

LEGAL NOTICE NO. 140

REPUBLIC OF TRINIDAD AND TOBAGO

THE NATIONAL INSURANCE ACT, CHAP. 32:01

ORDER

MADE BY THE PRESIDENT UNDER SECTION 69 OF THE NATIONAL
INSURANCE ACT

THE NATIONAL INSURANCE (CARICOM RECIPROCAL
AGREEMENT ON SOCIAL SECURITY) ORDER, 1998

1. This Order may be cited as the National Insurance (CARICOM Reciprocal Agreement on Social Security) Order, 1998. Citation

2. In this Order—

“Agreement” means the CARICOM Agreement on Social Security set out in the Schedule.

Interpreta-
tion
Schedule

3. The National Insurance Act and the subsidiary legislation made thereunder, in respect of— Chap. 32:01
amended

- (a) interruption of employment by reason of retirement, invalidity or disablement;
- (b) payments of survivors’ benefits;
- (c) death benefits; and
- (d) funeral grant,

are, to the extent to which they are affected by the Agreement, deemed to be amended to give effect to the Agreement.

SCHEDULE

(Paragraph 2)

PART I

Definitions, Scope and General Provisions

Article 1

Definitions

1. In this Agreement, unless the context otherwise requires:

- (a) “benefit” means a periodical payment in cash in respect of the benefits specified in Article 2, including any components thereof and such increases, supplements or allowances as may be specified in the applicable legislation, and payable for a period exceeding fifty-two weeks;

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

- (b) "competent authority" means the Minister or other authority of a Contracting Party charged with responsibility for social security;
- (c) "competent institution" means—
- (i) the institution with which the person concerned is insured when claiming a benefit;
 - (ii) the institution from which a claimant is entitled to receive, or would be entitled to receive, a benefit if such a claimant were resident in the territory of the Contracting Party where that institution is situated; or
 - (iii) the institution designated by the competent authority of the Contracting Party concerned;
- (d) "competent jurisdiction" means the territory of the Contracting Party where the competent institution is situated;
- (e) "Contracting Party" means any country which has signed and ratified this Agreement in accordance with paragraphs 1, 2 and 3 of Article 59 or has acceded thereto in accordance with paragraph 4 of Article 59 or in accordance with Article 60 and for which the Agreement is in force;
- (f) "dependant" means—
- (i) a member of the family of an insured person and who is dependent on that person; or
 - (ii) some person who, though not being such a family member, is recognised as such by the applicable legislation; or
 - (iii) a surviving spouse of an insured person whether or not dependent on that person;
- (g) "institution" means the body responsible for administering the applicable legislation;
- (h) "Insurance period" means the contribution period defined or recognised as such by or under the applicable legislation;
- (i) "insured person" means an employed or a self-employed person, or any other person recognised as such by or under the applicable legislation;
- (j) "applicable legislation" means the relevant laws governing social security for the time being in force in the territory of a Contracting Party;
- (k) "place of residence" means ordinary place of residence;
- (l) "stay" means temporary residence;
- (m) "survivor" means a person—
- (i) defined or recognised as such by the applicable legislation; and
 - (ii) who is entitled to claim through an insured person dying in consequence of an employment injury or otherwise, and "survivors' benefit" shall be construed accordingly.

2. Other words and expressions used in this Agreement have the meanings respectively assigned to them by the applicable legislation.

Article 2

Scope of Agreement

The provisions of this Agreement shall apply to the following payments of social security:

- (a) invalidity pensions;
- (b) disablement pensions;

- (c) old age or retirement pensions;
- (d) survivors' pensions; and
- (e) death benefits in the form of pensions.

Article 3

Application of the Agreement

1. The provisions of this Agreement shall be applied to insured persons who are or have been subject to the applicable legislation of one or more Contracting Parties as well as to their dependants or survivors, as the case may be.

2. The provisions of this Agreement shall not be applied to diplomatic agents within the meaning of the Vienna Convention on Diplomatic Relations (1961), Consular Officers within the meaning of the Vienna Convention on Consular Relations (1963), or to persons of equivalent rank in international organisations of which a Contracting Party is a member.

Article 4

*Determination of Contribution Periods
for Voluntary Insurance*

Where the applicable legislation of a Contracting Party makes entitlement to voluntary insurance conditional upon the completion of a specified number of insurance periods, the competent institution shall take into account all insurance periods completed under the applicable legislation of other Contracting Parties as if they were insurance periods completed under its applicable legislation.

