the insured person;

- (b) through whose agency the insured person has secured employment; or
- (c) who, directly or indirectly, controls or comes into possession of the wages or salary payable to the insured person,

to pay the contributions payable in relation to the insured person under subsection (1) (a).

(6) Where a notice is issued under subsection (5), this Act shall, with effect from the date specified in the notice, apply to the person named in the notice as they apply to an employer.

(7) For the purposes of this section, where wages or salary are paid to an employee—

- (a) by an agency or third party;
- (b) through an agency or third party;
- (c) on the basis of accounts submitted by an agency or third party;
- (d) in accordance with arrangements made by an agency or third party; or
- (e) by way of fees, commission or other similar payments which relate to his continued employment in the work obtained through an agency or third party,

the agency or third party, as the case may be, shall be deemed to be the employer of that employee.

[S. 17 amended by Act 7 of 1990; s. 15 (5) (a) of Act 3 of 2007 w.e.f. 1 March 2007; s. 12 (c) of Act 37 of 2011 w.e.f. 15 December 2011; s. 37 (c) of Act 18 of 2016 w.e.f. 1 January 2017.]

17A. Joint liability of employer and job contractor in the sugar industry

(1) Where an employer has recourse to a job contractor—

- (a) he shall forthwith give written notice thereof to the Minister and specify in the notice the name and address of the job contractor, the duration and value of the contract and the nature of work or service to be performed;
- (b) the employer and the job contractor shall be jointly and severally liable to pay the contribution under section 17 in respect of every insured person employed by the job contractor in the performance of the work or service specified in the contract.

(2) For the purposes of this section—

“employer” has the meaning assigned to it under section 33 of the Employment Rights Act;

“job contractor” means a person who employs an insured person for the performance of any work or service which he has contracted to do or provide for an employer.

[S. 17A inserted by s. 15 (5) (b) of Act 3 of 2007 w.e.f. 1 March 2007; amended by s. 70 (3) (a) of Act 33 of 2008 w.e.f. 2 February 2009.]

17B. Contribution in respect of persons in receipt of Transition Unemployment Benefit

(1) Where a person is in receipt of a Transition Unemployment Benefit under section 5C of the National Savings Fund Act, contributions at the rate of 9 per cent of the basic wage or salary shall be paid in respect of that person to the Fund.

(2) The contributions under subsection (1) shall be paid out of the Workfare Programme Fund set under section 45 of the Employment Rights Act.

[S. 17B inserted by s. 70 (3) (b) of Act 33 of 2008 w.e.f. 2 February 2009.]

17C. Employer may pay contributions to Director-General

(1) (a) Subject to this section, an employer who is an individual and who employs an insured person who is in the domestic service may declare in his annual return of income under section 112 of the Income Tax Act, his contributions due under this Act and the National Savings Fund Act and pay such contributions at the time the annual return of income is required to be submitted to the Director-General.

(b) Where a declaration is made in accordance with subsection (1), the employer shall continue, in respect of every subsequent financial year, to declare and pay his contributions in accordance with paragraph (a).

(c) In respect of the period from 1 January to 31 December 2011, every employer referred to in paragraph (a) who is not registered as an employer under this Act and who has not paid his contributions to the Minister, may declare in his annual return of income for the income year 2011 under section 112 of the Income Tax Act his contributions for that period and pay such contributions in accordance with paragraph (a).

(d) Any payment of contributions under paragraph (c) shall not be subject to any surcharge for late payment or late submission of return under this Act.

[S. 17C inserted by s. 12 (d) of Act 37 of 2011 w.e.f. 15 December 2011.]

17D. Enforcement

Part XI and section 148 of the Income Tax Act shall apply to the collection of contributions under section 17C, with such modifications, adaptations and exceptions as may be necessary to enable the Director-General to comply with section 17C.

[S. 17D inserted by s. 12 (d) of Act 37 of 2011 w.e.f. 15 December 2011.]

17E. Director-General to remit the amount of contribution paid

(1) (a) Notwithstanding section 3 (3) of the Mauritius Revenue Authority Act, any contribution, including surcharge, collected by the Director-General under section 17C shall, subject to paragraph (b), be remitted to the Minister, not later than 10 days after the end of the month in which the payment is made to the Director-General.

(b) The Director-General shall retain, from the amount referred to in paragraph (a), such administration fee as may be prescribed by regulations made by the Minister to whom responsibility for the subject of finance is assigned.

(2) The Director-General shall, for the purposes of subsection (1), keep appropriate records to ascertain, in respect of every financial year—

- (a) the amount of contribution, including surcharge, collected from every employer in respect of every insured person;

continued on page N21 – 13

- (b) the amount of contribution, including surcharge, remitted by the Director-General to the Minister, in respect of every employer and every insured person;
- (c) the amount of administration fee retained by the Director-General; and
- (d) the amount of contribution, including surcharge, unpaid by every employer, as at the end of the financial year.

(3) The information kept under subsection (2) shall be forwarded by the Director-General to the Minister not later than 2 months after the collection of the contributions, including surcharge, under section 17C.

[S. 17E inserted by s. 12 (d) of Act 37 of 2011 w.e.f. 15 December 2011.]

18. Contribution

Every self-employed, non-employed or prescribed person who is an insured person under section 15 shall pay a contribution at the rate specified in paragraph 3 of the First Schedule in such manner and at such times as may be prescribed.

19. Privilege in respect of contributions

(1) Any payment required to be made by an employer under sections 17 (1) (a) and 45A shall be secured by a privilege in favour of the Government, ranking concurrently with the privileges for the wages of servants (*gens de travail*) under article 2148 of the Code Civil Mauricien.

(2) The privilege under subsection (1) shall—

- (a) be in respect of all payments required to be made by the employer;
- (b) extend over all the movables and immovables of the employer; and
- (c) not require to be transcribed by the Conservator of Mortgages.

PART IV – CONTRIBUTORY PENSIONS

20. Contributory retirement pension

(1) Subject to the other provisions of this section—

- (a) every insured person shall, on reaching retiring age, be entitled to a contributory retirement pension;
- (b) where an insured person has not attained retirement age but is 60 years or more, he may opt to receive a reduced contributory pension.

(2) (a) The contributory retirement pension in respect of an insured person who becomes entitled to the pension other than under subsection (3), (4) or (6) shall be calculated in accordance with the Third Schedule but shall not be less than the amount specified in the Second Schedule, provided that the claimant became an insured person before 1 January 2012.

(aa) Where the claimant becomes an insured person for the first time on or after 1 January 2012, the pension shall be calculated in accordance with the Third Schedule and shall not be less than the amount specified in the Second Schedule, provided the insured person has earned not less than 150 pension points at the end of the relevant financial year of his date of claim.

(ab) Where the number of pension points of an insured person referred to in paragraph (aa) is less than 150 at the end of the relevant financial year of the date of his claim, which shall, in no case, be before his retirement age, the insured person shall not be entitled to a contributory retirement pension but shall be eligible to a lump sum payment under section 23A (1A).

(b) Where an entitlement arises under subsection (1) (b), the contributory retirement pension calculated under paragraph (a) on pension points earned after 30 June 2008 shall be reduced by the appropriate Early Retirement Reduction Factor specified in paragraph 5 of the Third Schedule.

(c) Where the contributory retirement pension is claimed after the insured person has reached the age of 60, the pension calculated under paragraph (a) on pension points earned up to 30 June 2008 shall be increased by the appropriate Late Retirement Increase Factor specified in paragraph 6 of the Third Schedule.

(3) Every—

- (a) female agricultural or non-agricultural worker of the age of 45 or over; or
- (b) male agricultural or non-agricultural worker of the age of 50 or over,

shall be entitled to an actuarially calculated contributory retirement pension as from the date the contract of employment is voluntarily terminated by the worker under a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act, under an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act or in the context of a factory closure pursuant to section 30 of the Mauritius Cane Industry Authority Act.

(4) Subject to subsection (5), every—

- (a) female agricultural worker of the age of 50 or over; or
- (b) male agricultural worker of the age of 55 or over,

who has availed herself or himself of the optional retirement provision of paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983, shall be entitled to an actuarially calculated contributory retirement pension.

(Subsec. (4) came into operation on 17 August 2002.)

(5) The contributory retirement pension under subsection (4) shall be paid—

- (a) in the case of a female agricultural worker—
 - (i) who has not reached the age of 55 at the time of retirement, as from the date she reaches the age of 55; or
 - (ii) who has reached the age of 55 or over at the time of retirement, as from the date of her retirement; or

- (b) in the case of a male agricultural worker—
 - (i) who has not reached the age of 58 at the time of retirement, as from the date he reaches the age of 58; or
 - (ii) who has reached the age of 58 or over at the time of retirement, as from the date of his retirement.(Subsec. (5) came into operation on 17 August 2002.)

(6) Every—

- (a) female agricultural or non-agricultural worker who has not reached the age of 45; or
- (b) male agricultural worker, or non-agricultural worker, who has not reached the age of 50,

at the time an offer of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act of an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act or in context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act is accepted by the worker, shall be entitled to an actuarially calculated contributory retirement pension.

(Subsec. (6) came into operation on 17 August 2002.)

(7) The actuarially calculated contributory retirement pension under subsection (6) shall be paid to—

- (a) the female agricultural worker as from the date she reaches the age of 45; or
- (b) the male agricultural worker, or a male non-agricultural worker, as from the date he reaches the age of 50.

(8) Notwithstanding the National Pensions (Claims and Payments) Regulations 1977, where entitlement to an actuarially calculated contributory retirement pension under subsection (6) arises before 1 September 2003, any arrears for the period prior to 1 September 2003 shall be calculated in accordance with the Eighth Schedule.

(8A) (a) An employee of the Mauritius Sugar Industry Research Institute who has not opted to be transferred to the Mauritius Cane Industry Authority and has retired pursuant to the Voluntary Retirement Scheme referred to in section 66 (4) of the Mauritius Cane Industry Authority Act shall, where the employee is a—

- (i) female employee aged 50 years or more; or
- (ii) male employee aged 55 years or more,

be entitled to an actuarially calculated contributory retirement pension as from the date of retirement or the date specified in paragraph (b), as the case may be.

(b) Where, at the date of retirement—

- (i) a female employee has not reached the age of 50, she shall be entitled to the actuarially calculated contributory retirement pension as from the date she reaches the age of 50; or

(ii) a male employee has not reached the age of 55, he shall be entitled to the actuarially calculated contributory retirement pension as from the date he reaches the age of 55.

