

A BILL

ENTITLED

AN ACT to Amend the National Insurance Act to increase the contributions paid to the National Insurance Scheme and increase the benefits payable under the National Insurance Scheme; to validate and confirm the payment of certain benefits made in good faith by persons acting on behalf of the National Insurance Fund, and the collection of contributions done in good faith, and to indemnify certain persons in respect of those payments and contributions; and for connected matters.

WHEREAS section 4 of the National Insurance Act (“hereinafter referred to as “the Act”) provides that contributions under the National Insurance Scheme shall be payable by insured persons and employers at the rate set out in the Second Schedule to the Act:

AND WHEREAS the benefits specified under section 9 of the Act are payable to insured persons at the rate set out in the Third Schedule to the Act:

AND WHEREAS by Cabinet Decision, bearing the reference number 45/18, dated December 17, 2018, Cabinet approved, in respect of the National Insurance Scheme, an increase—

- (a) in the flat rate benefits, payable with effect from April 1, 2018;
- (b) in the contribution rate from 5% to 5.5% with effect from April 1, 2019 and 6% with effect from April 1, 2020;
- (c) in the insurable wage ceiling from \$1.5 million to \$3 million as of April, 2021 and \$5 million as of April 2022;
- (d) in the voluntary contributions for voluntary contributors, domestic workers and self-employed individuals of \$150.00 from January 1, 2019; \$200.00 from January 1, 2020 and \$250.00 from January 1, 2021:

AND WHEREAS by Cabinet Decision, bearing the reference number 38/19 dated December 2, 2019, the Cabinet approved an increase in the funeral grant payable under the National Insurance Scheme, from \$80,000 to \$90,000, with effect from August 1, 2018:

AND WHEREAS legislation was not enacted to effect the aforementioned increases in benefits and contributions:

AND WHEREAS the approved increases in benefits were nevertheless regularly paid out, in good faith, to beneficiaries, during the period from April 1, 2018, to the date of commencement of this Act:

AND WHEREAS payments of benefits from and collection of contributions for the National Insurance Fund, were made in good faith, in accordance with section 39 of the Act, from April 1, 2018 to the date of commencement of this Act:

AND WHEREAS it is desirable to—

- (a) validate and confirm the payment of benefits and collection of contributions aforesaid, made in good faith; and

- (b) amend the National Insurance Act to increase the payment of benefits and collection of contributions, respectively:

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NOW THEREFORE, BE IT ENACTED by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the National Insurance (Validation, Indemnification and Amendment) Act, 2020, and shall be read and construed as one with the National Insurance Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title and construction.

Validation and Indemnification

2.—(1) Notwithstanding anything to the contrary in any enactment, no collection of contributions and the payment of increased benefits made in good faith, from April 1, 2018 to the date of commencement of this Act shall be treated as having been unauthorized, or unlawfully made, or otherwise illegal or improper, for the reason only that such collection of contributions and payment of increased benefits were not authorized by any enactment.

Validation of collections and payments and indemnity from suit.

(2) Every person acting on behalf of the National Insurance Fund in the collection of contributions or the making of the payment of increased benefits and liable to be proceeded against on the ground that any such collections or payments were unauthorized, or unlawfully made or otherwise illegal or improper, for any such reason, is freed, acquitted, discharged and indemnified, as well as against the Queen’s Most Excellent Majesty, Her Heirs and Successors as well as against all persons, whatsoever, from all legal proceedings of any kind in respect of or consequent on such collections or payments.

Amendment of Principal Act

3. Section 5 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “five *per centum* per annum” and substituting therefor the words “five and a half *per centum* per annum with effect from April 1, 2019,

Amendment of section 5 of principal Act.

to March 31, 2020, and six per centum per annum with effect from April 1, 2020,”;

- (b) in subsection (2)(a), by deleting the numeral and words “\$1,500,000.00 per annum” and substituting therefor the following—

“\$3,000,000.00 with effect from April 1, 2021, to March 31, 2022 and \$5,000,000.00 per annum with effect from April 1, 2022”.

Amendment
of section
10A of
principal Act.

4. Section 10A of the principal Act is amended by deleting the figure and words “\$1,400.00 per week” and substituting therefor the figure and the words “\$1,700.00 per week, with effect from April 1, 2018”.

Amendment
of section
23A of
principal Act.

5. Section 23A of the principal Act is amended—

- (a) by deleting subsection (1) and substituting therefor the following—

“ (1) With effect from April 1, 2018, the Minister may, by order subject to affirmative resolution, increase the benefits referred to in subsection (2).”; and

- (b) by inserting next after subsection (2) the following—

“ (3) Before making an order under subsection (1) and establishing the rates of any increase that is to be made, the Minister shall be guided by the results of a review conducted in accordance with section 41(1) (a).”.

6. The Second and Third Schedules of the principal Act are repealed and replaced by the following—

Repeal and replacement of Second and Third Schedules of principal Act.