Article 5

*Reduction, Modification, Suspension, and
Forfeiture of Benefits*

Unless otherwise specified in this Agreement, the benefits specified in Article 2 and provided for in the applicable legislation of Contracting Parties shall not be reduced, modified, suspended or forfeited by reason only of the fact that the claimant is resident in the territory of a Contracting Party other than that of the Contracting Party where the competent institution liable to pay such benefits is situated.

PART II

**Provisions Determining the Law to be Applied
to Certain Insured Persons**

Article 6

Exclusivity of Applicable Law

An insured person shall, at the material time, be subject, in relation to that person's employment, to the applicable legislation of only one Contracting Party.

Article 7

Persons Employed in Transnational Enterprises

Subject to the qualifications specified hereunder, an insured person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal place of

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

business, or the residence of that person's employer is situated in the territory of another Contracting Party:

- (i) an employed person who is employed in the territory of a Contracting Party by an undertaking which is that person's regular employer and who is assigned by that undertaking to work for it in the territory of another Contracting Party, shall remain subject to the applicable legislation of the first Contracting Party, provided that the estimated duration of the employment does not exceed twenty-four months;
- (ii) where, due to unforeseen circumstances, the work to be performed exceeds the estimated period of twenty-four months, the applicable legislation of the Contracting Party in the territory of which the undertaking is located shall remain applicable until the work is completed, subject to agreement to this effect by the competent authorities of the two Contracting Parties concerned.

Article 8

Itinerant Employed Persons

Subject to the qualifications specified hereunder, an employed person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal place of business, or the place of residence of that person's employer is in the territory of another Contracting Party:

- (a) an employed person other than one engaged in international transport, who normally works in the territories of two or more Contracting Parties, shall be subject to the applicable legislation of the Contracting Party where that person's place of residence is situated if—
 - (i) part of that person's occupation is carried on in the territory of that person's place of residence; or
 - (ii) that person is employed by two or more undertakings or employers having their principal places of business or residences, as the case may be, in the territories of different Contracting Parties;
- (b) except as provided in paragraph (a), an employed person within the meaning of that subparagraph shall be subject to the applicable legislation of the Contracting Party in the territory of which the undertaking employing that person has its principal place of business or the place of residence of that person's employer.

Article 9

Persons Employed in International Transport

Subject to the qualifications specified hereunder, an employed person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal place of business, or the place of residence of that person's employer is in the territory of another Contracting Party:

an employed person who is employed in international transport in the territories of two or more Contracting Parties as travelling personnel employed in the service of an undertaking which, on behalf of others or on its own behalf, is engaged in the transport of passengers or goods by road, inland waterway or air shall be subject to—

- (a) the applicable legislation of the territory where the principal place of business is located if the principal place of business of the undertaking is in the territory of a Contracting Party;

- (b) the applicable legislation of the territory where a subsidiary, branch or agency of an undertaking is located if that person is employed by any of the same and the location is different from the territory in which the principal place of business of that undertaking is situated;
- (c) the applicable legislation of the place of residence, if that person is mainly employed in the territory of a Contracting Party in which that person is ordinarily resident even if the undertaking employing that person has neither its principal place of business, nor a branch, subsidiary or agency in that territory.

Article 10

Persons Employed on Ships

Subject to the exceptions set out hereunder, persons employed on board ships flying the flag of a Contracting Party shall be subject to the applicable legislation of that Contracting Party:

- (i) employed persons who are employed by an undertaking which is their regular employer, either in the territory of a Contracting Party or on board a ship flying the flag of a Contracting Party, and who are assigned by that undertaking to work for it on board a ship flying the flag of another Contracting Party, shall remain subject to the applicable legislation of the first Contracting Party, subject to the conditions set out in (i) and (ii) of Article 7;
- (ii) employed persons normally engaged in their occupations in the territorial waters or in a port of a Contracting Party or on board a ship flying the flag of another Contracting Party but who are not members of the ship's crew shall be subject to the applicable legislation of the first Contracting Party;
- (iii) employed persons who are employed on board a ship flying the flag of a Contracting Party and who are paid in respect of their occupation by an undertaking having its principal place of business, or by a person residing in the territory of another Contracting Party, shall be subject to the applicable legislation of the second Contracting Party if they reside in its territory and the undertaking or person paying the remuneration shall be regarded as the employer for the purpose of the application of the said legislation.

