

ANTIGUA AND BARBUDA



**THE MEDICAL BENEFITS ACT, 2010**

**No. 4 of 2010**

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[L.S.]

I Assent,

**Louise Lake-Tack,**  
*Governor-General.*

13th May, 2010.

**ANTIGUA AND BARBUDA**

**THE MEDICAL BENEFITS ACT, 2010**

**No. 4 of 2010**

**ANACT** to repeal the Medical Benefits Act, Cap. 271, to establish the Medical Benefits Board and for incidental and connected purposes.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**1. Short title**

This Act may be cited as the Medical Benefits Act, 2010 and shall come into operation on a date that the Minister may, by Notice published in the *Gazette*, appoint.

**2. Interpretation**

In this Act—

“benefit” means any benefit which is payable under this Act;

“bank” means a financial institution whose operations include the acceptance of deposits subject to the transfer of funds by the depositor by cheque;

“Board” means the Board established by section 3;

“Chairman” means the Chairman of the Board;

- “Chief Executive Officer” means the Chief Executive Officer appointed under section 14;
- “Deputy Chairman” means the Deputy Chairman of the Board;
- “Director” means a person duly appointed as a member of the Board;
- “employer” includes a person to whom another is apprenticed;
- “employed person” means a person in receipt of earnings in respect of employment and includes a self-employed person;
- “employment” includes any trade, business, profession, office, vocation or apprenticeship;
- “Deputy Chief Executive Officer” means the Deputy Chief Executive Officer appointed under section 15;
- “former Act” means the Medical Benefits Act Cap. 271 of the Laws of Antigua and Barbuda as amended;
- “medical benefits” means in-patient and out-patient medical care and surgical care certified by a doctor registered under the Medical Practitioners Act, 2009 No. 3 of 2009;
- “Minister” means the Minister responsible for Health;
- “registered person” means a person registered under this Act;
- “Regulations” means Regulations made by the Minister under this Act;
- “rules” means rules made by the Board under this Act or the Regulations;
- “Scheme” means the scheme established under section 39;
- “Secretary” means the Secretary of the Board; and
- “standing orders” means standing orders made by the Board under section 5(8).

## **PART I**

### **3. Establishment and incorporation of Board**

(1) There is hereby established a Board to be called the Medical Benefits Board in which the funds of the Scheme established under this Act shall be vested and which shall be responsible for administering the Scheme.

(2) The Board shall be a body corporate and shall consist of eleven members designated as Directors, who shall be appointed by the Minister, as follows—

- (a) three members nominated by the Cabinet one of whom shall be the Chairman, who shall be selected by the Cabinet;
- (b) two members nominated by the associations, which in the opinion of the Minister are most representative of the Business sector in Antigua and Barbuda;

- (c) three members nominated by the associations, which in the opinion of the Minister are most representative of Labour; and
  - (d) three representatives from Health, to include one from the Medical, one from the Nurses and one from the Pharmacists Associations.
- (3) The Deputy Chairman shall be elected by the Board from among its members at the first meeting of the Board.
- (4) Appointment to the office of Director shall be for three years which is considered to be one term and subject to subsection (5) a Director is eligible for reappointment.
- (5) A Director may serve for two consecutive terms but at least one term shall elapse before that Director is eligible for further appointment and in any case a Director shall not serve for more than two consecutive terms at any time.
- (6) By letter addressed to the Minister, the Chairman may at any time give notice of his intention to resign his office and in that letter, indicate the date upon which his resignation will take effect.
- (7) By letter addressed to the Chairman, the Deputy Chairman or a Director may at any time give notice of his intention to resign his office and in that letter, indicate the date upon which his resignation will take effect
- (8) Upon receipt of a letter of resignation under section 3(7), the Chairman shall forthwith cause it to be forwarded to the Minister.
- (9) The Minister shall revoke the appointment of a Director—
- (a) if he absents himself from three consecutive meetings of the Board except on leave granted by the Board;
  - (b) if he, in the opinion of the Minister, is guilty of misconduct that could adversely affect the decisions, functions or standing of the Board;
  - (c) if he becomes bankrupt;
  - (d) on the representation to the Minister by the associations nominating the Director that the Director is no longer a nominee of that association.
- (10) The Minister shall by Notice publish in the *Gazette* the names of persons appointed to the position of Director and the names of persons who cease to hold the position of Director.

#### **4. Custody, use of seal and service of documents**

- (1) The Seal of the Board shall be kept in the custody of the Chairman, and shall be affixed to

instruments pursuant to standing orders or to a resolution of the Board by the Secretary in the presence of—

- (a) the Chairman and another Director; or
- (b) the Deputy Chairman and another Director.

(2) Where the Seal is affixed to an instrument—

- (a) in the presence of the Chairman and a Director the instrument shall be signed by the Chairman and that Director and countersigned by the Secretary;
- (b) in the presence of the Deputy Chairman and a Director the instrument shall be signed by the Deputy Chairman and that Director and countersigned by the Secretary.

(3) All documents, other than those required by law to be under seal made by, and all decisions of, the Board, shall be signed by the Chairman or the Deputy Chairman.

(4) Service upon the Board of any notice, order, or other document shall be effected by delivering the same or by sending it by registered post addressed to the Secretary at the office of the Board.

### **Procedure**

#### **5. Procedure and meetings of the Board**

(1) The Board shall meet at least once a month and at any other times as may be necessary or expedient for the transaction of business, and meetings shall be held at the places and times and on the days determined by the Board.