“ SECOND SCHEDULE (Sections 4 and 7)
Contribution Rates
 Weekly Rate of Contribution

Description of Insured Person	Payable by Insured Person	Payable by Employer
1. (a) An employed person over the age of 18 years and under retirement age, employed as a domestic worker;	(a) \$75.00 per week with effect from January 1, 2019 to December 31, 2019;	(a) \$75.00 per week with effect from January 1, 2019 to December 31, 2019;
	(b) \$100.00 per week with effect from January 1, 2020 to December 31, 2020;	(b) \$100.00 per week with effect from January 1, 2020 to December 31, 2020; and
	(c) \$125.00 per week with effect from January 1, 2021.	(c) \$125.00 per week with effect from January 1, 2021.
(b) Any other employed person over the age of 18 years and under retirement age, or a member of the Jamaica Defence Force.	2 ¾% of earnings with effect from April 1, 2019 to March 31, 2020 and 3% of earnings with effect from April 1, 2020, so, however, that account shall be taken only of so much of such earnings as does not exceed— (a) Weekly earning of— (i) \$57,692.30 per week with effect from April	2 ¾% of earnings of an employed person with effect from April 1, 2019 to March 31, 2020 and 3% of earnings with effect from April 1, 2020, so however, that account shall be taken only of so much of such earnings as does not exceed— (a) Weekly earning of— (i) \$57,692.30 per week with effect from April

Contribution Rates

Weekly Rate of Contribution

Description of Insured Person	Payable by Insured Person	Payable by Employer
	1,2021 to March 31,2022;	1,2021 to March 31,2022;
	(ii) \$96,153.85 per week with effect from April 1,2022; or	(ii) \$96,153.85 per week with effect from April 1,2022; or
	(b) Annual earnings of—	(b) Annual earnings of—
	(i) \$3,000,000.00 per annum with effect from April 1,2021 to March 31,2022;	(i) \$3,000,000.00 per annum with effect from April 1,2021 to March 31,2022;
	(ii) \$5,000,000.00 per annum with effect from April 1, 2022, and	(ii) \$5,000,000.00 per annum with effect from April 1, 2022, and
	½% of the earnings so collected shall be paid from the National Insurance Fund to the National Health Fund.	½% of the earnings so collected shall be paid from the National Insurance Fund to the National Health Fund.
2. Any self- employed person over the age of 18 years and under retirement age	(a) \$150.00 per week with effect from January 1, 2019 to December 31,2019; (b) \$200.00 per week with effect from January 1, 2020 to	

Contribution Rates

Weekly Rate of Contribution

Description of Insured Person	Payable by Insured Person	Payable by Employer
who is not liable to pay a contribution as an employed person.	December 31, 2020; and (c) \$250.00 per week with effect from January 1, 2021,	
	of the yearly aggregate of which shall be taken into account when assessing liability to pay contributions at 5.5% of total yearly earnings, with effect from April 1, 2019 to March 31, 2020, and 6% of total yearly earnings, with effect from April 1, 2020.	
	(a) \$150.00 per week with effect from January 1, 2019 to December 31, 2019;	
3. Any voluntary contributor over the age of 18 years, being the holder of a certificate of voluntary insurance.	(b) \$200.00 per week with effect from January 1, 2020 to December 31, 2020; and (c) \$250.00 per week with effect from January 1, 2021.	

THIRD SCHEDULE

(Section 9)

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
1. Old age and invalidity pension	\$3,400.00 with effect from April 1, 2018	6c for each unit of \$13.00 paid by way of contributions by and in respect of the insured person: Provided that, in a case, where the claimant to invalidity pension has not been insured for at least 10 years before the number of units is calculated the amount of contributions shall be multiplied by a fraction of which the numerator is the lessor of 10 or the number of years (calculated to the nearest one-twelfth) lying between the date of entry into insurance and the date on	\$50,000.00	(a) \$10.80 in respect of each complete 13 weekly contributions paid by and in respect of the insured person; and (b) \$9.36 for each unit of \$13.00 paid by and in respect of the insured person by way of contributions.

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
		which the insured person would attain age 65 in the case of a man or age 60 in a case of a woman, and the denominator is the number of years in insurance (calculated to the nearest one-twelfth).		
2. Widow's and widower's benefit— (a) in the case of the death of a spouse who was not in receipt of old age or invalidity pension at the date of death;	\$3,400.00 with effect from April 1, 2018	3c for each unit of \$13.00 paid by way of contributions by and in respect of the deceased.	\$50,000.00	(a) \$10.80 in respect of each complete 13 weekly contributions paid in excess of 52 by the deceased; and (b) \$9.36 in respect of each unit of \$13.00 paid by and in respect of the deceased by way of contribution.