Article 11

*Persons employed in Diplomatic Missions, Consulates and
International Organisations*

The provisions of Articles 9, 10 and 11 shall also be applied to members of the service staff of diplomatic missions, consulates or international organisations and persons employed in the private service of officials of such organisations but such persons who are nationals of a Contracting Party which is a sending State may opt for the application to them of the relevant legislation of that Contracting Party.

Article 12

Self-employed Persons

Subject to the qualifications specified hereunder a self-employed person who follows that person's occupation in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party:

- (a) a self-employed person who resides in the territory of one Contracting Party and that person's occupation in the territory of another Contracting Party shall be subject to the applicable legislation of the first Contracting Party if the second Contracting Party has no legislation applicable to that person;

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

- (b) a self-employed person who normally follows that person's occupation in the territories of two or more Contracting Parties shall be subject to the applicable legislation of the Contracting Party in the territory in which that person resides, if that person works partly in that territory;
- (c) where the self-employed person referred to in paragraph (b) does not follow part of that person's occupation in the territory of the Contracting Party where that person resides, or where that Contracting Party has no legislation applicable to that person, that person shall be subject to the legislation agreed on by the competent institutions of the Contracting Parties concerned.

Article 13

*Exclusion of Articles 6 to 12 in Respect of
Voluntary Insurance*

The provisions of Articles 6 to 12 shall not be applied to voluntary insurance.

Article 14

*Entitlement to Membership of Compulsory
and Voluntary Insurance Schemes*

1. Where the application of the relevant legislation of two or more Contracting Parties would result in the person concerned becoming insured under a compulsory insurance scheme and at the same time permit membership as a voluntary contributor to another compulsory insurance scheme, the person concerned shall be subject only to the applicable legislation of the first-mentioned compulsory insurance scheme.

2. In cases where the application of the relevant legislation of two or more Contracting Parties would permit membership as a voluntary contributor to two or more compulsory insurance schemes, the person concerned shall be entitled to be insured under the insurance of the Contracting Party where that person resides, or if that person is not resident in the territory of one of the Contracting Parties, under the scheme of the Contracting Party the legislation of which last applied to that person.

Article 15

Exclusion of the Provisions of Part II

The competent authorities of two or more Contracting Parties may, by mutual consent, make exceptions to any of the provisions of Articles 6 to 14 in the interests of persons affected thereby.

PART III

**Provisions Governing Invalidity, Old Age, Retirement, Survivors' and
Disablement Pensions, and Death Benefit**

Article 16

Determination of Benefits

Where an insured person has been subject successively or alternatively to the applicable legislation of two or more Contracting Parties and has satisfied the conditions for a benefit in the jurisdiction of any of those Contracting Parties, such insured person or the survivors of that person as the case may be, shall be entitled to the benefit in accordance with the applicable legislation of each of the Contracting Parties concerned.

Article 17

Totalisation of Contribution Periods

Where the applicable legislation of a Contracting Party makes entitlement to benefits conditional on the completion of a specified number of insurance periods and Article 16 does not apply, the competent institution shall take account of all insurance periods completed under the applicable legislation of other Contracting Parties in determining the fulfillment of the condition at the material time.

Article 18

Payment of a Partial Benefit

Where, at the material time, a claimant has satisfied the conditions for entitlement to a benefit in the jurisdiction of one Contracting Party but not the conditions for a benefit under the legislation of another Contracting Party in the territory of which the insured person concerned was employed, the competent institution of the other Contracting Party shall pay to such insured person or persons claiming through that person a portion of the benefit to which such person would have been entitled if that person had satisfied the relevant conditions. The portion of the benefit payable shall bear the same ratio which the contributions of that person bear to the total qualifying contributions.

Article 19

Apportionment of Totalised Benefits

1. The competent institution of each Contracting Party shall determine in accordance with the applicable legislation whether and to what extent an insured person or the survivor of that person, as the case may be, satisfies the conditions for entitlement to benefit under Article 16, 17 or 18.

2. Where the institution concerned determines, by applying the provisions of Article 17, that an insured person satisfies the relevant conditions for entitlement to benefit, such institution shall calculate the notional amount of benefit such person could claim if the contribution periods completed under the legislation of all the Contracting Parties concerned had been completed under its applicable legislation.

3. The actual amount payable by each of the institutions concerned shall bear a direct ratio to the notional amount which the number of insurance periods completed in the territories of the interested Contracting Parties bears to the total number of insurance periods completed in all of their territories.