(2) The Chairman may at any time convene a special meeting of the Board and shall convene a special meeting within seven days of the receipt of a requisition for that purpose addressed to him by any three Directors, but two of these Directors should not represent the same association.

(3) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Board.

(4) A quorum shall consist of six Directors and shall include the Chairman, or in his absence, the Deputy Chairman and five other Directors comprising at least one of the Directors appointed under each of the paragraphs contained in subsection 3(2).

(5) The Chairman shall, in addition to his ordinary vote, have a casting vote.

(6) Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Board and signed by the Chairman, or the Deputy Chairman and the Secretary at a subsequent meeting and copies of the minutes when confirmed shall be forwarded to the Minister forthwith.

(7) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board, but no co-opted person shall have the right to vote at any time.

(8) The Board may by standing orders regulate its own proceedings and procedures.

#### **6. Appointment of committees**

(1) The Board may, from time to time, appoint committees to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

(2) A committee appointed by the Board shall consist of at least two Directors together with any other persons, whose assistance or advice the Board may desire.

(3) The Board may by resolution declare the stipends to be paid to members of a committee who are not Directors and the stipends shall be payable out of the funds of the Board.

(4) A resolution made pursuant to sub-section (3) is subject to the approval of the Minister which must be obtained prior to the release of funds to pay the stipends.

(5) The Board may by resolution reject the report of any committee or adopt it whether wholly or with such modifications, additions or adaptations as the Board may think fit.

#### **7. Power of Board to delegate**

Subject to the approval of the Minister, the Board may delegate to a Director or a committee appointed under section 6(1), power and authority to exercise on its behalf any of the Board's duties, functions or powers with the exception of the administration of the Scheme but that delegation shall be revocable at the will of the Board and shall not preclude the Board from exercising those duties, functions or powers.

### **General Functions, Powers and Duties of the Board**

#### **8. Duty and power of the Board**

(1) It is the duty of the Board to administer the Scheme and to exercise the functions, powers and duties conferred upon it by this Act.

(2) In the performance of its functions and duties and in the exercise of its powers the Board may do all lawful things that are necessary or expedient to secure the due execution of the purposes of this Act.

(3) For the efficient and proper performance of its functions and duties, the Board may establish offices throughout Antigua and Barbuda and is hereby authorised to collaborate with statutory and other bodies established for the purpose of providing health care in Antigua and Barbuda.

#### **9. Policy directions**

In the performance of its functions and the exercise of its powers and duties under this or any other written law, the Board shall act in accordance with any written policy directive of the Cabinet as communicated through the Minister but the Board shall not be subject to the control or direction of any other person or authority.

### **Miscellaneous**

#### **10. Remuneration of Directors**

The Chairman, Deputy Chairman and the Directors shall be paid fees as approved by the Cabinet.

#### **11. Declaration of interest**

(1) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Board or any other matter whatsoever in which the Board is concerned, shall declare fully, the nature of his interest in writing, at the first meeting of the Board at which it is practicable for him to do so and that declaration shall be appended to and recorded in the minutes of the meeting.

(2) A Director shall not take part in any deliberation or decision of the Board with respect to any contract or proposed contract with the Board or any other matter with which the Board is concerned, in which he has any interest, whether directly or indirectly.

(3) For the purposes of this section, a Director shall be treated as having an indirect interest in a contract or proposed contract with the Board or in any other matter with which the Board is concerned, if he or any member of his immediate family is a director, shareholder, partner or employee of a company or other association of persons that is a party to that contract or proposed contract with the Board or has a interest in any other matter with which the Board is concerned.

(4) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine of five thousand dollars.

#### **12. Execution of documents**

(1) Any document requiring to be executed by the Board shall be deemed to be duly executed—

- (a) if signed in accordance with section 4(3); or
- (b) if signed, whether in Antigua and Barbuda or elsewhere, by a person or persons authorised by resolution of the Board to sign, but in that case an extract of the resolution, certified by the Chairman or Deputy Chairman shall be attached to and form part of the document.

(2) A cheque, bill of exchange or order for the payment of money required to be executed by the Board shall be deemed to be duly executed if signed by a person or persons authorised by this Act or by resolution of the Board.

### **13. Financial year and annual report of Board**

(1) The financial year of the Board shall be the twelve month period ending on December 31st of each year.

(2) Within four months of the end of each financial year, the Board shall make a Report of its administration of the Scheme in respect of that financial year to the Minister, who shall lay it before the Parliament at its next sitting.

## **Personnel**

### **14. Appointment of the Chief Executive Officer**

(1) The Board shall, with the approval of the Cabinet, appoint on the terms and conditions as it considers appropriate, a fit and proper person to be Chief Executive Officer of the Scheme, who shall be the chief administrative officer and who shall, subject to the provisions of this Act and the general directions of the Board, be responsible to the Board for the administration of the Scheme and the management of the staff of the Board and for carrying out the policy and decisions of the Board.

(2) The Chief Executive Officer may, in relation to any matter within his area of responsibility under this Act, in writing, delegate any of his functions under this Act, except this power of delegation, to an employee of the Board.

(3) Every delegation under this section shall be notified to the Board, at its meeting following the delegation and shall be revocable at any time but shall not prevent the performance by the Chief Executive Officer of any delegated function.

### **15. Appointment of Deputy Chief Executive Officer**

(1) The Board shall, with the approval of the Cabinet, appoint on the terms and conditions as it considers appropriate, a fit and proper person to be the Deputy Chief Executive Officer of the Scheme.

(2) The Deputy Chief Executive Officer shall report to and assist the Chief Executive Officer in the performance of his duties.

