



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**NATIONAL INSURANCE TRUST FUND
ACT, No. 28 OF 2006**

[Certified on 29th August, 2006]

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*National Insurance Trust Fund
Act, No. 28 of 2006*

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L. D.—O. 33/2006

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FUND CALLED THE
NATIONAL INSURANCE TRUST FUND AND TO PROVIDE FOR MATTERS
CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the Government has provided benefits and safeguards to officers in the public service and provincial public service against unforeseeable risks related to health, personal accident and damage to properties *inter alia* through a contributory insurance scheme operated by commercial insurance organizations and other funds established for such purpose :

Preamble.

AND WHEREAS the Government is also operating benefit schemes and insurance schemes for the benefit of the more vulnerable segments of society, including Samurdhi beneficiaries, farmers, fishermen and persons engaged in self employment :

AND WHEREAS the Government is desirous of streamlining such insurance and such other benefit schemes and to that end the Government intends to set up a National Insurance Trust Fund in order to be able to provide the aforesaid facilities in a more effective and co-ordinated manner whilst ensuring maximum benefits to all persons eligible for benefits in terms of this Act :

NOW THEREFORE, BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the National Insurance Trust Fund Act, No. 28 of 2006.

Short title.

2. The provisions of this Act shall apply in relation to—

Application of
this Act.

(a) public officers;

- (b) persons retired from public office who are in receipt of a pension from the government;
- (c) officers of the provincial public service;
- (d) persons retired from the provincial public service who are in receipt of a pension from the respective Provincial Council ;
- (e) members of local government service;
- (f) persons retired from the local government service who are in receipt of a pension from the local government service;
- (g) persons receiving benefits under the Samurdhi Authority Act, No. 30 of 1995;
- (h) farmers, fishermen and persons engaged in self employment ;
- (i) needy persons or group of persons as may from time to time be identified by the Minister by Order published in the *Gazette* subject to any limitations contained herein; and
- (j) any property of the government which may be identified from time to time by the Minister by Order published in the *Gazette*.

PART I

ESTABLISHMENT OF NATIONAL INSURANCE TRUST FUND

Establishment
of the
National
Insurance
Trust Fund.

3. There shall be established a Fund to be called the National Insurance Trust Fund (hereinafter referred to as “the Fund”) from which benefits shall be paid to persons to whom the provisions of this Act shall apply. There shall be paid into the Fund such moneys as are specified in section 18.

4. (1) There shall be established a body called the National Insurance Trust Fund Board (hereinafter referred to as “the Board”) consisting of such persons as are specified in section 6.

Establishment of the National Insurance Trust Fund Board.

(2) The Board shall, by the name assigned to it by subsection (1), be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name, and may perform such acts as bodies corporate may by law perform.

5. (1) The Seal of the Board shall be in the custody of such person as the Board may decide from time to time.

Seal of the Board.

(2) The Seal of the Board may be altered in such manner as may be determined by the Board.

(3) The Seal of the Board shall not be affixed to any instrument or document except in the presence of the Chairman of the Board, and one other member of the Board, both of whom shall sign the instrument or document in token of their presence :

Provided that where the Chairman is unable to be present at the time when the Seal of the Board is affixed to any instrument or document, any other member authorized in writing by the Chairman in that behalf, shall be competent to sign such instrument or document in accordance with the preceding provisions of this subsection.

(4) The Board shall maintain a register of every instrument or document to which the Seal of the Board is affixed.

6. (1) The Board shall consist of the following members who shall be appointed by the Minister—

Members of the Board.

- (a) an officer of the Ministry of the Minister to whom the subject of Finance is assigned;
- (b) the Chief Accountant of the Ministry of the Minister to whom the subject of Finance is assigned;

- (c) an officer of the Ministry of the Minister to whom the subject of Health is assigned;
- (d) an officer from the Ministry of the Minister to whom the subject of Public Administration is assigned; and
- (e) three persons to be nominated by the Minister from among persons possessing qualifications or expertise in the fields of finance, banking, insurance, management or law.

(2) The Chairman of the Board shall be appointed by the Minister.

Terms of office
of nominated
members.

7. (1) Every nominated member shall hold office for a period of five years from the date of appointment, unless he earlier vacates office by death resignation or removal.

(2) An nominated member may resign from his office by written communication addressed to the Minister in that regard.

(3) The Minister may by written communication addressed to any nominated member, remove such member from office for reasons assigned.