(c) The contributory retirement pension shall be paid—

(i) in the case of a female employee—

(A) who has not reached the age of 50 at the time of retirement, on or after the date on which she reaches the age of 50; or

(B) who has reached the age of 50 or more at the time of retirement, on or after the date of her retirement; or

(ii) in the case of a male employee—

(A) who has not reached the age of 55 at the time of retirement, on or after the date on which he reaches the age of 55; or

(B) who has reached the age of 55 or more at the time of retirement, on or after the date of his retirement.

(d) Notwithstanding the National Pensions (Claims and Payments) Regulations 1977, where entitlement to an actuarially calculated contributory retirement pension under this section arises before 1 January 2014, any arrears for the period prior to 1 January 2014 shall be calculated in accordance with the Eighth Schedule.

(e) In this subsection—

“Mauritius Cane Industry Authority” means the Mauritius Cane Industry Authority established under the Mauritius Cane Industry Authority Act;

“Mauritius Sugar Industry Research Institute” has the same meaning as “MSIRI” in section 66 (4) (a) of the Mauritius Cane Industry Authority Act.

(9) The actuarially calculated contributory retirement pension under subsection (3), (4), (6) or (8A) shall be calculated in accordance with the Eighth Schedule.

[S. 20 amended by s. 35 (8) (c) of Act 20 of 2001 w.e.f. 1 August 2001 and 17 August 2002; s. 4 (a) of Act 31 of 2003; s. 15 (5) (c) of Act 3 of 2007 w.e.f. 1 July 2006; s. 22 (d) of Act 18 of 2008 w.e.f. 1 July 2008; s. 12 (e) of Act 37 of 2011 w.e.f. 15 December 2011; s. 13 (1) (a) of Act 5 of 2014 w.e.f. 11 September 2012.]

21. Invalid’s contributory pension

(1) Where an insured person—

(a) has not reached retiring age; and

(b) is wholly or substantially disabled and is likely to be so disabled either permanently or for at least 12 months,

he shall be entitled to an invalid’s contributory pension.

(2) The amount of the invalid's contributory pension shall be—

- (a) where the insured person has a dependent child, the amount calculated in accordance with the Third Schedule;
- (b) where the insured person has no dependent child, two thirds of the amount payable under paragraph (a).

22. Widow's or Widower's contributory pension

(1) Notwithstanding section 20 (2) (aa) and subject to this section, where an insured person or a person in receipt of a contributory retirement pension, an invalid's contributory pension or a disablement pension dies, has disappeared in the circumstances specified in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien and leaves a widow or widower, the widow or widower shall be entitled to a widow's or widower's contributory pension, as the case may be.

(2) The contributory pension payable to a widow or widower under retirement age shall—

- (a) for the first 12 months of being entitled to a widow's or widower's contributory pension or where the widow or widower has a dependent child, be the amount calculated in accordance with the Third Schedule;
- (b) in any other case, be two thirds of the amount calculated in accordance with the Third Schedule.

(2A) Where the spouse of the widow or widower, as the case may be, has disappeared in the circumstances specified in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien, the widow or widower shall become entitled to the pension after the expiry of a period of 3 months from the date on which the matter was reported to the Police.

(3) Notwithstanding section 20 (2) but subject to section 23A (2A), the contributory pension payable to a widow or widower who has reached retirement age at the date of being entitled or on subsequently reaching retirement age thereafter shall be—

- (a) in the case of a widow—
 - (A) where the husband has reached retirement age at the date when her entitlement to a widow's contributory pension arises, the amount of the contributory retirement pension in accordance with the Third Schedule, payable to him or which would have been payable to him had he retired before the date when her entitlement to a widow's contributory pension arises;
 - (B) where the husband has not reached retirement age at the date when her entitlement to a widow's contributory pension arises, the amount of the contributory retirement pension which would have been payable to him in accordance with the Third Schedule, as if he had been entitled to the pension at the date when her entitlement to a widow's

contributory pension arises, such amount being not less than the amount payable under subsection (2) (a) or (2) (b); or

- (b) in the case of a widower—
 - (A) where the wife has reached retirement age at the date when his entitlement to a widower's contributory pension arises, the amount of the contributory retirement pension in accordance with the Third Schedule, payable to her or which would have been payable to her had she retired before the date when his entitlement to a widower's contributory pension arises;
 - (B) where the wife has not reached retirement age at the date when his entitlement to a widower's contributory pension arises, the amount of the contributory retirement pension which would have been payable to her in accordance with the Third Schedule, as if she had been entitled to the pension at the date when his entitlement to a widower's contributory pension arises, such amount being not less than the amount payable under subsection (2) (a) or (b).

(4) Subject to subsection (5) and section 41, a widow's or widower's contributory pension shall be paid until the death of the widow or widower, as the case may be.

(5) Subject to this section and to section 35 (2), a widow whose husband, or a widower whose wife, has disappeared in the circumstances specified in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien, shall be entitled to receive the contributory pension as long as the spouse remains untraceable.

[S. 22 amended by s. 35 (8) (d) of Act 20 of 2001 w.e.f. 1 August 2001; s. 22 (e) of Act 18 of 2008 w.e.f. 1 July 2008; s. 12 (f) of Act 37 of 2011 w.e.f. 15 December 2011; 17 (c) of Act 26 of 2012 w.e.f. 22 December 2012; s. 37 (d) of Act 18 of 2016 w.e.f. 1 July 2016.]

23. Orphan's contributory pension

(1) Where an insured person leaves one or more orphans, each of the orphans shall, subject to section 23A (2A), be entitled to an orphan's contributory pension as long as—

- (a) he is under the age of 15 or, where he is receiving full-time education, under the age of 20; and
- (b) he is not married.

(2) (a) Notwithstanding section 20 (2) but subject to section 23A (2A) and paragraph (b), the orphan's contributory pension payable under subsection (1) shall be of an amount equal to 15 per cent of—

- (i) the contributory retirement pension payable in accordance with the Third Schedule to the insured person referred to in subsection (1) at the time when the entitlement to an orphan's contributory pension arises;
- (ii) the contributory retirement pension which would have been payable to him in accordance with the Third Schedule, had he elected to receive that pension;
- (iii) – (iv) –
- (v) where no contributory retirement pension was payable under subparagraph (i), the contributory retirement pension to which that insured person would have been entitled, had he reached retirement age at the time when the entitlement to an orphan's contributory pension arises.

(b) Where both parents of a child in respect of whom an orphan's contributory pension is payable under subsection (1) were, at the time of their deaths or disappearance in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien, insured persons, the pension shall be the higher of the pensions calculated under paragraph (a) in respect of either of the parents.

(c) An orphan's contributory pension shall be—

- (i) paid to the guardian of the orphan or such other person as the National Pensions Officer may determine; and
- (ii) devoted by the person receiving it for the exclusive benefit of the orphan.

[S. 23 amended by s. 35 (8) (e) of Act 20 of 2001 w.e.f. 1 August 2001; s. 22 (f) of Act 18 of 2008 w.e.f. 1 July 2008; s. 12 (g) of Act 37 of 2011 w.e.f. 15 December 2011; s. 17 (d) of Act 26 of 2012 w.e.f. 22 December 2012.]

23A. Lump sum payment

(1) A lump sum made up of contributions paid by an insured person, together with accrued interest as determined by such actuary as the Minister may appoint, shall be payable where—

- (a) the insured person dies before attaining retirement age and was unmarried at the time of death;
- (b) no contributory pension was awarded under Part IV on the basis of the contributions; and
- (c) no contributory pension is claimable after the death of the insured person.

(1A) Where an insured person referred to in section 20 (2) (aa) has earned less than 150 pension points at the end of the relevant financial year of the date in which he claims the pension, he shall be eligible to a refund of the contributions made on his account up to the end of the month in which eligibility arises, together with accrued interest referred to in subsection (1),

provided that the contributions have never been used for the payment of a contributory pension.

(2) The lump sum shall be paid to the legal personal representatives of the deceased person.

(2A) Where a lump sum is paid to an insured person under subsection (1A), any contribution paid thereafter in respect of that insured person shall—

- (a) not be used for the purpose of computing any contributory pension payable under Part IV; but
- (b) be refunded, together with accrued interest referred to in subsection (1)—
 - (i) to the insured person when he ceases to work or reaches final retirement age, whichever is the earlier;
 - (ii) in case of death of the insured person, to the surviving spouse of the insured person; or
 - (iii) in the absence of a surviving spouse, to the other legal personal representative of the deceased insured person.

(3) In this section—

“dependent” has the same meaning as in section 29;

“legal personal representative” includes a dependent.

[S. 23A inserted by Act 18 of 1987; amended by Act 7 of 1990; s. 22 (g) of Act 18 of 2008 w.e.f. 1 July 2008; s. 12 (h) of Act 37 of 2011 w.e.f. 15 December 2011; s. 37 (e) of Act 18 of 2016 w.e.f. 1 July 2016.]

23B. Refund of contributions to non-citizens

(1) Where a non-citizen is an insured person under section 13 and has not opted to receive pension under Part IV, his share of contributions, together with accrued interest determined by such actuary as the Minister may appoint, shall be refunded to him at the expiry of his contract of employment or work permit, as the case may be, or on the termination of his employment.

(1A) Where the non-citizen dies and no contributory pension has been paid under Part IV, the contributions and accrued interest referred to in subsection (1) shall be paid to his surviving spouse or in the absence of a surviving spouse, to the other legal personal representative of the deceased.

(1B) Where any payment is made under subsection (1) or (1A), the contributions made by the employer shall not be used for the purpose of computing any contributory pension payable under Part IV.

(1C) Notwithstanding subsection (1A), where the non-citizen dies and leaves a surviving spouse or one or more orphans who are citizens, the surviving spouse or orphans, as the case may be, may opt for a contributory pension under Part IV in lieu of a refund of contributions.

(2) Subsection (1) or (1A) shall not apply where the non-citizen—

- (a) has been awarded a pension under Part IV computed on the basis of his contributions; or

- (b) remains an insured person.

[S. 23B inserted by s. 16 (b) of Act 26 of 2013 w.e.f. 1 January 2014; amended by s. 37 (f) of Act 18 of 2016 w.e.f. 1 July 2016.]

PART V – INDUSTRIAL INJURY PENSIONS

24. Industrial injury

(1) Subject to subsection (2), where an employee suffers personal injury which is caused by—

- (a) an accident arising out of and during the course of his employment; or
- (b) a prescribed disease, being a disease due to the nature of his employment,

he shall be deemed to have suffered industrial injury.