Article 20

*Determination of Liability to Contribute to
the Notional Amount in Certain Circumstances*

Where the legislation of an interested Contracting Party requires benefits to be calculated by reference to total insurable earnings or number of contributions, the earnings or contributions to be taken into account by the competent institution of that Contracting Party for the purpose of determining its liability to contribute to the notional amount referred to in paragraph 3 of Article 19 shall be calculated on the basis of the average earnings or the contributions recorded for the periods completed under its applicable legislation.

Article 21

Dependants

Where the applicable legislation of a Contracting Party provides that the amount of the benefit shall vary according to the number of dependants of an insured person, the competent institution shall also take account of dependants resident in the territory of another Contracting Party as if those dependants were resident in the territory of the first Contracting Party.

Article 22

Commencement Date of Payments

1. Where, by the application of Article 17, an insured person is determined to be entitled to a benefit and the qualifying age for the receipt of such benefit varies under the applicable legislation of the interested Contracting Parties, the commencing date for the receipt of such benefit shall be determined by the applicable legislation of the Contracting Party to which such insured person was last subject.

2. Where the qualifying age under the applicable legislation of an interested Contracting Party is lower than the qualifying age under the legislation of the Contracting Party to which the insured person was last subject, the competent institution

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

of the first Contracting Party shall pay directly to the insured person or the survivors of that insured person, as the case may be, from the applicable commencement date, such amounts as represent the liability of the said Contracting Party.

3. Where the qualifying age under the legislation of an interested Contracting Party is higher than the qualifying age under the legislation of the Contracting Party to which the insured person was last subject, the insured person shall not be entitled to receive the portion of the benefit payable by such Contracting Party in accordance with paragraph 3 of Article 19 before attaining the qualifying age stipulated in the applicable legislation of such Contracting Party.

Article 23

Liability for Certain Survivors' Benefits

Where, by the application of Article 17, the survivors of an insured person are determined to be entitled to a benefit which is not provided for under the applicable legislation of one or more interested Contracting Parties, the Contracting Party under the legislation of which such a benefit is provided for shall be liable to pay such portion of the benefit as corresponds to its liability according to the provisions of paragraph 3 of Article 19.

Article 24

Conversion of Invalidation Benefits

1. Subject to the applicable legislation of interested Contracting Parties, invalidity pensions shall, as appropriate, be converted into old age or retirement pensions and the provisions of Articles 16 to 19 of this Agreement shall apply.

2. Where the recipient of an invalidity pension payable under the applicable legislation of one or more interested Contracting Parties becomes entitled to old age or retirement pension, the competent institution of an interested Contracting Party with a continuing liability in that behalf shall continue to pay invalidity pension until the provisions of paragraph 1 hereof become applicable.

PART IV

Application of the Agreement

SECTION I

GENERAL PROVISIONS

Article 25

Composition of the Committee

1. The heads of the Social Security Schemes established by the Contracting Parties shall constitute a Committee (hereinafter called "the Committee") which shall settle every administrative question arising out of the provisions of this Agreement without prejudice to the right of the competent authorities, competent institutions or interested persons to have recourse to the procedures and jurisdictions provided for in the applicable legislation of Contracting Parties.

2. Specimens of certificates, statements, claims, declarations, and other documents required for the application of this Agreement shall be prepared by the Committee.

3. The Committee may assemble information on provisions of the legislation to which this Agreement applies at the request of the competent authorities of any Contracting Party.

4. The Committee may prepare written information for the purpose of informing the persons concerned of their rights and the administrative formalities required to secure them.

Article 26

Access to Competent Institutions

Any institutions of a Contracting Party and any person residing or staying in the territory of a Contracting Party may approach the competent institution of another Contracting Party directly.

Article 27

Supply of Information

1. Each Contracting Party, as soon as possible after this Agreement enters into force, shall supply the Secretary-General of the Caribbean Community (hereinafter referred to as "the Secretary-General") with the following information:

- (a) the name or names of the competent authority or authorities;
- (b) the name or names of the competent institution or institutions.

2. Any modifications made to the information supplied in accordance with paragraph 1 shall be transmitted to the Secretary-General within three months of the said modifications.

SECTION II

Application of Part 1 of the Agreement

Article 28

Submission of Certificates by Claimants

In order to benefit from the provisions of Article 4, the person concerned shall submit to the competent institution of the interested Contracting Party a certificate of the periods of insurance completed under the legislation of any other Contracting Party. The certificate shall be issued at the request of the person concerned or the competent institution by the institution or institutions under the legislation of which the periods in question were completed.