(3) If the position of Chief Executive Officer becomes vacant for any reason the Deputy Chief Executive Officer shall have the responsibilities and perform the functions of the Chief Executive Officer for the duration of that vacancy.

(4) Where the Deputy Chief Executive Officer, pursuant to sub-section (3), exercises any function of the Chief Executive Officer, his appointment as Deputy Chief Executive Officer shall be sufficient evidence of his authority to do so and no person shall be concerned with or inquire whether an occasion has arisen requiring or authorising him to act as Chief Executive Officer.

#### **16. Appointment of a Chief Financial Officer**

(1) The Board shall, with the approval of the Cabinet, appoint on the terms and conditions as it considers appropriate, a Chief Financial Officer who shall be a fit and proper person possessing the qualifications stipulated by the Board.

(2) The Chief Financial Officer shall perform the duties that may be assigned to him by the Chief Executive Officer and the Board.

#### **17. Appointment of Secretary to the Board**

(1) The Board shall appoint, on terms and conditions as it considers appropriate, a fit and proper person to be Secretary to the Board.

(2) The Secretary shall perform the duties that may be assigned from time to time by the Board and the Chief Executive Officer.

#### **18. Appointment and employment**

(1) The Board shall, with the approval of the Cabinet, appoint, on the terms and conditions as it considers appropriate, any other officers, as may be necessary and proper for the due and efficient administration of the Scheme.

(2) The Board may employ, on the terms and conditions as it considers appropriate, any employees, as may be necessary and proper for the due and efficient administration of the Scheme.

#### **19. Termination of the appointment of Officers**

(1) If, for any reason, any Officer appointed by the Board is unable to exercise the functions of his Office or if, in the opinion of the Board, any Officer has committed an act that is considered to be

misconduct in his Office, then the members of the Board may terminate the Officer and shall advise the Cabinet of the termination.

(2) An Officer may resign his Office by giving the Board three months notice in writing, or any shorter notice as the Board may in its discretion agree to accept, of his intention to resign, and upon the expiration of that period he shall be considered to have resigned his office.

## **20. Transfer of Officers from the Public Service**

(1) An officer in the public service may be transferred to the service of the Board, and upon transfer shall cease to be a member of the public service, shall become a member of the pension scheme referred to in section 22, and, if the officer's transfer becomes effective before the establishment of that scheme, he shall become a member within one year of its establishment; and an officer in the service of the Board may be transferred to the public service.

(2) A transfer described in subsection (1) shall be on terms acceptable to the Public Service Commission, the Board and the officer concerned, and the pension or superannuation rights accruing to the officer at the time of his transfer shall be preserved until his retirement when they become due and payable.

## **21. Transfer on secondment**

(1) Subject to sub-section (2), an officer in the public service may, be transferred on secondment to the service of the Board or from the service of the Board to the public service but that transfer shall be on terms acceptable to the Public Service Commission and the Board and the pension or superannuation rights accruing to the officer at the time of his transfer shall be preserved in accordance with sub-section (2) or in the manner provided by Regulations made by the Minister.

(2) Where a transfer on secondment contemplated by sub-section (1) is effected, the Cabinet or the Board as the case may require, shall make arrangements necessary to preserve the rights of the officer so transferred to any pension, gratuity or other allowance for which he would have been eligible had he remained in the service of the Government or of the Board, as the case may be.

(3) A period of transfer on secondment shall not in any case exceed ten years.

## **22. Establishment of a Pension Scheme**

The Board may, by Rules confirmed by the Minister in writing, provide for the establishment and maintenance of a pension scheme for the benefit of the officers and employees of the Board and officers transferred to it on secondment.

### **23. Content of Pension Scheme**

Without prejudice to the generality of section 22, the pension scheme may make provision for the Board to—

- (a) grant gratuities, pensions or superannuation allowances to employees and to the widows, widowers or dependents of the employees;
- (b) establish contributory superannuation schemes and establish and contribute to superannuation funds for the benefit of their employees;
- (c) enter into and carry into effect agreements with any insurance company or other association or company for securing to any employee, widow, widower or dependent the gratuities, pensions or allowances that are by this section, authorised to be granted;
- (d) give donations or subscriptions to charitable institutions, sick funds, benevolent funds and other objects calculated to benefit their employees.

### **24. Responsibility of Officers**

(1) All officers charged with the receipt, accounting for, or disbursement of moneys or with the custody or delivery of stores, or other property belonging to the Board, shall be individually responsible for the due and efficient discharge of their respective duties and for the exercise of proper supervision of the accounts kept or controlled by them and of all property entrusted to their care, and for the due observance of all rules and Regulations and of all orders and instructions prescribed for their guidance.

(2) The Board may require any officer or servant in its service to give security to its satisfaction for the due performance of his duties.

## **Funds and Resources**

### **25. Funds of the Board**

The funds and resources of the Board shall consist of—

- (a) amounts appropriated therefor by Parliament;
- (b) sums borrowed by the Board for the purpose of meeting any of its obligations or discharging any of its functions; and
- (c) all other sums or property that may in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

**26. Applications of Revenue**

(1) The revenue of the Scheme for any financial year shall be applied in defraying the following commitments—

- (a) the payment of benefits;
- (b) the salaries, fees, stipends, remuneration and gratuities of the officers, and employees, and technical and other advisers, of the Board including payments for the maintenance of the Pension Scheme established under section 22;
- (c) programmes and activities geared to promote and maintain good health; and
- (d) any other expenditure authorised by the Board and properly chargeable to the revenue account;

(2) The commitments described at (a), (c) and (d) shall be subject to actuarial recommendation in accordance with section 60.