(2) For the purpose of subsection (1)—

- (a) an accident arising in the course of employment shall be deemed, in the absence of evidence to the contrary, to have arisen out of that employment;
- (b) an accident arising out of and in the course of employment shall include—
 - (i) an accident which occurs—
 - (A) while an employee is travelling as a passenger to or from his place of work in a vehicle or craft operated for that purpose by or on behalf of his employer, whether or not he is under an obligation to travel by such means;
 - (B) while an employee is taking steps, on an emergency at the place where he is employed, to rescue, help or protect a person who is, or is believed to be or to be about to be injured or imperilled, or to avert or minimise damage to property;
 - (C) at a time when an employee was contravening a law applicable to his employment or an order of his employer or was acting without instructions from his employer and which would have occurred even if the employee had not been so acting, where the contravention or act was for the purposes of, and in connection with, the employer's trade or business or other activities; or
 - (D) during a temporary interruption of work for a meal, rest or refreshment, where the accident happens in or about premises—
 - (I) occupied by the employer;

- (II) to which the employee has, by virtue of his employment, a right of access during the temporary interruption of his work; or

continued on page N21 – 17

- (III) to which the employee is permitted to resort during the temporary interruption of his work by express or implied authorisation of his employer;
- (ii) an accident which is caused by—
 - (A) another person's misconduct, negligence or imprudence;
 - (B) the behaviour or presence of an animal; or
 - (C) an employee being struck by any object or any force of nature, and to which the employee has not contributed by an act extraneous to his employment;
- (iii) a hernia—
 - (A) (I) which is clinical hernia of disabling character which appears to have recently occurred for the first time; or
 - (II) which is an aggravation or strangulation of pre-existent hernia resulting in immediate pain and disablement; and
 - (B) the onset of which was immediately preceded by a strain or an accident arising in any of the circumstances specified in subparagraphs (i) and (ii).

25. Industrial injury allowance

(1) Subject to subsection (3), where an employee suffers industrial injury which results in temporary total incapacity for work, he shall be entitled to an industrial injury allowance.

(2) The industrial injury allowance shall be equal to 80 per cent of the employee's monthly earnings.

(3) An industrial injury allowance shall not be paid in respect of the first 2 weeks of each period of incapacity.

(4) Subject to subsection (6), where an industrial injury allowance is not payable under subsection (3) to an employee who has suffered industrial injury, his employer shall, within 2 weeks of receiving medical evidence of the incapacity, pay him a compensation for the whole period of the incapacity at the same rate that he was being remunerated at the time the industrial injury occurred.

(5) Where an employee suffers industrial injury which results in total or partial temporary incapacity for work for a period not exceeding 2 weeks, his employer shall within 2 weeks of receiving a claim pay to him a sum equal to the reasonable expenses not exceeding 400 rupees incurred in respect of medical and surgical attendances, first aid, physiotherapy and other essential treatment, which are rendered necessary as a result of the industrial injury.

(6) The compensation under subsection (4) shall be paid for the whole period of total temporary incapacity irrespective of the fact that the whole or part of this period falls after the day on which the employment of the employee is terminated.

(7) (a) The industrial injury allowance shall cease to be payable as from the date the employee is found to be disabled by a medical officer or a Medical Board appointed under section 34 or the Medical Tribunal established under section 36, as the case may be.

(b) Paragraph (a) shall not apply where the medical officer, the Medical Board or the Medical Tribunal is satisfied that there has been a deterioration in the medical condition of the employee.

(8) Notwithstanding subsection (7), no industrial injury allowance shall be payable in any circumstances after a period of 36 months from the date on which the industrial injury occurred, except where a surgical intervention has to be performed after this period.

[S. 25 amended by Act 18 of 1987; Reprinted by Reprint 3 of 1990; Act 7 of 1990.]

26. Disablement pension

(1) (a) Subject to subsections (2) and (3), where an employee is disabled, he shall be entitled to a disablement pension.

(b) The pension under paragraph (a) shall be awarded in respect of the period the employee has been or expected to be disabled.

(2) Subject to subsection (3), the disablement pension payable to an employee under subsection (1) shall be—

- (a) where the disablement is 100 per cent, equal to 80 per cent of the employee's monthly earnings;
- (b) where the disablement is less than 100 per cent, equal to 65 per cent of the employee's monthly earnings multiplied by the percentage of his disablement.

(3) Where—

- (a)
 - (i) the pension awarded under subsection (1) (a) is final;
 - (ii) the employee has not attained retirement age on the day on which the industrial accident or prescribed disease occurs; and
 - (iii) the disablement is less than 20 per cent; or
- (b)
 - (i) the pension awarded under subsection (1) (a) is permanent;
 - (ii) the employee has not attained retirement age on the date on which the industrial accident or prescribed disease occurs and the period between the date and his retirement age does not exceed 8 years; and
 - (iii) the disablement is 100 per cent,

the employee may, within one month of the date on which the award is notified by post to him, elect to receive in lieu of that pension a lump sum payment as determined in accordance with subsection (4).

(4) The lump sum payment to be made to an employee under subsection (3) shall be the product of—

- (a) the number of years, not exceeding 8, for which a pension is awarded to him;
- (b) his annual earnings; and

[S. 26 amended by s. 22 (h) of Act 18 of 2008 w.e.f. 1 July 2008.]

27. Other allowances

(1) Subject to this section, where an employee is entitled to an industrial injury allowance under section 25 or a disablement pension under section 26, he shall be paid, in addition to the allowance or pension—

- (a) where as a result of the industrial injury, he suffers an incapacity or disablement of such a nature that he must have the constant personal attendance of another person, an allowance at the prescribed rate for the period during which that personal attendance is necessary, but not including any period during which the employee is maintained in any hospital or similar institution without charge to himself or to any other person;
- (b) where, as a result of the industrial injury, the provision of an artificial aid to him becomes necessary or desirable, a sum sufficient to cover the cost of the artificial aid and its maintenance or renewal;
- (c) where, as a result of the industrial injury, he suffers damage to—
 - (i) his natural teeth;
 - (ii) any artificial aid being used or worn by him at the time of the accident; or
 - (iii) clothing or spectacles being worn by him at the time of the accident,a sum sufficient to cover the reasonable cost in the case of damage—
 - (A) to natural teeth, of repairing the teeth or replacing them with an artificial denture; or
 - (B) to any artificial aid, clothing or spectacles, or repairing or, where necessary, replacing the artificial aid, clothing or spectacles;

continued on page N21 – 19

- (d) (i) subject to subparagraph (ii), a sum equal to the reasonable expenses incurred during the period for which an allowance under section 25 is payable in respect of medical and surgical attendances which are rendered necessary as a result of the industrial injury including first aid, physiotherapy and maintenance as a patient in a hospital or similar Government institution;
- (ii) where the industrial injury requires urgent treatment at a private clinic, a sum equal to the reasonable expenses incurred in respect of medical and surgical attendances, first aid and other treatment but not exceeding 4,000 rupees.

(2) Any allowance payable under subsection (1) shall be determined by the National Pensions Officer.

(3) The allowance under subsection (1) (a) shall be payable, notwithstanding that the employee has elected to receive another benefit in lieu of an industrial injury allowance or a disablement pension.

[S. 27 amended by Act 18 of 1987.]

28. Survivor's pension

(1) Subject to subsections (2) and (3) and to section 41—

- (a) where an industrial injury results in the death of an employee and the employee leaves a surviving spouse; or
- (b) where an employee has disappeared during the course of his employment in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien and leaves a spouse,

the spouse shall be entitled to a survivor's pension.

(2) Subject to subsection (3), the survivor's pension payable shall be of an amount equal to half of the monthly earnings of the deceased employee.

(3) (a) Survivor's pension shall be payable to a widower or male spouse or male partner of a person who has disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien unless he is wholly or substantially disabled and is likely to be so disabled either permanently, or for at least 12 months.

(b) Where a person has disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien, the spouse shall become eligible to the survivor's pension after the expiry of 3 months from the date on which the case of disappearance or missing person, as the case may be, was reported to the Police.

[S. 28 amended by s. 17 (e) of Act 26 of 2012 w.e.f. 22 December 2012; s. 17 (e) of Act 26 of 2012 w.e.f. 22 December 2012.]

29. Benefits for orphan and other dependents

(1) Where an employee—

- (a) dies as a result of industrial injury or has disappeared during the course of his employment in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien; and
- (b) leaves one or more orphans,

each orphan shall, as long as—

(i) he is—

- (A) under the age of 15; or
- (B) in the case of an orphan who is receiving full-time education, under the age of 18; and

(ii) he is not married,

be entitled to an orphan's industrial injury pension of an amount representing 15 per cent of half of the monthly earnings of the deceased employee but shall in no case be less than the orphan's pension payable under section 5.

(2) An orphan's industrial injury pension shall be—

- (a) paid to the guardian of the orphan or such other person as the National Pensions Officer may determine; and
- (b) devoted by the person receiving it for the exclusive benefit of the orphan.

(3) Where an employee—

- (a) dies as a result of an industrial injury;
- (b) has disappeared during the course of his employment in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien,

and the employee leaves no spouse but leaves a dependent, the dependent shall be paid a dependent's pension at the prescribed rate.

(4) In subsection (3)—

"dependent", in relation to an employee, means a relative, other than an orphan, who was—

- (a) living in the household; and
- (b) wholly or partly dependent on the earnings of that employee at the time when his entitlement to a dependent's pension arises;

"relative", in relation to an employee, includes his—

- (a) ascendant or descendant, whether legitimate or natural;
- (b) collateral to the second degree;
- (c) stepfather, stepmother, stepson and stepdaughter.

[S. 29 amended by s. 17 (f) of Act 26 of 2012 w.e.f. 22 December 2012.]

30. Saving

(1) Nothing in this Part shall bar an action in damages under any other enactment in respect of industrial injury suffered by an employee.

(2) Notwithstanding any other enactment, where in relation to an employee, a claim referred to in subsection (1) is made against an employer and the Court finds that the employee is entitled to damages, the amount to be awarded as damages shall be reduced by the value, as determined by the Court, of any disablement pension or other benefit payable to the employee under this Part.

PART VI – ADMINISTRATIVE, FINANCIAL AND GENERAL PROVISIONS

Sub-Part A – Administrative Provisions

31. Establishment of Board

(1) There is established for the purposes of this Act a National Pensions Board.

(2) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of finance;
- (c) a representative of the Ministry responsible for the subject of health;
- (d) a representative of the Ministry responsible for the subject of labour;
- (e) a representative of the Ministry responsible for the subject of social security;
- (f) 2 representatives of employers in the sugar industry, to be appointed by the Minister;
- (g) 2 representatives of employers, to be appointed by the Minister from among employers outside the sugar industry;
- (h) 2 representatives of employees in the sugar industry, to be appointed by the Minister after consultation with the appropriate trade unions;
- (i) 2 representatives of employees outside the sugar industry, to be appointed by the Minister after consultation with the appropriate trade unions.