Article 29

Application of Article 5

1. In applying the provisions of Article 19, the competent institutions of interested Contracting Parties shall be entitled to take account of the benefits, income or remuneration entailing reduction, suspension or disqualification in respect of the benefits due from it solely for the purpose of the reduction, suspension or disqualification of the amount referred to in paragraph 3 of Article 19.

2. The entitlement referred to in paragraph 1 shall not be exercised to calculate the notional amount referred to in paragraph 2 of Article 19, provided, however, that account shall be taken of such benefits, income or remuneration only to the extent of that fraction of the amount corresponding to the ratio of the periods completed as prescribed in paragraph 3 of Article 19.

3. The provisions of this Article shall apply where a person in receipt of a benefit under the applicable legislation of one Contracting Party is also entitled to benefits under the applicable legislation of one or more of the other Contracting Parties.

SECTION III

Application of Part II of the Agreement

Article 30

Application of Articles 7-10

1. In cases to which subparagraph (i) of Article 7, paragraph (a) of Article 9 and subparagraph (i) of Article 10 of this Agreement apply, the institution designated by the competent authority of the Contracting Party, the legislation of which is applicable, shall issue to the employed person at that person's request or on the request of that person's employer, if the required conditions are fulfilled, a certificate of such employment abroad stating that that person is still subject to that legislation.

2. The agreement referred to in subparagraph (ii) of Article 7 of this Agreement shall be requested by the employer. The consent of each employed person concerned shall be required if it is so provided in the applicable legislation of the Contracting Party referred to in paragraph 1.

Article 31

Application of Articles 8 and 9

Where, under Articles 8 and 9 of this Agreement, the applicable legislation of a Contracting Party is applicable to an employed person whose employment is not in the territory of that Contracting Party, that legislation shall apply as if the person were employed at that person's place of residence in the said territory, particularly for determining the competent institution.

SECTION IV

The Aggregation of Insurance Periods

Article 32

Application of the Totalisation Principle

1. In the cases referred to in Articles 4 and 17 of this Agreement, insurance periods shall be added together in accordance with the following rules:

- (a) to the insurance periods completed under the provisions of the applicable legislation of one Contracting Party shall be added the insurance periods completed under the provisions of the applicable legislation of any other Contracting Party to the extent necessary to make up the total insurance period required under the provisions of the applicable legislation of the first-mentioned Contracting Party for the acquisition or maintenance of entitlement to benefit, provided always that these periods do not overlap. In the case of invalidity, old age, retirement or survivors' benefits to be paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 19 of this Agreement, each of the institutions concerned shall separately add together all the insurance periods completed by the person concerned under the provisions of the applicable legislation of all the Contracting Parties to which that person has been subject;
- (b) where a period of compulsory insurance completed under the applicable legislation of one Contracting Party coincides with a period of voluntary insurance completed under the provisions of the applicable legislation of another Contracting Party, the first period only shall be taken into account;
- (c) where the time at which certain periods of insurance were completed under the provisions of the applicable legislation of a Contracting Party cannot be accurately determined, such periods shall be presumed not to overlap with periods completed under the applicable legislation of another Contracting Party and shall be taken into account as may be necessary;

(d) where, according to the applicable legislation of one Contracting Party, certain insurance periods are taken into account only if they have been completed within a specified time, the institution which applies this legislation shall take into account only periods completed under the provisions of the applicable legislation of another Contracting Party as have been completed within the same specified time.

2. Where under the provisions of the applicable legislation of a Contracting Party a Social Security scheme falling within the scope of this Agreement takes account of insurance periods in respect of schemes not falling within the scope of this Agreement, such insurance periods shall be considered by the Contracting Parties to be taken into account for the purpose of aggregation.

SECTION V

Application of Part III of the Agreement

Article 33

Application of Article 18

1. In order to benefit from the provisions of Article 18, the Claimant shall submit to the competent institution or institutions of the interested Contracting Party or Contracting Parties, as the case may be, liable to pay a portion of a benefit, a certificate stating that the insured person concerned has satisfied the qualifying conditions for a benefit under the applicable legislation of another Contracting Party.

2. The certificate shall be issued by the competent institution or institutions, as the case may be, of one or more other Contracting Parties under the applicable legislation of which such insured person had qualified for the benefit, at the request of the claimant or the competent institution of the interested Contracting Party against whom the claim for payment of a portion of a benefit has been made.