(3) The Minister, on the advice of the Board, may make Regulations for the apportionment and allocation of contributions in respect of the various commitments of the Board.

**27. Authorised Investments**

(1) Money standing to the credit of the Scheme, not immediately required to be expended in the meeting of any obligations or commitments shall be invested from time to time in the proportions that the Board may recommend to the Cabinet, having regard to the contingencies in relation to which benefits are provided under section 49, in the securities set out in the First Schedule.

(2) Investments made under this Act are subject to the approval of the Cabinet.

(3) The Minister of Finance may from time to time by Order amend the First Schedule.

**28. Investment Committee and Investments**

(1) The Board shall appoint an Investment Committee consisting of—

- (a) the Chairman of the Board, as Chairman;
- (b) one person, qualified or experienced in business or finance, nominated by the Minister;
- (c) two persons, qualified or experienced in business or finance, nominated by the Minister of Finance;

- (d) one person nominated by the Directors who are nominees of the Business sector in Antigua and Barbuda;
  - (e) one person nominated by the Directors who are nominees of the Labour sector in Antigua and Barbuda;
  - (f) the Chief Executive Officer who shall be an *ex officio* member; and
  - (g) the Chief Financial Officer who shall be an *ex officio* non-voting member.
- (2) The persons appointed under sub-section (1)(b), (c), (d) and (e) may or may not be Directors.
- (3) The Investment Committee shall, subject to section 27, formulate an Investment Policy, for implementation by the Board.
- (4) The Board, through the Minister shall obtain the approval of the Cabinet, prior to its adoption and implementation of the Investment Policy under subsection (3).

### **29. Accounting of the Board**

- (1) All decisions, orders, rules and advice to the Minister regarding Regulations relating to the financial operations of the Board shall be made by resolution of the Board at a meeting thereof and shall be recorded in the minutes of the Board.
- (2) The accounts of the Board shall be audited annually by auditors appointed by the Board with the approval of the Minister of Finance.
- (3) As soon as the accounts of the Board have been audited, the Board shall forward to the Minister and the Minister of Finance, a copy of the audited statements of accounts and any report thereon made by the auditors.
- (4) The Minister shall cause a copy of the audited statements of accounts to be laid before Parliament, in accordance with Part XI of the Finance Administration Act, 2006 (No. 23 of 2006) and may publish the audited statements of accounts and the annual report in the *Gazette*.

### **30. Cash deposits and payments**

- (1) All moneys of the Board under this Act shall as far as possible be deposited daily at a bank approved by the Board, except the sums that the Chief Financial Officer may be authorised by rules of the Board to retain to meet petty disbursements for immediate payment.
- (2) All payments out of the funds of the Board, except petty disbursements, not exceeding the sums fixed by the rules, shall be made by the Chief Financial Officer or on his behalf, by any other officer appointed by the Board, in accordance with the rules.

(3) Cheques against a banking account required to be kept or withdrawals from a savings bank account and bills of exchange or orders for payments of money shall be signed by the Chief Financial Officer or on his behalf by an officer appointed by the Board and countersigned by the Chairman of the Board or any member of the Board or any officer of the Board appointed by resolution of the Board for this purpose; and a copy of that resolution shall be certified by the Chairman and forwarded to the bank or banks concerned.

### **31. Financial Rules and Procedures**

For the purpose of regulating and controlling its financial procedures, the Board may make rules in respect of the following matters—

- (a) the manner in which, and the officers by whom payments are to be provided;
- (b) the bank into which the monies of the Board are to be paid, the title of any account with that bank, and the transfer of funds from one account to another;
- (c) the appointment of a Director or an officer of the Board to countersign cheques on behalf of the Chairman or in the absence of the Chairman;
- (d) the sum to be retained by the Chief Financial Officer to meet petty disbursements for immediate payments and the maximum sum that may be so disbursed for any one payment;
- (e) the method to be adopted in making payments out of the funds of the Board; and
- (f) generally, as to all matters necessary for the proper keeping and control of the finances of the Board.

## **PART II**

### **Registration**

#### **32. Registration of persons**

Every employer, every employed person and every self employed person in Antigua and Barbuda shall be registered for the purposes of the Scheme.

#### **33. Employers obligation to register**

(1) Every employer shall ensure that all persons employed by him are duly registered under the Medical Benefits Scheme.

(2) Where special directions are issued by the Board regarding registration under this Act, an employer to whom those special directions apply shall be registered in accordance with those directions.

### **34. Invigilators**

(1) An employee appointed as an Invigilator for the purposes of this Act by the Board and authorised by the Chief Executive Officer in writing (hereinafter referred to as an “Invigilator”) may for any purpose related to the administration of this Act, require an employer or a person authorised by an employer—

- (a) to provide information with respect to employed persons in the employment of that employer;
- (b) to permit him to inspect any record of employed persons or unpaid apprentices.

(2) The Chief Executive Officer and the Deputy Chief Executive Officer shall have the powers and may perform the functions of an Invigilator.

### **35. Powers of inspection and entry**

(1) An invigilator, in performing his functions under section 34, may—

- (a) examine books, records, documents or things relating to employed persons;
- (b) make copies of books, records or documents relating to employed persons and retain them at the office of the Medical Benefits Scheme until they are produced in any proceedings if, during the course of an examination, it appears to the invigilator that there has been a violation of this Act;
- (c) require the employer or any person in the employment of that employer to give him all reasonable assistance with and to answer all questions relating to the examination.