(3) Every member of the Board, other than an *ex officio* member, shall hold or vacate office on such terms and conditions as the Minister may determine.

(4) Every member of the Board may be paid such allowance as the Minister may determine.

[S. 31 amended by Act 18 of 1987.]

32. Functions of Board

(1) The Board may of its own accord advise the Minister on any matter relating to this Act.

(2) The Board shall advise the Minister on any matter referred to it by the Minister.

33. Duties of Minister

The Minister shall—

- (a) collect, in relation to insured persons, the contributions payable under section 17 or 18;
- (b) pay to every person who is entitled to a benefit, the appropriate benefit determined in accordance with this Act; and
- (c) forward at such intervals as may be prescribed to every insured person a statement setting out the contributions the insured person has paid and the pension points which have accrued to him by virtue of the contributions so paid and calculated in accordance with paragraphs 1 and 2 of the Third Schedule.

34. Determination of claims to benefits

(1) Subject to section 36, the National Pensions Officer shall be the sole authority to determine claims to benefits under this Act and whether or not an employee has suffered industrial injury.

(2) Where, on the determination of any claim to a benefit, a medical question arises, the National Pensions Officer shall refer that question to a medical officer or a Medical Board to be appointed by the Minister for advice, before adjudicating upon the claim.

(3) (a) Where a claimant to a basic retirement pension or a contributory retirement pension is unable to supply proof of his age, he shall swear or solemnly affirm an affidavit in the form set out in the Seventh Schedule.

(b) An affidavit under paragraph (a) shall be exempt from the payment of any duty, charge or fee.

34A. Liability for payment of contribution

(1) The Minister shall, in respect of any specified period, determine whether—

- (a) any person is or was an employee;
- (b) contributions have been paid or are payable in respect of any person.

(2) An interested person who is aggrieved by a decision under subsection (1) may appeal to the Appeal Tribunal.

35. Payment of benefits

(1) Any benefit payable under this Act shall—

- (a) except for a benefit payable under Part V, accrue as from the month in which the person becomes entitled to receive it; and
- (b) be paid—
 - (i) in such manner and at such times; and
 - (ii) subject to such conditions,as may be prescribed.

(2) (a) Where a benefit is being paid to a person whose spouse has disappeared in the circumstances set out in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien and the spouse is still untraceable after a period of 5 years from the date the matter has been reported to the Police, the surviving spouse shall, within one year of the expiry of the 5-year period, produce a death certificate to the National Pensions Officer in respect of that spouse.

(b) Where the surviving spouse fails to produce the death certificate within the period referred to in paragraph (a), the benefit shall cease to be paid.

[S. 35 amended by s. 17 (g) of Act 26 of 2012 w.e.f. 22 December 2012.]

35A. Payment of benefit into bank account

(1) A benefit may, upon the written request of the person entitled to it, be paid to a bank to be credited to his bank account.

(2) Subject to subsection (3), where a benefit has been paid into a bank account under subsection (1), and it is subsequently found by the National Pensions Officer that the benefit should not have been so paid, the bank shall, on written notice to that effect by the National Pensions Officer, refund the amount so paid to the Fund and debit the bank account accordingly.

(3) (a) Where the bank account is closed, the bank shall not be required to refund to the Fund the amount paid under subsection (1).

(b) Where the amount standing in the bank account is less than the amount paid under subsection (1), the bank shall refund only the amount standing in the bank account.

(4) Notwithstanding any other enactment but subject to subsection (5), where a refund is made under this section, no action shall lie against the bank in respect of the amount so refunded.

(5) Subsection (3) shall not prejudice the right of any interested person to claim from the Fund the amount refunded to it under this section.

continued on page N21 – 23

36. Appeal Tribunal and Medical Tribunal

- (1) There are established for the purposes of this Act—
 - (a) an Appeal Tribunal to which an appeal by a claimant against a decision of the National Pensions Officer or by an interested person against the decision of the Minister shall be referred;
 - (b) a Medical Tribunal to which an appeal against a decision of a medical officer or a Medical Board appointed under section 34 (2) shall be referred.
- (2) The Appeal Tribunal shall consist of—
 - (a) a Chairperson, who shall be legally qualified, to be appointed by the Attorney-General;
 - (b) 2 other members, to be appointed by the Minister after consultation with representatives of employers and employees respectively.
- (3)
 - (a) The Medical Tribunal may sit in one or more divisions.
 - (b) Every division of the Medical Tribunal shall consist of—
 - (i) a Chairperson, who shall be legally qualified, to be appointed by the Attorney-General;
 - (ii) 2 other members, who shall be qualified medical practitioners, to be appointed by the Minister.
- (4) The Chairperson and members of the Appeal Tribunal and the Medical Tribunal may be paid such fees as the Minister may approve.

[S. 36 amended by Act 7 of 1990.]

Sub-Part B – Financial Provisions

37. National Pensions Fund

- (1) There is established a National Pensions Fund which shall be administered by the Minister in accordance with the Finance and Audit Act.
 - (1A) The Fund shall, for the purposes of investment of any surplus of the Fund, be deemed to be a body corporate.
 - (1B) For the purposes of subsection (1A), the Fund shall, in any proceedings, judicial or otherwise, be represented by the Permanent Secretary.
- (2) There shall be paid into the Fund—
 - (a) all contributions payable under section 17 or 18;
 - (b) all sums properly accruing to it, including—
 - (i) all sums required to pay the benefits under Part II; and
 - (ii) such other sums as may be approved by Parliament; and
 - (c) subject to subsection (3) (c), all payments made in accordance with section 5 of the National Savings Fund Act.
- (3) There shall be paid out of the Fund—
 - (a) the benefits payable under this Act;
 - (b) the cost of the administration of Parts III to VI;

- (c) the money received under subsection (2) (c), for the purpose of the money being credited to the Fund established under the National Savings Fund Act.

[S. 37 amended by Act 7 of 1990; Act 14 of 1995; s. 35 (8) (f) of Act 20 of 2001 w.e.f. 17 September 2001.]

38. Investment of assets of Fund

(1) Subject to the Finance and Audit Act, any surplus remaining in the Fund may be held on deposit with the Government or invested in such manner as the NPF and NSF Investment Committee may determine, regard being had to—

- (a) the need for an appropriate level of liquidity in the Fund;
- (b) the need to secure the future value of the Fund;
- (c) the need for national development;
- (d) any advice the NPF and NSF Investment Committee may receive from the Board.

(2) There is set up, for the purposes of determining the manner in which any surplus remaining in the Fund may be invested, a committee to be known as the NPF and NSF Investment Committee.

(3) (a) The NPF and NSF Investment Committee shall consist of—

- (i) the Financial Secretary who shall be the Chairperson;
- (ii) 3 public officers appointed by the Minister; and
- (iii) 3 representatives of employers and 3 representatives of employees, appointed by the Minister to whom responsibility for the subject of finance is assigned.

(b) The persons referred to in paragraph (a) (ii) and (iii) shall have experience in fund management, actuarial science, accountancy or economics and shall be appointed on such terms and conditions as may be determined.

(4) The NPF and NSF Investment Committee shall—

- (a) meet not less than once every month and at such time and place as the Chairperson thinks fit;
- (b) regulate its meetings and proceedings in such manner as it thinks fit.

(5) At any meeting of the NPF and NSF Investment Committee, 6 members shall constitute a quorum.

(6) Without prejudice to subsection (1), the Minister may approve loans from the Fund to insured persons for the provision of housing or for such other purposes as the Minister may, after consultation with the Board, approve, on such terms and conditions as may prescribed.

[S. 38 amended by Act 7 of 1990; Act 9 of 1992; s. 35 (8) (g) of Act 20 of 2001 w.e.f. 17 September 2001; s. 23 of Act 15 of 2006 w.e.f. 7 August 2006.]

38A. Actuarial valuation

The Minister shall, at intervals of not more than 5 years, cause an actuarial valuation of the Fund to be made by such actuary as the Minister may appoint, and shall determine, in the light of such valuation, whether an adjustment is necessary to secure the future value of the Fund.

39. Accounts of Fund

(1) The Minister shall cause to be published in the *Gazette* duly audited accounts of the Fund annually setting out—

- (a) the receipts and payments of the Fund; and
- (b) the assets and liabilities of the Fund with particular reference to any investment held by the Fund.

(2) The accounts required to be published under subsection (1) shall be laid before the Assembly.

39A. Pension cards

The Minister shall, in relation to each person whose claim for a benefit has been allowed, issue a pension card which—

- (a) shall remain the property of Government;
- (b) shall, on demand, be produced to the Minister; and
- (c) shall be surrendered to the Minister—
 - (i) where a person to whom a benefit is payable is unable to receive payment of the benefit and such person has not given a written authorisation to another person to receive that benefit; or
 - (ii) where that person is no longer entitled to a benefit.

[S. 39A inserted by Act 10 of 1986.]

Sub-Part C – General Provisions

40. Restriction on benefits

Where a person is entitled to—

- (a) more than one benefit under this Act; or
- (b) a benefit under this Act and a benefit under any pension law,

he shall be entitled to receive only such benefit or such amount of a benefit as may be prescribed.

41. Remarriage of surviving spouse

(1) Where a person who is in receipt of a widow's or widower's contributory pension or survivor's pension remarries, that person shall cease to be qualified to receive the pension.

(2) Where a widow or widower who has not reached retirement age ceases to be qualified to receive a pension under subsection (1) on being married, the widow or widower shall be entitled to receive a lump sum payment equal to 12 times the pension.

(3) Subject to subsection (4), where—

- (a) a widow or widower has ceased to be qualified to receive a pension under subsection (1) on being remarried; and
- (b) (i) the marriage is dissolved; or
(ii) she or he is judicially separated,

she or he shall be entitled to receive the widow's or widower's contributory pension or survivor's pension, as the case may be, which was payable to her or him immediately before her or his remarriage.

(4) Where a widow or widower who is entitled to a pension under subsection (3) is also entitled—

- (a) in the case of the widow, on her divorce or judicial separation from her second husband; or
- (b) in the case of the widower, on his divorce or judicial separation from his second wife,

to alimony, the amount of the pension shall be reduced by the amount of the alimony.

[S. 41 amended by s. 22 (i) of Act 18 of 2008 w.e.f. 1 July 2008; s. 37 (g) of Act 18 of 2016 w.e.f. 1 July 2016.]

42. Plurality of benefits

(1) Where a widow or widower who is entitled to receive either—

- (a) a widow's or widower's contributory pension; or
- (b) a survivor's pension,

becomes entitled to a contributory retirement pension, she or he shall be entitled to receive both the contributory retirement pension and the pension specified in paragraph (a) or (b).