(4) A nominated member to whom a communication is addressed under subsection (3), shall cease to hold office with effect from such date as may be specified in such communication.

(5) A nominated member who has been removed from office shall not be eligible for re-appointment as a member of the Board or to serve the Board in any other capacity.

(6) Upon any nominated member ceasing to hold office, the Minister may appoint any other person to fill such vacancy and such person shall hold office for the un-expired period of the term of office of the member whom he succeeds.

(7) Where any member is temporarily unable to perform the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint any person to act in place of such member.

8. A person shall be disqualified from being appointed, or from continuing, as a member if he—

Disqualification
for being
appointed as a
member.

- (a) is a Member of Parliament, a member of a Provincial Council or a member of a local Authority; or
- (b) is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind; or
- (c) is a person who, having been declared an insolvent or a bankrupt under any law in Sri Lanka or in any other country, or is an undischarged insolvent or bankrupt; or
- (d) is serving or has served a sentence of imprisonment imposed by any Court in Sri Lanka or abroad.

9. No act or proceeding of the Board shall be invalid by reason only of any vacancy among its members or any defect in the appointment of any of its members.

Vacancy among
members not to
invalidate acts
and proceedings
of the Board.

10. The members of the Board may be remunerated in such manner and shall carry out their functions subject to such terms and conditions as may from time to time be determined by the Board with the concurrence of the Minister to whom the subject of Finance has been assigned.

Remuneration
and terms and
conditions of
service of
members.

11. (1) Subject to the other provisions of this Act, the Board may regulate its procedure in regard to the meetings of the Board and the transaction of business at such meetings.

Meeting and
quorum at
meetings of the
Board.

(2) The quorum for a meeting of the Board shall be three members.

The objectives of
the Board.

12. The objectives of the Board shall be—

(a) to provide benefits and safeguards—

- (i) to public officers, provincial public service officers and local government service officers and to persons retired from the public service, the provincial public service and the local government service, and who are presently in receipt of a pension from the government, the Provincial Council or the local government service, as the case may be;
- (ii) to Samurdhi beneficiaries and their families, in terms of the Samurdhi Authority of Sri Lanka Act, No. 30 of 1995 ;
- (iii) to farmers, fishermen and persons engaged in self employment ;
- (iv) to the needy persons or groups of persons identified by the Minister from time to time on the recommendation of the Board,

against unforeseen health risks, personal accident and damage to property through a contributory insurance scheme to be operated by the Board. Different schemes will be applicable in respect of the different categories of beneficiaries. The matters applicable in respect of the different schemes shall be prescribed ;

- (b) to promote beneficiary participation in share acquisition through the acquisition of equity interests in any incorporated company whose primary objective is to build dedicated wards for

the provision of better health facilities or where available, to upgrade any wards presently providing such facilities ;

- (c) to guarantee loans of persons entitled to benefits and safeguards under this Act ;
- (d) to provide guarantees in respect of any property or category or class of property, of the government which the Minister may from time to time identify by Order published in the *Gazette* ; and
- (e) to do all such other acts or things as may be necessary for, or conducive to, the attainment of the objects above.

13. In giving effect to the principles and provisions of this Act, the Board—

Powers and
duties of the
Board.

- (a) shall charge and receive all sums paid under this Act as contributions by the Government, officers of the public service and provincial public service and pensioners of public service and provincial public service Samurdhi beneficiaries, farmers, fishermen and self-employees and other needy persons or groups of persons, and any income from the investment of moneys of the Fund and shall cause such sums to be credited to the Fund;
- (b) shall have custody of the moneys of the Fund;
- (c) shall pay to the persons entitled to benefits under this Act, such amounts as are due in terms of any prescribed schemes ;
- (d) may invest such of the moneys of the Fund as are not immediately required for the purposes of this Act in Government Bonds or Government Securities or in shares of any company incorporated primarily to build or upgrade dedicated wards for the provision of facilities envisaged in terms hereof;

- (e) shall maintain a general account in respect of the Fund and separate individual accounts in respect of each member of the Fund;
- (f) shall cause the books of accounts relating to the Fund to be balanced as on the thirty-first day of December in each year;
- (g) shall cause to be prepared in respect of the Fund for every financial year, a statement of receipts and payments, a statement of income and expenditure, a statement of assets and liabilities and a statement of investments showing the face value, purchase price and market value of each of the investments;
- (h) shall transmit to the Minister a copy of each of the statements prepared under paragraph (g) in respect of each year before the thirtieth day of September of the succeeding year;
- (i) shall deduct from the income received from the investment of moneys of the Fund in respect of each year, the expenses incurred in that year by the Board in the implementation of the provisions of this Act;
- (j) shall have such other powers and duties in connection with the Fund, not inconsistent with this Act as are necessary for the implementation of the above.