(2) An invigilator entering any premises pursuant to this section may take with him any other persons, approved by the Chief Executive Officer that he may consider to be necessary to assist in carrying out any of the purposes of sub-section (1).

(3) If an invigilator has reasonable cause to believe that an offence under this Act has been committed and by virtue of that belief, has cause to search any premises for books, records, documents or things or to make copies of any books, records, documents or things, relating to employed persons or to seize and take away any books, records, documents or things, relating to employed persons, which may afford evidence as to the violation of any provision of this Act, the invigilator may apply to a Magistrate under subsection (4) for a warrant in the form prescribed in the Third Schedule.

(4) A Magistrate may grant a warrant in the form prescribed in the Fourth Schedule to search any premises, for books, records, documents or things and to make copies of any books, records, documents or things or if necessary, to seize and take away those books, records, documents or things and retain them at the office of the Medical Benefits Scheme until they are produced in any proceedings, where the Magistrate is satisfied, on evidence upon oath, that there is reasonable cause to believe that—

- (a) an offence under this Act has been committed; and
- (b) any books, records, documents or things with respect to that offence are in those premises.

(5) A Magistrate granting a warrant under sub-section (4) may make an Order permitting an employer reasonable access to the books, records, documents or things seized if they are necessary for the continued operations of the employer's business.

(6) A warrant may be granted at any time but may be not be executed on a Sunday.

(7) A warrant granted under subsection (4) may permit any other person approved by the Chief Executive Officer to assist an invigilator executing the warrant under this Part.

(8) Within ten days from the date upon which a warrant under this section was executed, the person to whom the warrant was granted shall return to a Magistrate and submit a written report containing—

- (a) the date and time at which the warrant was executed; and
- (b) a detailed list of—
  - (i) the books, records or documents copied; or
  - (ii) the books, records, documents or things seized.

(9) For the purposes of sub-section (8) a person is not required to appear before the same Magistrate who granted the warrant in respect of which the report is being made.

(10) Where any books, records, documents or things are seized pursuant to a warrant granted under this section, the Chief Executive Officer shall issue a receipt for those books, records, documents or things seized.

(11) A person who hinders or molests or interferes with an invigilator or a person doing anything that he is authorised to do under this section, or who, without good reason, prevents or attempts to prevent a person from doing anything authorised by this section, or a person who, unless he is unable for good reason, fails or refuses to do anything that he is required to do pursuant to this section, commits an offence and is liable on summary conviction to a fine of three thousand dollars or to imprisonment for one year or to both.

**36. Penalty for false information under this part**

A person who furnishes particulars for the purposes of registration and makes any statement which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making of any statement, dishonestly or otherwise, misleads or attempts to mislead any other person commits an offence and is liable on summary conviction to a fine of three thousand dollars and to imprisonment for one year.

**37. Penalty**

A person who contravenes the provisions of this Part, except where the provision by or under which the offence is created provides the penalty to be imposed commits an offence and is liable on summary conviction to a fine—

- (a) in the case of an employer, of four thousand dollars, and in the case of a continuing offence, to a further fine of one hundred dollars for each day on which the offence continues after conviction;
- (b) in any other case, of five hundred dollars and in the case of a continuing offence to a further fine of twenty dollars for each day on which the offence continues after conviction.

**38. Regulations by Minister**

The Minister may make Regulations for the purpose of giving effect to this Part and in particular for prescribing anything required or permitted by this Part to be prescribed.

**PART III**

**Medical Benefits Provisions**

**Contributions**

**39. Scheme of Medical Benefits**

There is hereby established a Medical Benefits Scheme, under which arrangements shall be made for contributions by employers, employed persons, self-employed persons and any other class of persons under the circumstances and subject to the conditions provided by this Act or Regulations.

**40. Rates of contributions**

(1) Contributions to the Scheme shall be made in accordance with the Second Schedule by every employed person, every self-employed person and every employer in respect of every person employed by him.

(2) A contribution as prescribed in the Second Schedule, shall be paid wholly by an employer for a registered person who earns less than one hundred dollars weekly or four hundred dollars monthly.

(3) In this Part “employer” includes a self-employed person where the context so permits and a self-employed person is a wage earner and an employer of himself.

(4) The rate of contributions for particular classes of self-employed persons may be prescribed by regulation.

#### **41. Eligibility for benefits**

All persons registered under this Act and the classes of lawful residents of Antigua and Barbuda that are specified by the Board by Notice published in the *Gazette*, from time to time, shall be eligible for the benefits with respect to expenses arising out of ill health prescribed by the Board under this Act.

#### **42. Manner of registration**

Registration for the benefits provided under this Act shall be done in the manner prescribed.

#### **43. Payment of contributions**

(1) Contributions payable in respect of an employed person who has attained the age of sixteen years, but has not yet attained the age of sixty years shall be paid partly by that employed person and partly by his employer.

(2) Payment of a contribution in respect of an employed person, referred to in sub-section (1) shall be effected by his employer who shall deduct from the earnings of the employed person at the time that the payment of the earnings is made, a sum equal in amount to the part of the contribution payable by the employed person.

(3) An employer shall be solely responsible for paying contributions into the Scheme on behalf of an employed person.

#### **44. Discharge of liability**

Where an employer in accordance with section 43(2) deducts from the earnings of any person in his employment, the employer shall as against that person be acquitted and discharged of so much of his earnings as is represented by the deduction as if that sum had actually been paid by that person.