(2) Where a widower who is entitled to a survivor's pension becomes entitled to a retirement pension, he shall be entitled to receive either—

- (a) the retirement pension payable to him by virtue of contributions he has paid as an insured person;
- (b) a retirement pension equal to the amount of the retirement pension payable to his deceased spouse at the time of her death or which would have been payable to her, had she reached retirement age immediately before her death; or
- (c) the survivor's pension,

whichever is the higher.

[S. 42 amended by s. 22 (j) of Act 18 of 2008 w.e.f. 1 July 2008; s. 37 (h) of Act 18 of 2016 w.e.f. 1 July 2016.]

42A. Increase in amount of pensions

At the beginning of every benefit year, any contributory pension, disablement pension, survivor's pension or orphan's industrial injury pension, already in payment or which is payable but not in payment, may be increased by such percentage as the Minister may prescribe.

continued on page N21 – 27

43. Protection from liability

No liability shall lie against any member of the Board, the Medical Board, the Appeal Tribunal, the Medical Tribunal or a medical officer in respect of any act done or omitted to be done in good faith in the execution of his or its functions under this Act.

44. Benefit not to be assigned or attached

(1) Notwithstanding any other enactment but subject to subsection (4), a contribution or benefit payable under this Act shall not be assigned, transferred, ceded, pledged, delegated, attached or levied upon in any respect.

(2) Where a person who is in receipt of a benefit is adjudged bankrupt or is allowed to make a *cessio bonorum*, the benefit shall not pass to a trustee, assignee or other person acting on behalf of his creditors.

(3) Article 1289 of the Code Civil Mauricien shall not apply to contributions payable under sections 17 and 18.

(4) Subject to such conditions as may be prescribed, where a person has received under this Act, the Family Allowance Act, the Social Aid Act or the Unemployment Hardship Relief Act, any sum to which he is not entitled, that sum may be recovered from the amount of any benefit to which that person may later become entitled under this Act.

(5) On the death of a person entitled to a benefit under this Act, the amount of the benefit shall be paid —

- (a) to the surviving spouse of the deceased;
- (b) in the absence of a surviving spouse, to the children of the deceased;
- (c) in the absence of a surviving spouse or children, to the other legal personal representative.

(6) (a) Where the deceased person leaves no surviving spouse, child or other legal personal representative referred to in subsection (5), an amount not exceeding one month's benefit which has accrued to the deceased person shall be paid to any person who furnishes satisfactory evidence to show that the funeral expenses incurred in connection with the death of the deceased person have been borne by him.

(b) A claim under paragraph (a) shall be made—

- (i) in such form as the Minister may approve; and
- (ii) not later than 3 months after the death of the deceased person.

[S. 44 amended by Act 10 of 1986.]

45. Offences

(1) Any person who—

- (a) for the purposes of or in connection with a claim for a benefit either for himself or on behalf of any other person, knowingly—
 - (i) makes a false statement or a statement which he knows or ought to have known to be false in any material particular;

- (ii) makes a false representation; or
- (iii) fails to disclose a material fact;
- (b) fails within the prescribed time limit to pay contributions;
- (c) otherwise fails to comply with this Act or any regulations made under it,

shall commit an offence.

(2) (a) A person shall—

- (i) on conviction for an offence under subsection (1) (a) or (c), other than failure to comply with regulations made under this Act, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months;
- (ii) on conviction for an offence under subsection (1) (c) of failure to comply with regulations made under this Act, be liable to a fine not exceeding 50,000 rupees and imprisonment for a term not exceeding 12 months.

(b) A person shall, on conviction for an offence under subsection (1) (b), be liable—

- (i) in the case of a person who employs an employee in domestic service, to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months; or
- (ii) in any other case, to a fine equal to the amount of the unpaid contributions or 50,000 rupees, whichever is the higher, and to imprisonment for a term not exceeding 12 months.

(c) A person shall, on conviction for an offence under subsection (1) (b) or (c), in addition to any penalty imposed upon him under this subsection, be ordered to pay to the Minister the amount of any unpaid contribution or surcharge.

(d) A person shall, on conviction for an offence under section 25 (4), in addition to any penalty imposed upon him, be ordered to pay to that employee the remuneration due to him.

(3) An order made under subsection (2) (c) may be enforced in the same manner as a judgment delivered by a Court in its civil jurisdiction.

(4) Where a person has received a benefit to which he is not entitled or which he was not qualified to receive or was disqualified from receiving, the amount of the benefit may be recovered by the Minister in accordance with section 45 B.

[S. 45 amended by Act 10 of 1986; Act 25 of 2000.]

45A. Surcharge on late contributions or late returns

(1) Without prejudice to any legal proceedings which may be instituted under section 45, where an employer fails, within the prescribed time, to pay to the Minister the whole or part of any contributions payable under section 17,

he shall pay a surcharge at the rate of 5 per cent or such other rate as may be prescribed for every month or part of the month during which any contribution remained unpaid, unless the amount of unpaid contributions does not exceed 10 per cent of the total amount of contributions payable or 120 rupees, whichever is the lesser.

(2) No surcharge payable under subsection (1) shall be recoverable by the employer from any employee.

(3) The Minister may exempt from payment of the surcharge—

- (a) any person who under any enactment in force enjoys immunity from payment of penalties;
- (b) any religious or charitable institution; or
- (c) such other cases as may be prescribed.

(4) For the purpose of determining whether a surcharge is leviable under this section—

- (a) where payment of a contribution is made by post, the contribution shall be deemed to have been made on the date of the postmark;
- (b) where payment of a contribution is not effected by reason of a misdirection by an authorised officer, the payment shall be made within 20 days of the date on which the misdirection is notified to the employer;
- (c) where liability for payment of contributions is being determined by the Minister under section 34A or by the Appeal Tribunal, the payment shall be made within 20 days of the date of the notification of the decision of the Minister or the Appeal Tribunal.

(5) Where an employer other than a person who employs an employee in domestic service fails, within the prescribed time, to submit to the Minister such monthly return or annual return as may be prescribed, he shall be liable to pay to the Minister—

- (a) in the case of a monthly return, a surcharge of one per cent of the total contributions payable under section 17 or 200 rupees, whichever is the lesser, for every day until the return in respect of each insured person for that month is submitted, provided that the total amount of surcharge shall—
 - (i) not exceed the total amount of contributions payable or 20,000 rupees, whichever is the lesser; and
 - (ii) be not less than 500 rupees; or
- (b) in the case of an annual return, a surcharge of 5,000 rupees or 500 rupees for every day until the return for that year is submitted, whichever is the higher, provided that the total surcharge shall not exceed 50,000 rupees.

[S. 45A amended by Act 10 of 1986; Act 25 of 2000; s. 20 of Act 20 of 2002 w.e.f. 1 July 2002.]

45B. Recovery of contributions, surcharge or benefit

(1) Subject to subsection (2), the Permanent Secretary may, without prejudice to any other remedy which the Minister may have, recover any unpaid contribution, surcharge or benefit in the same manner as income tax is recoverable under Part XI of the Income Tax Act.

(2) Sections 137, 141 and 142 of the Income Tax Act shall not apply to the recovery of contributions, surcharge or benefit.

[S. 45B amended by Act 25 of 2000.]

45C. Arrears of contribution

Where an employer has been ordered to pay any arrears of contribution or surcharge, he shall not be entitled to recover that amount from any employee.

45D. Jurisdiction

(1) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try all offences under this Act or any regulations made under it and may impose any penalty provided by this Act or those regulations.

(2) Notwithstanding any other enactment, any civil or criminal proceedings instituted under it shall, in the Island of Mauritius, be entered before the District Court of Port Louis.

[S. 45D amended by Act 7 of 1990; Act 25 of 2000.]

45E. Franking of documents

A person may send post free to the Minister any document required for the purposes of this Act.

45F. Certificate admissible in evidence

In any proceedings, a certificate under the hand of the Permanent Secretary to the effect that a person has not paid contributions or has refused or failed to produce a document when required to do so under this Act or any regulations made under this Act, shall, unless the contrary is proved, be evidence of the fact that that person has not paid such contributions or has refused or failed to produce the document, as the case may be.

45G. Authentication of documents

The production of any document under the hand of the Permanent Secretary purporting to be a copy of or extract from any return, record or other document shall in all proceedings be admissible as evidence, and the production of the original shall not be necessary.

45H. Keeping of records and register

(1) Every employer shall keep, in respect of every employee in his employment, records, whether electronic or otherwise, of—

- (a) the name, occupation, NIC number and date of birth of the employee;
- (b) the insurable wage or salary paid to the employee; and
- (c) where applicable, the date on which the employee has informed him of his concurrent employment pursuant to section 17 (2B) (a).

(2) Every employee shall affix his signature or thumbprint in a register or other similar document on payment of his insurable wage or salary.

(3) A National Pensions Officer may request an employer to produce and submit a certified copy of the records referred to in subsection (1), or the register or other similar document referred to in subsection (2), for the purpose of ascertaining whether any contribution is payable, and the employer shall comply with the request.

[S. 45H amended by Act 25 of 2000; s. 17 (h) of Act 26 of 2012 w.e.f. 22 December 2012; repealed and replaced by s. 16 (c) of Act 26 of 2013 w.e.f. 1 January 2014.]

45I. Persons leaving Mauritius

(1) Where the Permanent Secretary has reason to believe that a person is likely to leave Mauritius without paying the contributions due by him, he may issue a certificate containing particulars of the contributions due and a direction to the Immigration Officer to prevent that person from leaving Mauritius without paying the contributions or without giving security for the payment of the contributions to the satisfaction of the Permanent Secretary.

(2) The Immigration Officer shall, on receipt of a certificate under subsection (1), take or cause to be taken by any police officer, such measures as may be necessary to prevent the person named in the certificate from leaving Mauritius until payment of the contributions has been made or secured, including the use of such force as may be necessary and the seizure, removal or retention of any passport or other travel document relating to that person or of any exit permit or other document authorising that person to leave Mauritius.

45J. Power to summon

(1) The Permanent Secretary may, by written notice, summon any person whom he believes can give information relating to the administration or enforcement of this Act to—

- (a) attend at such place and time as may be specified in the notice and to produce any document which the Permanent Secretary may require; or
- (b) give orally or in writing all such information as may be demanded of him by the Permanent Secretary.

(2) Any person summoned under subsection (1) who—

- (a) fails to attend at the time and place specified in the notice;
- (b) refuses to answer faithfully any questions put to him by the Permanent Secretary;
- (c) gives any false or misleading information; or
- (d) refuses to produce a document required by the Permanent Secretary,

shall commit an offence.