Contributions.

14. Every person who is—

- (i) a public officer, provincial public service officer or a local government service officer ; and
- (ii) a person drawing a pension from the government, a Provincial Council or the local government service, as the case may be ; and

- (iii) a member of the Samurdhi Scheme, Farmers Pensions Scheme, Fishermen's Pension Scheme or a self-employed person,

and who are persons entitled to benefits under the provisions of this Act, shall pay to the Fund a contribution, in such sum and at such times as may be specified by the Minister by Order published in the *Gazette*.

15. The Board may utilize any money in the Fund for the purpose of this Act— Investments.

- (a) by investing in shares of any company incorporated primarily to build or upgrade dedicated wards for the provision of the facilities envisaged in this Act ; or
- (b) in such government bonds or government securities as may be approved by the Board.

16. (1) The Auditor-General shall in accordance with the provisions of Article 154 of the Constitution audit the accounts of the Board each year. Audit of accounts of the Board.

(2) Notwithstanding the provisions of subsection (1), the Minister may, with the concurrence of the Minister to whom the subject of Finance has been assigned, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of the Board. Where such appointment has been made by the Minister, the Auditor-General may, in writing inform such auditor or auditors that he proposes to utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Board and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) (a) The Auditor-General may, for the purpose of assisting him in the audit of the accounts of the Board, employ the services of any qualified auditor or auditors who shall act under his direction and control.

(b) If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit of the accounts of the Board, he may engage the services of—

- (i) a person not being an employee of the Board ; or
- (ii) any technical, professional or scientific institution not being an institution which has any interest in the management of the affairs of the Board,

and such person or institution shall act under his direction and control.

(4) (a) The Auditor-General or any person authorized by him shall, in the audit of the accounts of the Board, be entitled—

- (i) to have access to all books, records, returns and other documents of the Board ;
- (ii) to have access to stores and other property of the Board ; and
- (iii) to be furnished by the Board or its officers with such information and explanations as may be necessary for the performance of the audit of the accounts of the Board.

(b) Every qualified auditor appointed to audit the accounts of the Board or any person authorized by such auditor shall be entitled to have like access, information and explanations in relation to Board.

(5) Every qualified auditor appointed under the provisions of subsection (2) shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

(6) For the purposes of this section, the expression “qualified auditor” means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practice as an accountant, issued by the Council of such Institute ; or
- (b) a firm of accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practice as an accountant, issued by the Council of such Institute.

(7) The Auditor-General shall forward his report to the Board.

17. The Board shall annually prepare a report of the work of the Board and forward such report together with the report of the Auditor-General, before the lapse of the year succeeding the year to which such reports relate, to the Minister who shall table such reports in Parliament.

Annual report of work.

18. (1) There shall be paid into the Fund—

Payments into the Fund.

- (a) such sums of money out of the Consolidated Fund as may be determined by resolution of Parliament for defraying—
 - (i) all expenditure, including capital expenditure, incurred by the Board in carrying out the provisions of this Act during the period of twelve months commencing on the date of coming into operation of this Act ; and
 - (ii) all capital expenditure incurred by the Board in carrying out the provisions of this Act during the period of twenty-four months

commencing on the day immediately succeeding the date of the termination of the period referred to in paragraph (a) of this subsection ;

- (b) all monies lying to the credit of the Samurdhi Social Development Trust Fund created by Trust Deed No. 1538 of October 19, 2005 ;
- (c) all monies lying to the credit of the Strike, Riot and Civil Commotion and Terrorism Fund established in terms of the Cabinet Decision of November 18, 1987, in Account No. 014-1-001-1-1194790 at the Peoples Bank, Union Place Account and No. 0000001829 at the Bank of Ceylon, Corporate Branch ;
- (d) all sums of money presently being deducted from the salary of public servants for the Agrahara Insurance Scheme established by Public Administration Circular No. 5/97 of January 31, 1977 and deposited by the Insurance Corporation of Sri Lanka in the Deputy Secretary's Account titled "Government Employees Insurance Account 4225" at the Central Bank of Sri Lanka ;
- (e) the contributions received in terms of section 14 and section 20 of the Act, from every-
 - (i) public officer, provincial public service officer and local government service officer ; and
 - (ii) person drawing a pension from the government, a Provincial Council or the local government service, as the case may be ; and
 - (iii) every member of the Samurdhi Scheme, the Farmers Pensions and social security benefits Scheme, the Fishermen's Pension Scheme and every self-employed person ;