Article 34

Submission of Claims

1. In order to receive the benefits under Articles 16 to 18, 21 and 24 of this Agreement, the claimant shall submit a claim to the institution of the claimant's place of residence in the manner prescribed by the applicable legislation. If the insured person entitled had not been subject to that legislation, the institution of the place of residence shall transmit the claim to the institution or institutions of the Contracting Party or Contracting Parties, as the case may be, to the legislation to which such person was subject and also indicate the date on which the claim was submitted. That date shall then be considered as the date of submission of the claim to the last-mentioned institution.

2. Where the claimant resides in the territory of a Contracting Party to the legislation to which neither the claimant nor the deceased person has been subject, the claimant may submit the claim to the institution of the Contracting Party to the legislation to which the claimant or the deceased person was last subject.

Article 35

Documents to Accompany Claims

The submission of the claims referred to in Article 34 shall be subject to the following rules:

- (a) the claim shall be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed—
 - (i) either by the legislation of the Contracting Party in the territory of which the claimant resides, in cases referred to in paragraph 1 of Article 34; or

- (ii) by the legislation of the Contracting Party to which the claimant or the deceased person was last subject, in the case referred to in paragraph 2 of Article 34;
- (b) the accuracy of the information furnished by the claimant shall be substantiated by official documents attached to the claim form, or corroborated by the authorities of the Contracting Party in the territory of which the claimant resides;
- (c) the claimant shall indicate, as far as possible, the invalidity, retirement, old age, or survivors' benefit institution or institutions of each of the Contracting Parties to the legislation to which the claimant or the deceased has or had been subject, or the employer or employers by whom the claimant or the deceased person has or had been employed in the territory of any Contracting Party, and submit any certificates of employment that may be in the possession of the claimant or had been in the possession of the deceased person.

Article 36

Certification of Dependants

1. In order to benefit from the provisions of Article 21 of this Agreement, the claimant shall, where required, submit a certificate regarding dependants who are residing in the territory of a Contracting Party other than that where the institution which pays the benefit is situated. The certificate shall be issued by the institution designated by the competent authority of the Contracting Party in the territory in which the said dependants reside.

2. The certificate referred to in the preceding paragraph shall be valid for a period of twelve months from the date of issue and shall be renewable. When renewed, its validity shall run from the date of renewal. The claimant shall immediately notify the competent institution of any change to be made in the certificate which shall have effect from the date on which it occurred.

3. Instead of the certificate referred to in paragraph 1 of this Article, the competent institution may require the claimant to submit other relevant documents of proof of relationship of the dependants who are residing in the territory of a Contracting Party other than that of the competent jurisdiction, if such documents are normally issued by authorities of that Contracting Party.

4. The provisions of Article 21 and of the preceding paragraphs of this Article are to be construed without prejudice to the consideration of dependants residing outside of the territory of any Contracting Party.

Article 37

Determination of Invalidity

In determining the degree of invalidity the institution of a Contracting Party shall take account of all the medical and administrative information assembled by the institutions of any other Contracting Party, but each institution shall retain the right to have the claimant examined by a doctor of its choice at its own expense.

Article 38

Examination of Claims

1. Claims shall be examined by the institutions to which they have been submitted or to which they have been transmitted, as the case may be, as provided for in Article 34.

2. The examining institution shall immediately advise all the institutions concerned so that the claim may be examined by them simultaneously and without delay.

Article 39

Procedures of Examining Institutions

1. In examining claims, the examining institution shall use a form setting out details of, and the total of, the insurance periods completed by the persons concerned, or, in respect of the deceased person, under the applicable legislation of all the Contracting Parties concerned.

2. The transmission of the form referred to in paragraph 1 to the institution of any other Contracting Party shall be in lieu of the transmission of supporting documents.

Article 40

Duties of Examining Institutions

1. The examining institution shall enter on the form referred to in paragraph 1 of Article 39 the insurance periods completed under the provisions of its own legislation and shall send a copy of the form to the appropriate institution of each Contracting Party to the legislation to which the person concerned or the deceased person has or had been subject and attach employment certificates produced by the claimant.

2. Where only one institution is involved, that institution shall complete the form sent to it in accordance with the provisions of the preceding paragraph indicating the insurance periods completed under its applicable legislation. It shall then determine entitlement under that legislation having regard to the provisions of Article 17, and shall state on the form the notional and actual amount of the benefit calculated in accordance with the provisions of paragraphs 2 and 3 of Article 19 and, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 17 to 21 solely for the periods completed under the provisions of the applicable legislation. The form, which should also contain information concerning the procedure for appeals, including time limits, shall then be returned to the examining institution.