45K. Cessation of business

(1) Where an employer becomes aware that he will cease to carry on any trade, business or occupation, whether voluntarily or otherwise, he shall forthwith give written notice of the fact to the Minister, specifying in the notice the date on which the cessation will, or is likely to, have effect.

(2) Subject to subsection (3), an employer referred to in subsection (1) shall, not later than 15 days after the date of the cessation—

- (a) submit such monthly return or annual return as may be prescribed, notwithstanding the fact that the date on which the return would normally be submitted has not occurred; and
- (b) pay any contributions or surcharge payable.

(3) Where a person is appointed to manage or wind up the trade, business or occupation of an employer referred to in subsection (1) as administrator, executor, receiver or liquidator, that person shall comply with the provisions of subsection (2).

[S. 45K inserted by Act 25 of 2000.]

PART VII – MISCELLANEOUS

46. Regulations

(1) The Minister may, after consultation with the Board—

- (a) make such regulations as he considers necessary for the purposes of this Act;
- (b) by regulations, amend the Schedules; and
- (c) by regulations, amend this Act for the purpose of giving effect to any agreement with the Government of any country outside Mauritius providing for reciprocity in matters relating to payments provided under this Act in order to—
 - (i) secure that acts, omissions and events having any effect for the purpose of the law relating to social security in the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act;
 - (ii) determine in cases where rights accrue both under this Act and the law of that country, the rights which shall be available to the person concerned; and
 - (iii) make any necessary financial adjustments.

(2) Regulations made under subsection (1) may provide that any person who contravenes those regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

[S. 46 amended by Act 25 of 2000.]

47. Workmen's Compensation Act

(1) Subject to subsection (2), the Workmen's Compensation Act shall not apply to an employee.

(2) Subsection (1) shall not affect—

- (a) the rights of any person in respect of any accident occurring or disease contracted before he became an employee; or
- (b) a person's eligibility to any compensation payable under the Workmen's Compensation Act in respect of temporary partial incapacity.

48. Transitional provisions

(1) The Sugar Industry Pension Fund established under the Sugar Industry Pension Fund Act shall, in relation to the category of persons who were members of that Fund and are specified in regulations for the purpose of Part III, pay into the National Pensions Fund—

- (a) the value of all contributions paid to the Sugar Industry Pension Fund on or after 1 January 1974, in respect of the remuneration as defined in this Act; and
- (b) such additional sums as the Minister may require in respect of accrued interest or share of bonuses.

(2) Subject to subsection (3), any payment made under subsection (1) in respect of an insured person, together with accrued interest on that payment as determined by such actuary as the Minister may appoint, shall be paid as a lump sum from the Fund—

- (a) to that insured person—
 - (i) on his reaching the age of 60; or
 - (ii) on his retiring from work on the ground of ill health and his receiving—
 - (A) a gratuity under paragraph 20 (1) (b) of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations or under paragraph 14 (1) (b) of the Second Schedule to the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations; or
 - (B) a permanent disablement pension under Part V in respect of the disablement that resulted in his retiring from work;
 - (iii) on his voluntary termination of his contract of employment in the context of the Voluntary Retirement Scheme pursuant to section 23, or the Early Retirement Scheme pursuant to section 23A, of the Sugar Industry Efficiency Act or of a factory closure on or after 1 July 2006 pursuant to section 24 of the Cane Planters and Millers Arbitration Control Board Act;
- (b) where that insured person dies before reaching the age of 60, in accordance with subsection (4) (a);
- (c) where that insured person is—
 - (i) a male worker who retires on or after reaching the age of 55; or

- (ii) a female worker who retires on or after reaching the age of 50, and who is in receipt of a gratuity under paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations.

(3) (a) Where a lump sum is payable under subsection (2) to an insured person on his reaching the age of 60, the insured person may, at any time before the lump sum is paid, elect to receive a pension in lieu of the lump sum.

(b) The pension payable under paragraph (a) shall be calculated by—

- (i) expressing as pension points the payment made in respect of the insured person under subsection (1) by dividing that payment by 10.8 rupees; and
- (ii) multiplying those pension points by the value in rupees of one pension point, that value being the current value prescribed by the Minister for the purpose of paragraph 1 of the Third Schedule at the time the insured person reaches the age of 60.

(c) One twelfth of the pension calculated under paragraph (b) shall be paid each month from and including the month in which the insured person reaches the age of 60.

(4) (a) Subject to paragraphs (b), (c), (d) and (e), where an insured person who has not elected under subsection (3) (a) to receive a pension in lieu of a lump sum dies before receiving the lump sum under subsection (2), the lump sum shall be paid, in equal shares, where appropriate—

- (i) to the surviving spouse or spouses;
- (ii) in the absence of a surviving spouse, to the children; or
- (iii) in the absence of a surviving spouse or child, to the legal personal representative.

(b) Where an insured person who has elected under subsection (3) (a) to receive a pension in lieu of a lump sum dies and the amount received by way of pension is less than the amount of the lump sum which would have been paid under subsection (2), the difference in these amounts shall be paid in accordance with paragraph (a).

(c) No payment exceeding 1,000 rupees shall be made under this subsection until the expiry of 3 months from the date on which the insured person died.

(d) Where a payment has been made under this subsection, no further liability in respect of the payment under paragraph (a) or (b) shall lie with the Fund or the Minister.

(e) This subsection shall not be construed as prejudicing or precluding any claim in relation to the payment under paragraph (a) or (b) which any person may have against the person to whom the payment was made.

(5) Any payment required to be made under this section shall be paid out of the Fund.

[S. 48 amended by Act 10 of 1986; Act 18 of 1987; s. 35 (8) (h) of Act 20 of 2001 w.e.f. 1 August 2001; s. 22 (k) of Act 18 of 2008 w.e.f. 1 July 2008; s. 17 (i) of Act 26 of 2012 w.e.f. 22 December 2012.]

FIRST SCHEDULE

[Sections 2, 13, 17 and 18]

Insured Persons	Contributions payable		Minimum remuneration in respect of which contributions are payable
	by employee	by employer	
1. (1) Every prescribed employee in the sugar industry	3%	10½%	In respect of an employee in domestic service (a) Rs 58 paid for one day's work; (b) Rs 350 paid for one week's work; (c) Rs 699 paid for one fortnight's work;
	5%	8½%	
	–	6%	
2. Every other employee (standard rate), other than —	–	3%	In respect of an employee other than in domestic service (a) Rs 93 paid for one day's work; (b) Rs 555 paid for one week's work; (c) Rs 1,110 paid for one fortnight's work;
	–	–	
	3%	6%	
(a) (i) a public officer in respect of his function as such;	–	–	In respect of an employee in domestic service (a) Rs 93 paid for one day's work; (b) Rs 555 paid for one week's work; (c) Rs 1,110 paid for one fortnight's work;
	–	–	
(ii) an employee of a local authority in respect of his function as such and which entitles him to a pension or a compassionate allowance under a pension law;	–	–	In respect of an employee other than in domestic service (a) Rs 93 paid for one day's work; (b) Rs 555 paid for one week's work; (c) Rs 1,110 paid for one fortnight's work;
(b) any person whose employment entitles him to pension or compassionate allowance under a pension law by reason of such employment;	–	–	

FIRST SCHEDULE — continued

Insured Persons	Contributions payable		Minimum remuneration in respect of which contributions are payable	
	by employee	by employer	In respect of an employee in domestic service	In respect of an employee other than in domestic service
(c) an employee who is a member of a pension fund or scheme of an approved body where that fund or scheme has been managed by the State Insurance Company Ltd (SICOM Ltd) since before 2 July 1978 in respect of any employment in relation to which payments are made to the pension fund or scheme, unless the Minister, in regulations, provides otherwise;			(d) Rs 758 paid for a half month's work;	(d) Rs 1,203 paid for a half month's work;
			(e) Rs 1,515 paid for one month's work	(e) Rs 2,405 paid for one month's work
(d) an employee who is employed exclusively on a Saturday, Sunday or any other public holiday				
3. Every self-employed, non-employed or prescribed person		In multiple of Rs 5 not below Rs 150		

[First Sch. repealed and replaced by GN 81 of 1999 w.e.f. 1 July 1999; GN 112 of 2002 w.e.f. 1 July 2002; GN 94 of 2003 w.e.f. 1 July 2003; GN 105 of 2004 w.e.f. 1 July 2005; GN 219 of 2006 w.e.f. 1 July 2006; GN 22 of 2008 w.e.f. 1 July 2007; GN 183 of 2008 w.e.f. 1 July 2008; GN 9 of 2010 w.e.f. 1 July 2009; GN 189 of 2010 w.e.f. 1 July 2010; GN 142 of 2011 w.e.f. 1 July 2011; s. 12 (i) of Act 37 of 2011 w.e.f. 15 December 2011; repealed and replaced by GN 41 of 2013 w.e.f. 1 January 2013; GN 204 of 2014 w.e.f. 1 January 2014; GN 60 of 2015 w.e.f. 1 January 2015; s. 37 (i) of Act 18 of 2016 w.e.f. 1 January 2017.]

SECOND SCHEDULE

[Sections 11 and 20]

PRESCRIBED RATES OF BASIC PENSIONS, ALLOWANCES AND MINIMUM CONTRIBUTORY RETIREMENT PENSION

	Rate per month (Rs)
1. Basic retirement pension for a person aged—	
(a) 60 and below 90	5,000
(b) 90 and below 100	15,000
(c) 100 and over	20,000
2. Widow's basic pension	5,000
3. Orphan's pension for an orphan—	
(a) up to the age of 15 not in full-time education	2,500
(b) aged between 3 and 20 in full-time education	4,000
4. Guardian's allowance.....	1,000
5. Child's allowance for a child—	
(a) under the age of 10	1,400
(b) aged 10 and above	1,500
6. Invalid's basic pension	5,000
7. Carer's allowance for a beneficiary of an invalid's basic pension who needs constant care and attention of another person....	2,500
8. Inmate's allowance to an inmate of a charitable institution	700
9. Carer's allowance for a beneficiary of a basic retirement pension who is disabled to an extent of not less than 60 per cent and who needs constant care and attention of another person	3,000
10. Minimum contributory retirement pension.....	520

[Second Sch. repealed and replaced by GN 172 of 2000 w.e.f. 1 July 2000; GN 138 of 2002 w.e.f. 1 July 2002; amended by GN 27 of 2003 w.e.f. 1 July 2002; repealed and replaced by GN 136 of 2003 w.e.f. 1 July 2003; s. 13 (c) of Act 28 of 2004 w.e.f. 26 August 2004; GN 128 of 2004 w.e.f. 1 July 2004; s. 6 of Act 25 of 2005 w.e.f. 1 July 2005; GN 194 of 2007 w.e.f. 1 July 2007; GN 196 of 2008 w.e.f. 1 July 2008; GN 71 of 2010 w.e.f. 1 July 2009; GN 70 of 2011 w.e.f. 1 January 2011; repealed and replaced by GN 6 of 2013 w.e.f. 1 January 2013; GN 41 of 2013 w.e.f. 1 January 2013; GN 204 of 2014 w.e.f. 1 January 2014; GN 229 of 2014 w.e.f. 1 December 2014; amended by GN 60 of 2015 w.e.f. 1 January 2015.]