**45. Employers' failure to pay contributions**

(1) An employer who fails or neglects to pay or effect payment of any contribution in respect of any person in his employment who is required to be insured under this Act commits an offence and is liable on summary conviction to a fine of four thousand dollars and two (2) years imprisonment and in the case of a continuing offence shall be liable in respect of each person for whom he neglected or failed to pay or effect payment of contribution, a further fine of one hundred dollars a day for each day that the offence continues after conviction.

(2) The term employer shall include all persons who are or were directors of a company or body corporate that is or was an employer and those persons shall be liable in like manner as an employer under sub-section (1) unless it is proved by that person that he was not aware of any failure or neglect.

**46. Un-employment and voluntary registration**

(1) A person who is not an employed person is not liable to pay contributions under this Act and may not receive benefits under this Act unless he is resident in Antigua and Barbuda and makes an application for and is issued with a certificate of voluntary registration.

(2) A certificate of voluntary registration is only valid for the period of time that the person to whom the certificate is issued is un-employed.

(3) A person who has been issued with a certificate of voluntary registration and is resident in Antigua and Barbuda is entitled to receive benefits pursuant to this Act.

(4) If a person who is registered under this Act and entitled to receive benefits pursuant to this Act becomes un-employed, he is entitled to continue to receive benefits for the three months immediately following the termination of his employment unless he has applied for and been issued with a certificate of voluntary registration.

(5) If a person whose employment was terminated and who was granted a certificate of voluntary registration regains employment after his employment was terminated, he shall return the certificate of voluntary registration to the Board and resume the payment of contributions in accordance with the Act.

(6) A person who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine of two thousand dollars.

(7) Notwithstanding subsection (3), a person issued with a certificate of voluntary registration may be required to pay, within the time, in the manner and subject to conditions determined by the Board, a contribution at a prescribed rate.

(8) A default in paying the contribution at the rates and within the time prescribed by the Board may result in the cancellation of a certificate of voluntary registration and the benefits of the person to whom the certificate was issued.

#### **47. Regulations in respect of contributions**

The Minister, on the advice of the Board, may make Regulations relating to contributions generally and in particular may by Regulation—

- (a) fix the rates for voluntary contributions and the basis upon which the rates are to be paid;
- (b) fix the rates for any penalties for late payment;
- (c) prescribe the days on which and the manner in which Contributions shall be paid and collected;
- (d) provide for the exemption of employed persons from liability to pay contributions in certain circumstances;
- (e) provide for contributions to be credited to employed persons for periods for which they were exempted from liability to pay contributions;
- (f) for the purposes of a right to any benefit, provide that contributions paid after the due dates have properly been paid but not where the failure to pay is shown to have been with the consent or connivance of or attributable to any negligence on the part of the employed person;
- (g) provide for the refund of contributions paid in error;
- (h) prescribe the conditions under which contributions paid at the wrong rate or on the wrong date may be treated as paid on account of contributions properly payable;
- (i) prescribe penalties for offences against the Regulations.

#### **48. Multiple employment**

The Minister, on the advice of the Board, may make Regulations to provide for the treatment of persons who are employed by more than one employer or whose earnings are paid jointly by more than one person.

## **Benefits**

### **49. Benefits**

(1) Medical benefits shall be given to or in respect of persons eligible for benefits under section 41 and the benefit may be in the nature of—

- (a) the supply of prescribed drugs and medicines by the Board under the Scheme;
- (b) the payment of medical treatment in Antigua and Barbuda for the diseases listed in the Regulations by a medical practitioner registered with the Medical Board;
- (c) the payment towards medical treatment outside of Antigua and Barbuda as determined by the Board;
- (d) the payment for medical services as determined by the Board at an institution registered in Antigua and Barbuda;
- (e) defraying the cost of any of the matters mentioned in sub-clauses (a), (b), (c) or (d) hereof.

(2) Medical benefits, shall at rates fixed in accordance with section (4), be given to eligible persons who incur expenses on account of illness.

(3) The Minister, on the advice of the Board, may make Regulations relating generally to the payment of medical expenses and in particular may make Regulations with respect to the prescription of drugs and the registration under the Scheme of medical practitioners and may prescribe the conditions subject to which and the period in respect of which the expenses shall be paid.

(4) The Minister after consultation with the Board shall by Order, fix the rates of payment and prescribe the maximum payment of medical expenses and subsidies.

### **50. Non-assignment of benefits**

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

### **51. Benefit lost by employer's default**

(1) Where in the determination of any claim for benefit it is found that the benefit is lost by reason only that an employer has failed or neglected to pay any contribution in respect of a registered

person or to comply with any requirement relating to the payment or collection of contributions, then where the claim is by the registered person, the Board shall pay to the registered person a sum equal in amount to the benefit so lost and thereupon that sum shall become due to the Board by the employer and shall be recoverable in accordance with section 58.

(2) Proceedings under this section shall be brought—

- (a) within six years after the date on which benefit would, but for the employer's failure or neglect have been payable; and
- (b) without prejudice to the institution of proceedings under any other provision of this Act or the Regulations in respect of the employer's failure or neglect.

## **52. Regulations in respect of benefits**

The Minister, on the advice of the Board, may make Regulations relating to benefits and in particular may by Regulation prescribe—

- (a) the circumstances in which the rates of benefit may be varied;
- (b) the sums payable in lump sum payments by way of grants;
- (c) the conditions subject to which and the periods for which any benefit or description of benefit may be granted;
- (d) the time within which, and the manner in which the several benefits and descriptions of benefits shall be claimed and paid and the information and evidence to be furnished by beneficiaries when applying for payment;
- (e) the circumstances in which and the time for which a person shall be disqualified for or disentitled to the receipt of benefit or a benefit may be forfeited or suspended, including the prevention of the receipt of two benefits for the same period and the adjustment of benefits in the case of any special circumstances;
- (f) penalties for offences against the Regulations;
- (g) the list of diseases covered under the Scheme; and
- (h) any other matters as may be necessary for the proper administration of benefits, including the obligations of persons claiming any benefit and of beneficiaries and employers.