(2) Every sum paid out of the Consolidated Fund under paragraph (a) of subsection (1) shall constitute a loan from the Government to the Board and shall be repaid in accordance with such terms and conditions as may from time to time be determined by the Minister.

19. There shall be paid out of the Fund —

Payments out of
the Fund.

- (a) all moneys required for settlement of expenses in respect of persons entitled to benefits under this Act, being treated at dedicated wards of hospitals ;
- (b) all expenses incurred for treatment of critical illness and treatment at a hospital where such treatment is available, to persons entitled to benefits under this Act, in accordance with such rates as shall be prescribed ;
- (c) all expenses in cases of death due to accident occurring in connection with the occupation of the person entitled to benefits under this Act, provided that the death occurs before the age of retirement, in accordance with such rates as shall be prescribed :

Provided that, in the case of death occurring after the date of retirement, no payment of any benefit shall be made to the dependants.

20. All persons to whom the Act applies and who are entitled to receive benefits in terms of this Act, shall be liable to pay in respect of the benefits they will receive in terms of this Act, a monthly contribution in such amount as may be specified by the Minister by Order published in the *Gazette* which contribution shall be credited to the fund, Such contribution shall be deductible from the salary, pension, Samurdhi benefit or other benefit, as the case may be, which such eligible person receives from the government or the Provincial Council or other source, respectively.

Collection of
contributions
from persons to
whom the Act
applies.

PART II

STAFF OF THE BOARD

Appointment
of officers
and servants.

21. (1) The Board may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions.

(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Board.

(3) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the minister to whom the subject of Public Administration has been assigned, be temporarily appointed to the staff of the Board for such period as may be determined by the Board, or with like consent be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Board, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Board, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to and in relation to him.

(6) Where the Board employs any person who has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

(7) At the request of the Board any member of the Local Government Service or any other officer or servant of a local authority, may, with the consent of such member, officer or servant and the Local Government Service Advisory Board, or the local authority, as the case may be, be temporarily appointed to the staff of the Board for such period as may be determined by the Board or with like consent be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and the Local Government Service Board or that local authority as the case may be.

(8) At the request of the Board any officer or servant of a public corporation may, with the consent of such officer or servant, be temporarily appointed to the staff of the Board for such period as may be determined by the Board, or with like consent, be permanently appointed to such staff on such terms and conditions including those relating to pension and provident fund rights, as may be agreed upon by the Board and the said public corporation.

(9) Where any person is temporarily appointed to the staff of the Board in pursuance of subsection (7) or subsection (8), such person shall be subject to the same disciplinary control as any other member of such staff.

PART III

MISCELLANEOUS

22. The Board or any officer authorized by the Board may direct an employer to furnish to the Board or such officer before a date specified in the direction,-

Board or officer
authorized by it
to issue
directions to
employer.

- (a) a return containing such particulars in respect of all or any of the employees of that employer as may be specified in the direction;

- (b) such information or explanation in respect of any particulars stated in any return furnished by that employer as may be specified in the direction; and
- (c) a true copy of any register required by this Act to be kept by that employer or any part of such register.

Powers of
members of
the board or
authorized
officer to
inspect
premises &c.

23. Any member of the Board or any officer authorized in that behalf by the Board in writing, for the purposes of this Act may-

- (a) enter and inspect at all reasonable hours by day or by night, any premises or place, for examining any register or record relating to the earnings of any employee ;
- (b) take copies of any such register or record or part thereof ;
- (c) examine any person whom he has reasonable cause to believe is an employer or any employee ; and
- (d) examine any records or other documents relating to contributions to any provident fund.

Offences and
penalties.