THIRD SCHEDULE

[Sections 20, 21, 22 and 23]

1. Calculation of contributory pensions

For the purpose of calculating a contributory pension—

“amount of remuneration producing one pension point” means the amount prescribed by the Minister for the relevant financial year;

“average rate” means the average rate at which pension points accrue to an insured person over the prescribed period;

“date of entry” means such date as may be prescribed by the Minister;

“financial year” means the period of 12 months ending on 30 June in any year;

“incomplete year” shall be reckoned as one twelfth year for each completed month, and where there is no complete month, the uncompleted month shall reckon as one twenty-sixth of a month for each day, excluding Sunday;

“relevant benefit year” means the financial year in which entitlement to the pension arises;

“relevant financial year” means the financial year ending immediately before the beginning of the relevant benefit year;

“value in rupees of one pension point” means the value prescribed by the Minister for the relevant benefit year.

2. Pension points

The pension points accruing to an insured person in a financial year shall be determined by dividing his remuneration in that year by the amount of remuneration producing one pension point and, for this purpose, a self-employed, non-employed or prescribed person shall be deemed to have had remuneration at the rate of 1,000 rupees for every 60 rupees' contributions paid in the year.

3. Calculation of contributory retirement pension

(1) For the purpose of calculating the contributory retirement pension, the pension points accruing to an insured person shall be—

- (a) in the case of a person of the age of 40 or over on the date of entry, computed as if they had accrued to him, at their average rate, for twice the number of years, not exceeding 20, since the date of entry;
- (b) in the case of a person over the age of 20 but under the age of 40 on the date of entry, the sum of—
 - (i) the pension points accrued to him from the date of entry to 30 June 2008, but computed as if they had accrued to him, at their average rate, for 40 years;
 - (ii) the pension points accrued to him from 1 July 2008 to the end of the financial year preceding his 60th birthday, but computed as if they had accrued to him, at their average rate, for 40 years;
 - (iii) the pension points accrued to him from the financial year in which he attains 60 years until the end of the financial year preceding the date he elects to receive his pension or the end of the financial year preceding his retirement age, whichever is earlier; and
 - (iv) the pension points accrued to him from the financial year of his retirement age until his final retirement age;
- (c) in the case of a person aged 20 years or less on the date of entry, the sum of—
 - (i) the pension points accrued to him from his eighteenth birthday to 30 June 2008;
 - (ii) the pension points accrued to him from 1 July 2008 to the end of the financial year preceding the date he elects to receive his pension or the end of the financial year preceding his retirement age, whichever is earlier; and
 - (iii) the pension points accrued to him from the financial year of his retirement age until his final retirement age.

THIRD SCHEDULE—continued

(2) Where the person was over the age of 20 but under the age of 40 on the date of entry and the contributory retirement pension becomes payable—

- (a) at the age of 60 years, the pension shall be—
- (i) the pension points at (1) (b) (i) *multiplied* by the value in rupees of one pension point; and
 - (ii) the pension points at (1) (b) (ii) *multiplied* by the value in rupees of one pension point;
- less**
- (iii) the value arrived at (ii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
- (b) after the age of 60 but on or before the retirement age, the pension shall be—
- (i) the pension points arrived at (1) (b) (i) *multiplied* by the value in rupees of one pension point;
- plus**
- (ii) the value arrived at (i) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (iii) the pension points at (1) (b) (ii) and (1) (b) (iii) *multiplied* by the value in rupees of one pension point;
- less**
- (iv) the value arrived at (iii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
- (c) after the retirement age, the pension shall be—
- (i) the pension points arrived at (1) (b) (i) *multiplied* by the value in rupees of one pension point;
- plus**
- (ii) the value arrived at (i) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (iii) the pension points arrived at (1) (b) (ii) *multiplied* by the value in rupees of one pension point;
- plus**
- (iv) the value arrived at (iii) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (v) the value arrived at (1) (b) (iii) *multiplied* by the value in rupees of one pension point;
- plus**
- (vi) the value arrived at (v) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (vii) the pension points at (1) (b) (iv) *multiplied* by the value in rupees of one pension point.

(3) Where the insured person was aged 20 years or less on the date of entry and the contributory retirement pension becomes payable—

- (a) at the age of 60 years; the pension shall be—
- (i) the pension points at (1) (c) (i) *multiplied* by the value in rupees of one pension point; and

THIRD SCHEDULE—continued

- (ii) the pension points at (1) (c) (ii) *multiplied* by the value in rupees of one pension point;
less
- (iii) the value arrived at (ii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
- (b) after the age of 60 but on or before the retirement age, the pension shall be—
 - (i) the pension points at (1) (c) (i) *multiplied* by the value in rupees of one pension point;
plus
 - (ii) the value arrived at (i), *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (iii) the pension points at (1) (c) (ii) *multiplied* by the value in rupees of one pension point;
less
 - (iv) the value arrived at (iii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
- (c) after the retirement age, the pension shall be—
 - (i) the pension points at (1) (c) (i) *multiplied* by the value in rupees of one pension point;
plus
 - (ii) the value arrived at (i) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (iii) the pension points at (1) (c) (ii) *multiplied* by the value in rupees of one pension point;
plus
 - (iv) the value arrived at (iii) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (v) the pension points at (1) (c) (iii) *multiplied* by the value in rupees of one pension point.

4. Calculation of contributory invalidity pension and widow's contributory pension payable to a widow under retirement age

The amount of pension payable shall be the value in rupees of one pension point multiplied by the aggregate number of pension points accruing to the insured person at the end of the financial year immediately preceding the date of entitlement, provided that—

- (a) in the case of an insured person of the age of 40 or over on the date of entry, his pension points shall be computed as if they had accrued to him, at their average rate, until the end of the financial year preceding his sixtieth birthday;
- (b) in the case of an insured person who is under the age of 21 when the pension becomes payable, his pension points shall be computed at 20 times the highest number of points that had accrued to him in either the current or any of the preceding financial years;

THIRD SCHEDULE—continued

- (c) in any other case where the pension becomes payable before 20 years have elapsed since the date of entry, his pension points shall be computed as if they had accrued to him, at their average rate, for 20 years.

5. Retirement Reduction Factor

(1) Where the contributory retirement pension becomes payable before the retirement age, the Early Retirement Reduction Factor shall be the number of months from the date the pension becomes payable to the month preceding the date of the retirement age multiplied by 0.45 per cent.

(2) For the purpose of subparagraph (1), part of a month shall be reckoned as a complete month.

6. Late Retirement Increase Factor

(1) Where the contributory retirement pension becomes payable after the age of 60, the Late Retirement Increase Factor shall be, where the pension points used in the calculation of the pension have accrued—

- (a) before 1 July 2008, the number of months from the sixtieth birthday to the month preceding the date the pension becomes payable multiplied by 8/12 per cent;
- (b) from 1 July 2008, the number of months from the date of retirement age to the month preceding the date the pension becomes payable multiplied by 8/12 per cent.

(2) For the purpose of subparagraph (1) (a) and (b), part of a month shall be reckoned as a complete month.

[Third Sch. repealed and replaced by GN 129 of 1982 w.e.f. 1 July 1982; s. 22 (l) of Act 18 of 2008 w.e.f. 1 July 2008; amended by s. 12 (j) of Act 37 of 2011 w.e.f. 1 January 2012; s. 37 (j) of Act 18 of 2016 w.e.f. 1 July 2015.]

FOURTH SCHEDULE

[Section 2]

APPROVED BODIES

Agricultural Marketing Board

Bank of Mauritius

Central Electricity Board

Central Housing Authority

Central Water Authority

Development Bank of Mauritius

Development Works Corporation

Ex-servicemen Welfare Fund

FOURTH SCHEDULE—continued

Mahatma Gandhi Institute
Mauritius Broadcasting Corporation
Mauritius College of the Air
Mauritius Co-operative Central Bank
Mauritius Co-operative Union Ltd
Mauritius Housing Corporation
Mauritius Institute of Education
Mauritius Marine Authority
Mauritius Meat Authority
National Federation of Young Farmers' Club
Nouvelle France Tea Estate Board
Private Secondary Schools Authority
State Commercial Bank Ltd
State Insurance Corporation of Mauritius
Sugar Industry Development Fund
Sugar Industry Labour Welfare Fund
Sugar Insurance Fund Board
Sugar Planters' Mechanical Pool
Tea Development Authority
Town and Country Planning Board
University of Mauritius
Valuation Tribunal
Widows' and Children's Pension Scheme Board
[Fourth Sch. repealed and replaced by GN 129 of 1982 w.e.f. 1 July 1982; amended
by s. 26 (2) of Act 3 of 2013 w.e.f. 26 November 2013.]

FIFTH SCHEDULE

[Section 2]

Remuneration means, in respect of—

- (a) a monthly pay period, the insurable wage or salary of the insured person not exceeding 15,710 rupees;

FIFTH SCHEDULE—continued

- (b) a half monthly pay period, the insurable wage or salary of the insured person not exceeding 7,855 rupees;
- (c) a fortnightly pay period, the insurable wage or salary of the insured person not exceeding 7,251 rupees;
- (d) a weekly pay period, the insurable wage or salary of the insured person not exceeding 3,625 rupees;
- (e) a daily pay period, the insurable wage or salary of the insured person not exceeding 604 rupees;
- (f) any other period, the insurable wage or salary of the insured person, not exceeding the sum arrived at by multiplying 604 by the number of days in that period, excluding Sundays.

[Fifth Sch. repealed and replaced by GN 81 of 1999 w.e.f. 1 July 1999; GN 74 of 2001 w.e.f. 1 July 2001; GN 112 of 2002 w.e.f. 1 July 2002; GN 105 of 2004 w.e.f. 1 July 2004; GN 174 of 2005 w.e.f. 1 July 2005; GN 219 of 2006 w.e.f. 1 July 2006; GN 22 of 2008 w.e.f. 1 July 2008; GN 183 of 2008 w.e.f. 1 July 2008; GN 9 of 2010 w.e.f. 1 July 2009; GN 189 of 2010 w.e.f. 1 July 2010; GN 142 of 2011 w.e.f. 1 July 2011; repealed and replaced by GN 41 of 2013 w.e.f. 1 January 2013; GN 204 of 2014 w.e.f. 1 January 2014; amended by GN 60 of 2015 w.e.f. 1 January 2015.]