## **53. Amendments to rates**

The Second Schedule may be amended by Order of the Minister on the advice of the Board, but only after actuarial review pursuant to section 60.

## **PART IV**

### **Miscellaneous**

#### **54. Determination of claims by the Board**

All claims and questions arising under or in connection with this Act shall be determined by the Board.

#### **55. Offences**

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

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

commits an offence and except as is otherwise provided under this Act, is liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of two years.

(2) A person who contravenes any provision of this Act, except where the provision by or under which the offence is created provides the penalty to be imposed commits an offence and is liable on summary conviction of a fine—

- (a) in the case of an employer, of four thousand dollars and in the case of a continuing offence to a further fine of one hundred dollars or 10% of any debt owed to the Scheme, whichever is higher, for each day that the offence continues after conviction;
- (b) in any other case, of five hundred dollars and in the case of a continuing offence a further fine of twenty dollars for each day that the offence continues after conviction.

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

(4) Nothing in this section shall be construed as preventing the Chief Executive Officer from recovering any sums due to the Board by civil proceedings.

#### **56. Institution of proceedings**

(1) Notwithstanding any other written law prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act or the Regulations may be commenced

within two years from the date of the commission of the offence or within three months from the date on which knowledge of the commission of the offence first came to the Chief Executive Officer, whichever period last expires.

(2) For the purposes of sub-section (2) a certificate signed by the Chief Executive Officer as to the date on which the commission of an offence first came to his knowledge shall be conclusive evidence thereof unless the contrary can be proved.

#### **57. Recovery of contributions and costs on prosecution**

(1) In any case where a person has been found guilty of the offence of failing to make contributions to the Scheme under this Act, the court shall order that person to pay to the Board the costs incurred by the Board to recover those contributions.

(2) Any sum ordered to be paid to the Board under this section shall be recoverable as a civil debt.

(3) Any sum paid by an employer pursuant to this section shall be treated as a payment in satisfaction of the unpaid contribution and the employee's portion of such contribution shall not be recoverable by the employer from the employee.

(4) If an employer, being a body corporate, fails to pay to the Board any sum which that employer has been ordered to pay pursuant to this section, that sum or such part thereof as remains unpaid, shall be a debt due to the Board jointly and severally from the directors of the body corporate who were the directors at the time that the sum was ordered to be paid.

#### **58. Civil proceedings to recover sums due to the Board**

Proceedings for the summary recovery of sums due to the Board under this Act may, notwithstanding anything in any written law to the contrary, be brought at any time within six years from the date that the sums became due to the Board.

#### **59. Regulations respecting registered persons outside Antigua and Barbuda**

Where a registered person is throughout any contribution period outside Antigua and Barbuda and is not in that period an employed person, he may apply for a certificate of voluntary registration under section 46 for that period.

#### **60. Actuarial review**

(1) For the purposes of assessing the balance between the rates of contributions and the rates of benefits, an actuarial review of the system of medical benefits shall be undertaken every three years

or at shorter intervals as the Board may determine and a report of every actuarial review so undertaken shall be forwarded to the Minister.

(2) In addition to the actuarial review referred to in sub-section (1) the Minister may require an actuarial review to be undertaken at any time.

(3) Reports of every actuarial review shall be laid before Parliament by the Minister.

#### **61. Orders and Regulations subject to negative resolutions**

An Order or Regulations made under the Act by the Minister shall be subject to a negative resolution of the House of Representatives and may prescribe in respect of any contravention of the Regulations, a penalty of two thousand dollars or six months imprisonment or both.

### **Transitional Provisions**

#### **62. Continuation of Medical Benefits Board of Control**

(1) The Medical Benefits Board of Control established by section 5 of the former Act is hereby continued as the Medical Benefits Board under and subject to the terms of this Act and shall bear the name "The Medical Benefits Board" and shall continue to be a body corporate.

(2) All the members of the Medical Benefits Board of Control appointed under the former Act shall continue to be members of the Board under this Act until the Board is constituted under this Act in accordance with section 3(2).

#### **63. Continuation of Superintendent as Chief Executive Officer**

(1) The Superintendent appointed under the former Act shall continue as the Chief Executive Officer as if appointed under the provisions of this Act and shall be known as and carry the designation of Chief Executive Officer under this Act.

(2) The employment of all other officers and employees appointed by the Board under the former Act shall continue under this Act without interruption as if the same were done under this Act.

#### **64. Vesting of assets and liabilities**

(1) All the funds, assets, liabilities and obligations of the Medical Benefits Board of Control established under the former Act are hereby transferred to and assumed by the Board as if the same were fully vested or incurred by the Board.

(2) All suits, actions and claims arising under the former Act may be taken and continued against the Board as if commenced and arising hereunder.

#### **65. Saving**

(1) Nothing in this Act shall affect any right, entitlement, obligation or liability acquired, accrued or incurred under the former Act.

(2) Nothing in this Act shall affect any benefit in respect of a disease listed under the former Act until Regulations are made under paragraph 52 (g).

#### **66. Repeal**

The Medical Benefits Act Cap. 271 is repealed.