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
(b) in the case of the death of a spouse who was in receipt of old age or invalidity pension at date of death.	\$3,400.00 with effect from April 1, 2018	One-half of the increase calculated under (a).		
3. Orphan's and Special Child's benefit.	\$4,900.00		\$55,000.00	(a) \$18.00 in respect of each complete 13 weekly contributions paid in excess of 52 by the deceased; and (b) \$9.36 in respect of each unit of \$13.00 paid by and in respect of

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
				the deceased by way of contributions.
4. Employment Injury Benefit (for temporary incapacity).		Three-fourths of the insured person's gross weekly wage prior to the date of the accident or the development of the prescribed disease but not exceeding \$2,500.00 per week.		
5. Employment Injury Disablement.				
Pension—				
(a) where the degree of disablement is assessed as 95% to 100%;		(a) as for employment injury benefit.		

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
	(b) where the degree of disablement is assessed as between 94% and 10% (a percentage which is not a multiple of 10 shall be treated—		(b) the proportion of the rate of employment injury benefit which the degree of disablement bears to 100.	
(i) if it is a multiple of 5 as being the next higher percentage which is a mul-				

Rate or Amount of Benefit

1 Description of Benefit	2 Weekly Rate of Pension		3 Amount of Grant	
	Basic	Additional Pension	Basic	Additional Pension
	(ii) if it is not a multiple of 5 as being the nearest percentage which is a multiple of 10).			
6. Employment Injury Death Benefit—		As for employment injury benefit.		
7. Funeral Grant			\$90,000.00 with effect from August 1, 2018."	

Exemption
from liability
for offence.

7.—(1) This section applies to any contribution due to be paid on or before the date of commencement of this Act.

(2) No person shall be liable to be proceeded against—

- (a) for an offence under section 44 of the principal Act or regulation 37 of the National Insurance (Collection of Contributions) Regulations, 1966; or
- (b) in any manner under any provision of regulation 17, 18, 19, 20 or 21 of the National Insurance (Collection of Contributions) Regulations, 1966,

in respect of the failure to pay any contribution referred to in subsection (1), at a rate higher than the rate applicable to such contribution on April 1, 2018.

Amendment
of regulation
4 of the
National
Insurance
(General
Benefit)
Regulations.

8. Regulation 4 of the National Insurance (General Benefit) Regulations is amended—

- (a) in paragraph 2, by deleting the numeral and words “\$2,100.00 per week” and substituting therefor the numeral and words “\$2,550.00 per week with effect from April 1, 2018”;
- (b) in paragraph 3, by deleting the numeral and words “\$1,400.00 per week” and substituting therefor the numeral and words “\$1,700.00 per week with effect from April 1, 2018”.

Amendment
of regulation
3 of the
National
Insurance
(Sugar
Workers
Transitional)
Regulations.

9. Regulation 3 of the National Insurance (Sugar Workers Transitional) Regulations is amended by deleting the numeral and words “\$1,400.00 per week” and substituting therefor the numeral and words “\$1,700.00 per week with effect from April 1, 2018”.

MEMORANDUM OF OBJECTS AND REASONS

In 2018, the Ministry of Labour and Social Security proposed an increase in the benefits payable under the National Insurance Scheme ("NIS") and the implementation of associated reform. The proposal for the reform included several graduated measures to address the reform of the NIS on a phased basis.

Actuarial reviews conducted in 2014 and 2017 noted that the funded status of the NIS improved over the review period. The recommendations of the actuaries for the reform of the NIS were supported, given that the implementation of the reform would improve the sustainability of the National Insurance Fund up to 2045.

During the period commencing on April 1, 2018, to the date of commencement of this Act, the benefits paid under the National Insurance Act namely, old age, invalidity, funeral grant and widow's and widower's benefit were increased, in good faith, but without legislative authority. Similarly, the NIS contribution rates in respect of domestic workers, voluntary contributors and self-employed persons were increased, in good faith, but without legislative authority, during the period commencing on January 1, 2019 and contribution rates for employed persons including members of the Jamaica Defence Force, with effect from April 1, 2019 to the date of commencement of this Act. The increase in payment of benefits and the collection of contributions were not reflected in the National Insurance Act.

Consequently, this Act seeks to—

- (a) validate the collection of increased contributions and the payment of increased benefits under the National Insurance Act and indemnify the Government of Jamaica and every person acting on behalf of the Government of Jamaica from liability in relation thereto;
- (b) increase the contribution rate from 5% to 5.5% from April 1, 2019, and 6% with effect from April 1, 2020;
- (c) increase the insurable wage ceiling from \$1.5 million to \$3 million with effect from April 1, 2021, and \$5 million with effect from April 1, 2022; and
- (d) increase the minimum weekly contribution for domestic workers, voluntary contributors and self-employed persons to \$150.00, with effect from January 1, 2019; \$200.00, with effect from January 1, 2020; and \$250.00, with effect from January 1, 2021.

KARL SAMUDA

Minister of Labour and Social Security.

A BILL

ENTITLED

AN ACT to Amend the National Insurance Act to increase the contributions paid to the National Insurance Scheme and increase the benefits payable under the National Insurance Scheme; to validate and confirm the payment of certain benefits made in good faith by persons acting on behalf of the National Insurance Fund, and the collection of contributions done in good faith, and to indemnify certain persons in respect of those payments and contributions; and for connected matters.

As introduced by the Honourable Minister of
Labour and Social Security.