SIXTH SCHEDULE

[Section 8]

Injury	Percentage of disablement
Loss of 2 limbs	} 100
Loss of both hands, or of all fingers and both thumbs ..	
Total loss of sight	
Total paralysis	
Injuries resulting in being permanently bedridden	
Any other injury causing permanent total disablement	
Loss of arm at shoulder	60
Loss of arm between elbow and shoulder	50
Loss of arm at elbow	47½
Loss of arm between wrist and elbow	45
Loss of hand at wrist	42½
Loss of 4 fingers and thumb of one hand	42½
Loss of 4 fingers	35
Loss of thumb—	
both phalanges	25
one phalanx	10
Loss of index fingers—	
3 phalanges	10
2 phalanges	8
one phalanx	4

SIXTH SCHEDULE—continued

Injury	Percentage of disablement
Loss of middle finger—	
3 phalanges	6
2 phalanges	4
one phalanx	2
Loss of ring finger—	
3 phalanges	5
2 phalanges	4
one phalanx	2
Loss of little finger—	
3 phalanges	4
2 phalanges	3
one phalanx	2
Loss of metacarpals—	
first or second (additional)	3
third, fourth or fifth (additional)	2
Loss of leg at hip	70
Loss of leg between knee and hip	40 to 70
Loss of leg below knee	35 to 42½
Loss of toes—	
all	15
great, both phalanges	5
other than great, if more than one toe lost, each	1
Eye; loss of—	
whole eye	30
sight	30
sight – except perception of light	30
lens	20
Loss of hearing—	
both ears	60
one ear	7

The total permanent loss of use of a member shall be treated as loss of that member.

SEVENTH SCHEDULE

[Section 34]

In the District Court of

AFFIDAVIT UNDER SECTION 34 (3) OF THE NATIONAL PENSIONS ACT

I,, of

Make oath/solemn affirmation and say—

That to the best of my knowledge and belief, I was born on or about the year

and am of the age of

Sworn/solemnly affirmed by

the abovenamed deponent on the day of, 20.....

.....
Before me

.....
District Magistrate

EIGHTH SCHEDULE

[Sections 2 and 20 (8) and (9)]

CALCULATION OF CONTRIBUTORY RETIREMENT PENSION

1. For the purpose of calculating a Contributory Retirement Pension under section 20 (3), (4), (6) and (8A)—

- (a) an incomplete year shall be reckoned as one twelfth year for each completed month;
- (b) the following definitions shall have the same meaning in the Third Schedule—
 - (i) “amount of remuneration producing one pension point”;
 - (ia) average rate;
 - (ii) —
 - (iii) “financial year”;
 - (iv) “relevant benefit year”;
 - (v) “value in rupees of one pension point”;
- (c) and (d) —
- (e) “date of entry” means—
 - (i) where contributions were first payable between 1 July 1978 and 30 June 1980, the date on which the contributions were first payable or the beginning of the financial year in which the insured person attains the age of 19, whichever is the later;
 - (ii) where contributions were first payable on or after 1 July 1980, the beginning of the financial year in which the insured person attains the age of 19 or 1 July 1980, whichever is the later;

- (f) "date of retirement", in relation to a sugar industry worker, means—
- (i) for the purpose of section 20 (3) and (6), the date the contract of employment is voluntarily terminated by the worker under section 23 or 23A of the Sugar Industry Efficiency Act or in the context of a factory closure taking place pursuant to section 24 of the Cane Planters and Millers Arbitration Control Board Act;
 - (ii) for the purpose of section 20 (4), the date the worker retires under paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983.

2. Pension points

(1) The pension points accruing to an insured person in a financial year shall be determined by dividing his remuneration in that year by the amount of remuneration producing one pension point.

(2) For the purpose of calculating the contributory retirement pension, the pension points accruing to an insured person shall be—

- (a) in the case of a person over the age of 20 but under the age of 40 on the date of entry, his pension points shall be the sum of—
 - (i) the pension points accrued to him from the date of entry to 30 June 2008 but computed as if they had accrued to him at their average rate, for 40 years; and
 - (ii) the pension points accrued to him from 1 July 2008 to his date of retirement from work but computed as if they had accrued to him, at their average rate, for 40 years; or
- (b) in the case of a person aged 20 years or less on the date of entry, his pension points shall be the sum of—
 - (i) the pension points accrued to him from his eighteenth birthday to 30 June 2008; and
 - (ii) the pension points accrued to him from 1 July 2008 to his date of retirement from work.

3. Retirement Reduction Factor

The contributory retirement pension calculated under paragraph 4 (1) shall be reduced by a Retirement Reduction Factor of an amount equal to—

Share of pension produced by contributions accrued from 1 July 2008

multiplied by

The number of months from the sixtieth birthday to the month preceding the date of retirement age

multiplied by

0.45 %.

4. Calculation of Contributory Retirement Pension under section 20 (3), (4), (6) and (8A)

(1) Subject to paragraph 3, and subparagraph (2), the contributory retirement pension shall be the appropriate pension points at paragraph 2 multiplied by the value in rupees of one pension point.

EIGHTH SCHEDULE—continued

(2) The amount of actuarially calculated contributory retirement pension payable shall be the amount calculated under subparagraph (1) reduced by the Early Retirement Reduction Factor calculated under paragraph 3 and multiplied by an actuarial factor specified in Table I.

Table I – Actuarial reduction factor

Age in completed years at the date of entitlement	Factor
45	0.40
46	0.44
47	0.48
48	0.52
49	0.56
50	0.60
51	0.64
52	0.68
53	0.72
54	0.76
55	0.80
56	0.84
57	0.88
58	0.92
59	0.96

[Eighth Sch. amended by s. 35 (8) (i) of Act 20 of 2001 w.e.f. 1 August 2001; GN 85 of 2002; s. 4 (b) of Act 31 of 2003; s. 15 (5) (d) of Act 3 of 2007 w.e.f. 1 July 2006; s. 22 (m) of Act 18 of 2008 w.e.f. 1 July 2008; s. 13 (1) (b) of Act 5 of 2014 w.e.f. 11 September 2012.]

NINTH SCHEDULE

[Section 2]

PHASING IN OF RETIREMENT AGE

The retirement age of a person in respect of his date of birth shown in column 1 shall be the corresponding age specified in column 2.

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
AUGUST	1948	60 years + 1 month	SEPTEMBER	2008
SEPTEMBER	1948	60 years + 2 months	NOVEMBER	2008

NINTH SCHEDULE—continued

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
OCTOBER	1948	60 years + 3 months	JANUARY	2009
NOVEMBER	1948	60 years + 4 months	MARCH	2009
DECEMBER	1948	60 years + 5 months	MAY	2009
JANUARY	1949	60 years + 6 months	JULY	2009
FEBRUARY	1949	60 years + 7 months	SEPTEMBER	2009
MARCH	1949	60 years + 8 months	NOVEMBER	2009
APRIL	1949	60 years + 9 months	JANUARY	2010
MAY	1949	60 years + 10 months	MARCH	2010
JUNE	1949	60 years + 11 months	MAY	2010
JULY	1949	61 years	JULY	2010
AUGUST	1949	61 years + 1 month	SEPTEMBER	2010
SEPTEMBER	1949	61 years + 2 months	NOVEMBER	2010
OCTOBER	1949	61 years + 3 months	JANUARY	2011
NOVEMBER	1949	61 years + 4 months	MARCH	2011
DECEMBER	1949	61 years + 5 months	MAY	2011
JANUARY	1950	61 years + 6 months	JULY	2011
FEBRUARY	1950	61 years + 7 months	SEPTEMBER	2011
MARCH	1950	61 years + 8 months	NOVEMBER	2011
APRIL	1950	61 years + 9 months	JANUARY	2012
MAY	1950	61 years + 10 months	MARCH	2012

NINTH SCHEDULE—continued

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
JUNE	1950	61 years + 11 months	MAY	2012
JULY	1950	62 years	JULY	2012
AUGUST	1950	62 years + 1 month	SEPTEMBER	2012
SEPTEMBER	1950	62 years + 2 months	NOVEMBER	2012
OCTOBER	1950	62 years + 3 months	JANUARY	2013
NOVEMBER	1950	62 years + 4 months	MARCH	2013
DECEMBER	1950	62 years + 5 months	MAY	2013
JANUARY	1951	62 years + 6 months	JULY	2013
FEBRUARY	1951	62 years + 7 months	SEPTEMBER	2013
MARCH	1951	62 years + 8 months	NOVEMBER	2013
APRIL	1951	62 years + 9 months	JANUARY	2014
MAY	1951	62 years + 10 months	MARCH	2014
JUNE	1951	62 years + 11 months	MAY	2014
JULY	1951	63 years	JULY	2014
AUGUST	1951	63 years + 1 month	SEPTEMBER	2014
SEPTEMBER	1951	63 years + 2 months	NOVEMBER	2014
OCTOBER	1951	63 years + 3 months	JANUARY	2015
NOVEMBER	1951	63 years + 4 months	MARCH	2015
DECEMBER	1951	63 years + 5 months	MAY	2015
JANUARY	1952	63 years + 6 months	JULY	2015
FEBRUARY	1952	63 years + 7 months	SEPTEMBER	2015
MARCH	1952	63 years + 8 months	NOVEMBER	2015

NINTH SCHEDULE—continued

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
APRIL	1952	63 years + 9 months	JANUARY	2016
MAY	1952	63 years + 10 months	MARCH	2016
JUNE	1952	63 years + 11 months	MAY	2016
JULY	1952	64 years	JULY	2016
AUGUST	1952	64 years + 1 month	SEPTEMBER	2016
SEPTEMBER	1952	64 years + 2 months	NOVEMBER	2016
OCTOBER	1952	64 years + 3 months	JANUARY	2017
NOVEMBER	1952	64 years + 4 months	MARCH	2017
DECEMBER	1953	64 years + 5 months	MAY	2017
JANUARY	1953	64 years + 6 months	JULY	2017
FEBRUARY	1953	64 years + 7 months	SEPTEMBER	2017
MARCH	1953	64 years + 8 months	NOVEMBER	2017
APRIL	1953	64 years + 9 months	JANUARY	2018
MAY	1953	64 years + 10 months	MARCH	2018
JUNE	1953	64 years + 11 months	MAY	2018
JULY	1953	65 years	JULY	2018
AUGUST 1953 and after		On reaching 65 years		

[Ninth Sch. added by s. 22 (n) of Act 18 of 2008 w.e.f. 1 July 2008.]