### **FIRST SCHEDULE**

*(Section 27)*

#### **Securities in which the funds of the**

#### **Scheme may be invested**

The Board may invest in investment Grade securities of Governments, reputable Financial Institutions and recognised stock exchanges subject to the appropriate due diligence investigations in the following—

- (a) bonds, debentures, stocks, or other evidences of indebtedness of or guaranteed by the Government;
- (b) bonds or debentures of a corporation that are secured by the assignment to a trust corporation in Antigua and Barbuda of an annual payment that the Government has agreed to make, where the annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal year in which the annual the annual payment is made;
- (c) bonds, debentures or other evidences of indebtedness of a secured corporation incorporated in Antigua and Barbuda that are fully secured by statutory charge upon its real estate or plant and equipment in Antigua and Barbuda, if interest in full has been paid regularly for a period of at least five years immediately preceding, upon its securities of that class then outstanding;

- (d) bonds, debentures and other securities guaranteed by the International Bank for Reconstruction and Development established by the Agreement for the International Bank for Reconstruction and Development that are graded not less than BBB;
- (e) bonds, debentures or other evidences of indebtedness of or guaranteed by a corporation carrying on business in Antigua and Barbuda and incorporated in Antigua and Barbuda or in any other country approved by the Minister of Finance;
- (f) preferred shares of a corporation as referred to in (e);
- (g) fully paid ordinary shares of any corporation as referred to in (e); but investment in ordinary shares shall not, without the approval of the Minister of Finance, exceed twenty percent (20%) of the total funds of the Board;
- (h) mortgages and other titles for repayment of loans secured by any of the securities outlined in paragraphs (a) to (g) above;
- (i) Freehold estates or leaseholds of an unexpired term of not less than thirty (30) years in Antigua and Barbuda;
- (j) cash deposit in—(1) any Bank in Antigua and Barbuda
  - (i) any Bank in Antigua and Barbuda;
  - (ii) any trust or finance company in Antigua and Barbuda which is the subsidiary of any Bank in Antigua and Barbuda.
  - (iii) any other trust or finance company or building society, approved by the Minister of Finance.

## SECOND SCHEDULE

*(Sections 40 & 53)*

### Rates of Contributions

	<b>Employee</b>	<b>Employer</b>
1.	Employed Persons – 3.5% of Wages;	3.5% of Wages;
2.	Self Employed Persons – 5% of salaried class as determined by Board;	
3.	Voluntary Contributions – a percentage of a notional salary to be fixed by the Board; and	

4. A registered person earning less than one hundred dollars weekly or four hundred dollars monthly, - 7% of his wages payable wholly by his employer.

**THIRD SCHEDULE**

*(Section 35)*

**ANTIGUA AND BARBUDA**



**IN THE MAGISTRATE'S COURT**

**Medical Benefits Act, 2010**

**No. of 2010**

**Application for WARRANT**

**ANTIGUA AND BARBUDA**

*Application for Warrant*

*Pursuant to section 35 of the Medical Benefits Act, 2010*

*No. of 2010*

I....., of  
..... in Antigua and Barbuda, an  
Invigilator appointed under the Medical Benefits Act, 2010 No.....of 2010 on  
the.....day of .....20....., before the undersigned  
Magistrate,.....in Antigua and Barbuda state  
that.....

.....  
.....  
.....

and I further state that by virtue of the above I have probable cause to suspect that an offence has been committed under the Medical Benefits Act, 2010 No.....of 2010 and that there are books, records, documents or things with respect to that offence concealed by.....at.....

.....

..... in the parish of ..... in Antigua and Barbuda.

Sworn before me the ..... }

day of .....20..... }

.....

Invigilator

.....  
Magistrate.

**FOURTH SCHEDULE**

**ANTIGUA AND BARBUDA**



**IN THE MAGISTRATE'S COURT**

**Medical Benefits Act, 2010**

**No. of 2010**

**WARRANT**

**ANTIGUA AND BARBUDA**

*Warrant*

*Pursuant to section 35 of the Medical Benefits Act, 2010*

*No. of 2010*

To.....

Evidence on oath has been given this .....day of ....., 20.....  
by ..... that there is reasonable cause to believe that an offence  
has been committed under the Medical Benefits Act, 2010 No.....of 2010 and that there are books,  
records, documents or things with respect to that offence at.....  
.....  
..... in the parish of  
.....in Antigua and Barbuda.

I am satisfied that the before mentioned evidence on oath establishes reasonable cause to believe that  
the books, records, documents or things so described are at the premises above-described and  
establishes grounds for the issuance of this warrant.

You are therefore hereby commanded, with the assistance of.....

.....and  
 ....., to enter the said premises, by force and breaking  
 doors if necessary and to search the same and if any books, records, documents or things with respect  
 to that offence are found therein to make copies of those books, records or documents or if necessary,  
 to seize and take away those books, records, documents or things and retain the copies made or the  
 books, records, documents or things at the office of the Medical Benefits Scheme until they are  
 produced in proceedings and dealt with as the law directs.

AND if any books, records, documents or things have been seized, the Chief Executive Officer shall  
 cause to be put in place the requisite arrangements to permit the employer reasonable access to those  
 books, records, documents or things seized if they are necessary for the continued operations of the  
 employer's business.

Given under my hand this .....day of.....20.....

.....  
*Magistrate*

Passed by the House of Representatives on  
 the 12th day of February, 2010.

Passed by the Senate on the 1st day  
 of March, 2010.

**D. Gisele Isaac-Arrindell,**  
*Speaker.*

**Hazlyn M. Francis,**  
*President.*

**T. Thomas,**  
*Clerk to the House of Representatives.*

**T. Thomas,**  
*Clerk to the Senate.*