24. Every person who—

- (a) contravenes or fails to comply with any of the provisions of this Act or any regulations made thereunder ; or
- (b) makes default in complying with any direction or order made or given under this Act ; or
- (c) knowingly furnishes or causes to be furnished any false return, or information required to be furnished under this Act,

shall be guilty of an offence and shall on conviction before a Magistrate be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

25. Where any offence under this Act is committed by a body of persons, then-

- (a) if that body of persons is a body corporate, every director and officer of that body corporate ; or
- (b) if that body of persons is a firm, every partner of that firm ; or
- (c) if that body of persons is a trade union, every officer of that trade union ; or
- (d) if that body of persons is an unincorporated body, the President, Manager, Secretary and every other officer of that unincorporated body,

Liability of certain persons in respect of offences committed by bodies corporate or unincorporated.

shall be deemed to be guilty of such offence :

Provided that no such person shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

26. No prosecution for an offence under this Act shall be instituted except by or with the written sanction of the Board.

No prosecution for an offence to be instituted without the sanction of the Board.

27. No prosecution instituted under this Act against any person for any offence under this Act shall be a bar to any civil action brought against such person in respect of any matter arising out of this Act.

Prosecution under this Act no bar to a civil action.

28. (1) The Minister may make regulations in respect of all matters which are stated or required by this Act to be prescribed or in respect of all matters for which regulations are required or authorized to be made by this Act.

Regulations.

(2) Without prejudice to the generality of the powers under subsection (1), the Minister may make regulations in respect of all or any of the following :—

- (a) matters connected with or incidental to the procedure to be followed in the collection of contributions and other payments under this Act ;
- (b) specifying the criteria to be adhered to in determining the different categories of persons who will be beneficiaries under this Act ;
- (c) specifying the different types of schemes applicable to the different categories of persons entitled to benefits under this Act and the different rates payable to such persons as benefits in terms of this Act ;
- (d) specifying the forms and other documents which may be required for the purpose of administration of the Fund ;
- (e) specifying the manner of making a refund of any sum paid in error to or by the Fund ;
- (f) making provision setting out the manner whereby a person can be appointed to exercise, on behalf of a claimant to any benefit under this Act who is a child or who may be unable for the time being to so act, any right which the claimant may be entitled to exercise under this Act, and for authorizing a person so appointed to receive and deal with such benefit to which a claimant is entitled ;
- (g) the manner of giving notice for the suspension of the grant of any benefit under this Act pending the review by the Court of Appeal, of the determination upon the claim to such benefit or any appeal under this Act ;

- (h) setting out guidelines for treating any sum originally paid to any person under a determination made under this Act or by virtue of the provisions of any regulation, in circumstances—
 - (i) where it is subsequently decided that such sum was not payable, as having been properly paid; and
 - (ii) where it is subsequently decided that such sum has been improperly paid,

for the recovery of the aforesaid sum from such person or fund as the case may be;

- (i) specifying the allowances to be paid to officers and servants employed in carrying out the provisions of this Act and the method of computing such allowances.

(3) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into operation upon such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister under subsection (1) shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of such disapproval but without prejudice to anything previously done thereunder.

(5) Notice of the date on which a regulation is so rescinded shall be published in the *Gazette*.

29. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

Interpretation.

30. In this Act, unless the context otherwise requires—

“dedicated wards” mean wards identified or established in specified hospitals for the purpose of providing health care and nursing to persons entitled to receive benefits under this Act.

“farmer” means a farmer who has joined the benefit scheme in terms of the Farmers’ Pension and Social Security Benefits Scheme Act, No. 12 of 1987 ;

“fisherman” means a person who is engaged in fishing as a livelihood ;

“local government service member” means an person who is or who is deemed to be a member of the local governments service constituted under the Local Government Service Act, No. 16 of 1974 ;

“local government service pensioner” means a person retired from the local government service and who is in receipt of a pension in respect of such service ;

“provincial public service officer” means a person employed in the provincial public service of a Province in terms of the Provincial Councils Act, No. 42 of 1987 ;

“provincial public service pensioner” means a person retired from the service of the provincial public service and who is in receipt of a pension from a Provincial Council ;

“public officer” means a public officer who is in service and is under sixty years of age ;

“public service pensioner” means a public officer who has retired from service and is in receipt of a pension from the government;

“Samurdhi beneficiary” means a person entitled to receive benefits in terms of the Samurdhi Authority of Sri Lanka Act, No. 30 of 1995 and includes the family of such beneficiary ; and

“self employed person” means a person who is engaged in carrying out a livelihood by himself.

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