

# NATIONAL INSURANCE (AMENDMENT) BILL, 2024

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## **NATIONAL INSURANCE (AMENDMENT) BILL, 2024**

### **A BILL FOR AN ACT TO AMEND THE NATIONAL INSURANCE ACT TO PROVIDE FOR PROTECTION, RECOVERY AND ADDITIONAL REQUIREMENTS OF BOARD MEMBERS.**

**Enacted by the Parliament of The Bahamas**

**1. Short title and commencement.**

- (1) This Act, which amends the National Insurance Act (*Ch. 350*) may be cited as the National Insurance (Amendment) Act, 2024.
- (2) This Act shall come into force on the 1<sup>st</sup> day of July, 2024.

**2. Repeals and replaces section 11 of the principal Act.**

Section 11 of the principal Act is repealed and replaced by the following —

**“11. Protection of the Board and its members.**

- (1) Subject to subsection (2), no action, prosecution or other proceedings shall be brought or instituted personally against the chairman or any other member of the Board in respect of an act done bona fide in pursuance, execution or intended execution of the provisions of this Act.
- (2) Notwithstanding subsection (1), where the chairman or any other member of the Board is exempt from liability, the Board shall be liable to the extent that it would be if that member were a servant or agent of the Board, however, where the Board is not liable for any of the above mentioned acts, then subsection (1) does not operate to exempt such member as therein stated.”.

**3. Amends section 45 of the principal Act.**

Section 45(3) of the principal Act is amended by deleting the figure “1971”, immediately after the words “of December”.

**4. Repeals section 46 of the principal Act.**

Section 46 of the principal Act is repealed.

**5. Amends section 54 of the principal Act.**

Section 54(1) of the principal Act is amended by inserting, immediately after the words “failed to pay”, the words “and such sum shall bear interest compounded annually at the prime rate per annum or such other rate and as from such date as may be prescribed by the Minister.”.

**6. Amends section 55 of the principal Act.**

Section 55 of the principal Act is amended by inserting, immediately after subsection (3), the following as a new subsection (4) —

“(4) Notwithstanding paragraph (1), the Minister after consultation with the Board may waive the payment of interest due on contribution arrears.”.

**7. Inserts new section 55A into the principal Act.**

The principal Act is amended by inserting, immediately after section 55, the following as a new section 55A —

**“55A. Garnishee proceedings.**

- (1) Where the Board believes that a person is indebted to or liable to make a payment to another person and that other person is indebted to the Board for unpaid National Insurance Contributions under this Act, the Director may deliver to the first-mentioned person a demand for payment stating —
  - (a) the name of the person indebted to the Board;
  - (b) the amount of the debt due to the Board including the rate of interest thereon; and
  - (c) where the first-mentioned person is the employer of the person indebted to the Board, the amount demanded for each pay period, being an amount not exceeding one-third of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration.
- (2) A person who receives a demand for payment under subsection (1) relating to one of his employees shall —
  - (a) pay to the Board at the same time as he would pay that employee the amount demanded by the Director or the amount of the employee’s indebtedness to the Board whichever is the lesser; and
  - (b) continue to pay on each occasion that the employee is entitled to be paid until the employee’s indebtedness to the Board is satisfied.
- (3) A person who receives a demand for payment under subsection (1) relating to some person other than one of his employees shall pay the Board the amount of his indebtedness or the amount which he is liable to pay to that person or the amount of that person’s indebtedness to the Board whichever is the lesser.
- (4) A person who has discharged any liability to a person indebted to the Board under this Act after receiving a demand for payment under subsection (1) without complying with subsection (2) or (3), is liable to

pay to the Board an amount equal to the liability discharged or which he was required under subsection (2) or (3) to pay to the Board whichever is the lesser.

- (5) Subject to subsection (2) or (3), the payment of an amount to the Board operates as a discharge of any liability of the person making the payment to the person to whom the payment would have been paid, to the extent of the amount paid to the Board.”.

**8. Amends the Second Schedule to the principal Act.**

The Second Schedule to the principal Act is amended —

- (a) by deleting paragraph 13 and substituting therefor the following —  
“The Minister may, by instrument in writing, revoke the appointment of the chairman, deputy chairman or any other member of the Board, if the Minister is satisfied that the chairman, deputy chairman or any other member —
- (a) is an undischarged bankrupt;
  - (b) is incapacitated by physical or mental illness;
  - (c) has been absent, without leave of the Board, from three or more consecutive meetings of the Board;
  - (d) has been convicted of an indictable offence; or
  - (e) is otherwise unable or unfit to discharge the functions of a member of the Board.”;
- (b) by inserting, immediately after paragraph 15, the following —  
“16. A person may not be appointed as a member of the Board, if that person —
- (a) has been convicted of an indictable offence;
  - (b) is a director, or has a controlling interest in any business contracted by the Board.
17. If a member of the Board, other than the chairman or deputy chairman, by reason of illness or other incapacity or absence from The Bahamas, is unable at any time to perform the duties of his position, or if the position of a member is at any time vacant, the Minister shall —
- (a) appoint a person to act in place of that member during the period of absence or incapacity or until the vacancy is filled; and
  - (b) such appointment shall be made in the same manner and from the same category of persons, if any, as the member replaced.
18. No act or proceeding of the Board shall be invalidated merely by reason of any vacancy in the Board or of any defect in the appointment of a member.”.

### **OBJECTS AND REASONS**

This Bill seeks to amend the National Insurance Act (*Ch. 350*) to, *inter alia*, provide for the protection of the Board and its members by introducing a provision which indemnifies its chairman or any other member of the Board from personal liability in respect of an act done in pursuance, execution or intended execution of the provisions of this Act.

The Bill also seeks to implement the award for interest on criminal recovery of contributions by prosecution and the recovery of outstanding contributions by way of garnishee proceedings.

This Bill seeks to repeal section 46 of the principal Act which provides for information relating to Post Office expenses which is no longer in use by the National Insurance Board.

This Bill seeks to amend section 54(1) of the principal Act which does not provide for the award of interest on the criminal recovery of contributions on prosecutions. The proposed amendment includes the addition of the words “together with the applicable interest”.

The principal Act does not provide for the recovery of outstanding contributions by way of garnishee proceedings. This Bill seeks to insert a new section 55A to include the recovery of debt by way of garnishee proceedings.

The Bill amends the Second Schedule by setting restrictions on the eligibility of potential appointees to the Board.