3. Where there are two or more institutions involved, each institution shall complete the form submitted to it in accordance with the provisions of paragraph 1 of this Article, indicating the insurance periods completed under its applicable legislation, and return the form to the examining institution. That institution shall send the completed form to the other institutions involved, each of which shall determine entitlement under its applicable legislation having regard to the provisions of Article 17 and shall state on the form the notional and actual amounts of any benefit calculated in accordance with the provisions of paragraphs 2 and 3 of Article 19 and, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 17 to 21 solely for the periods completed under the provisions of the applicable legislation. The form, which should also contain information concerning the procedure for appeals, including time limits, shall then be returned to the examining institution.

4. Where the examining institution has received all the information referred to in paragraphs 2 and 3 of this Article, it shall determine entitlement under its applicable legislation, having regard to the provisions of Article 17, and shall calculate the notional and actual amounts of the benefit in accordance with the provisions of paragraphs 2 and 3 of Article 19, and where appropriate, the amount of any benefit which could be claimed without applying the provisions of Articles 17 to 21 solely for the periods completed under its applicable legislation.

Article 41

Payment to Claimants

1. If the examining institution determines that the claimant is entitled to benefit under the provisions of its applicable legislation without reference to periods completed under the provisions of the legislation of other Contracting Parties to which the person concerned or the deceased person was subject, it shall make an immediate payment of the benefit directly to the claimant on a provisional basis, subject to the provisions of paragraph 6 of this Article.

2. Where the examining institution pays a benefit under paragraph 1 of this Article, it shall deduct from the amount of such benefit the amount of benefit paid by any other institution as soon as it is ascertained.

3. If, while a claim is being examined, an institution other than the examining institution determines that the claimant is entitled to benefit in accordance with its applicable legislation without having to take account of periods completed under the provisions of the applicable legislation of other Contracting Parties to which the person concerned or the deceased person was subject, it shall pay the claimant the benefit on a provisional basis and advise the examining institution accordingly, without prejudice, however, to the provisions of paragraph 2 of this Article.

4. Where an institution is required to pay a benefit under paragraphs 1 and 3 of this Article, it shall pay only the highest rate of benefit, without prejudice, however, to the provisions of paragraph 2 of this Article.

5. Where the examining institution does not pay a benefit under paragraph 1 of this Article, and in cases where there might be delay, it shall make to the person concerned a recoverable advance determined in accordance with the provisions of paragraphs 1 to 3 of Article 19.

6. When the final settlement of the benefit claimed is determined, the examining institution and other interested institutions shall adjust their accounts as regards the amount of any provisional benefit paid or the advance made in accordance with the relevant provisions of this Article and any sum overpaid by the said institutions may be deducted from the amount of benefits they are required to pay to the person concerned.

Article 42

Consultations among Interested Institutions

After the examining institution has consulted with each of the interested institutions and those institutions have agreed on the extent of their liability, the examining institution shall inform the claimant of the component part of the total benefit payable by each institution concerned. The examining institution shall also inform the claimant concerning the procedure for appeals, including the limits prescribed by the applicable legislation.

Article 43

Medical Supervision of Beneficiaries

1. If the recipient of any benefit referred to in Article 2 stays or resides in the territory of a Contracting Party other than the competent jurisdiction, administrative and medical supervision shall be exercised at the request of the competent institution by the institution of the place of stay or residence in accordance with the rules prescribed by the applicable legislation of the latter institution but the competent institution may require the recipient to be examined by a medical practitioner of its choice at its own expense.

2. If the supervision referred to in the preceding paragraph reveals that a person receiving a benefit or payment by way of assistance is employed or has means in excess of the prescribed limit, that information and any other information requested shall be reported to the competent institution by the institution of the place of stay or residence.

Article 44

Resumption of Benefits

Where after the suspension of benefits which a person had been receiving, that person becomes qualified again for benefits while residing in the territory of a Contracting Party other than the competent jurisdiction, the institution concerned shall exchange all the information necessary to enable the payment of benefits to be resumed.

Article 45

Payment of Benefit in Normal Case

The competent institution of a Contracting Party shall, in the normal case, pay a benefit directly to a beneficiary residing in the territory of another Contracting Party, but where in any particular case the competent institution of a Contracting Party pays a benefit directly to the competent institution of another Contracting Party, the person entitled to such benefit shall be informed accordingly.

Article 46

Notification of Change of Residence

Where the recipient of a benefit payable under the applicable legislation of one or more Contracting Parties transfers the residence of the recipient from the territory of one Contracting Party to that of another Contracting Party the recipient shall notify the competent institution or institutions responsible for the payment of such benefit.

Article 47

Medical Examination of Pensioners

If the recipient of a pension stays or resides in the territory of a Contracting Party other than that of the competent jurisdiction, administrative and medical supervision and also such medical examinations as are necessary for the revision of pensions shall be carried out at the request of the competent institutions by the institution of the place of stay or residence in accordance with the rules in the applicable legislation of the latter institution, but, the competent institution may require the recipient to be examined by a doctor of its choice at its own expense.

Article 48

Co-operation by Institutions

The institution of the place of residence of a person who has received benefits that were not payable to that person, or the institution designated by the competent authority of the Contracting Party in the territory in which that person resides, shall co-operate with the institution of any other Contracting Party which has paid such benefits if the latter institution seeks recovery from the person in question.

Article 49

Co-operation in Recovering Excess Payments

Where the institution of a Contracting Party has paid to a beneficiary a sum in excess of the beneficiary's entitlement, that institution may request the institution of any other Contracting Party responsible for the payment of corresponding benefits to that person, to deduct the amount overpaid from the payments it is making to the beneficiary. The latter institution shall withhold that amount to the extent to which such a deduction is permissible under the provisions of its applicable legislation as if the overpayment had been made by it and transfer the amount so withheld to the creditor institution.

Article 50

Co-operation in Recovering Advance Payments

Where the institution of a Contracting Party has made an advance payment of benefits, it may request the institution of any other Contracting Party responsible for payment of corresponding benefits to that person to deduct the amount of the advance from the payments due to the person concerned. The latter institution shall transfer the amount withheld to the creditor institution.

Article 51

Payment of Benefits Pending Settlement of Disputes

In the event of a dispute between competent institutions or authorities of two or more Contracting Parties concerning either the legislation applicable under Part II of this Agreement, or the institution which is to provide the benefit, the person who would have been able to claim the benefit in the absence of such a dispute shall provisionally receive the benefit prescribed by the legislation which the institution of the place of residence is to apply or, where the person does not reside in the territory of one of the Contracting Parties concerned, by the legislation of the Contracting Party to which he was last subject. After settlement of the dispute, the cost of the benefits paid provisionally shall be borne by the institution declared liable to pay such benefits.

PART V

Miscellaneous Provisions

Article 52

*Communications between Competent Authorities
of Contracting Parties*

1. The competent authorities of Contracting Parties shall communicate to each other:
 - (a) all information concerning measures taken by them for the application of this Agreement;
 - (b) all information concerning their legislation which may affect the application of this Agreement; and
 - (c) all statistical information concerning beneficiaries and the amount of benefits paid under this Agreement.

2. For the purpose of the application of this Agreement, the competent authorities and competent institutions of the Contracting Parties shall:

- (a) assist one another as if they were applying their own legislation; and
- (b) provide administrative assistance free of charge, but, the competent authorities of the Contracting Parties may agree to reimburse certain expenses.

3. For the purpose of the application of this Agreement, the competent authorities and competent institutions of the Contracting Parties may communicate directly with one another and with the persons concerned or their representatives.

Article 53

Non-discrimination for Exemption from Taxes and Duties

Any exemption from, or reduction of, taxes, stamp duty, legal or registration costs specified by the legislation of one Contracting Party with respect to the certificates, documents or other documentary evidence to be submitted under the legislation of that Party shall be extended to cover similar certificates, documents or other documentary evidence to be submitted under the legislation of another Contracting Party or under this Agreement.

Article 54

Time Limit for Submission of Application

1. If the claimant is resident in the territory of a Contracting Party other than that of the competent jurisdiction, the claimant may validly submit the claim to the institution of the claimant's place of residence, which shall refer it to the competent institution or institutions mentioned in the application.

2. Any claim, application, declaration or appeal which should have been made under the legislation of a Contracting Party within a prescribed time to an authority, institution or jurisdiction of that Party shall be admissible if it is submitted within the same time to an authority, institution or jurisdiction of another Contracting Party. In such an event, the authority, institution or jurisdiction receiving the claim, application, declaration or appeal shall transmit it without delay to the competent authority, institution or jurisdiction of the first Contracting Party, either directly or through the competent authorities of the Contracting Parties concerned. The date on which any claim, application, declaration or appeal was submitted to an authority, institution or jurisdiction of the second Contracting Party shall be deemed to be the date on which it was lodged with the competent authority, institution or jurisdiction.

Article 55

Investigations and Medical Examinations

Investigations or medical examinations prescribed by the legislation of one Contracting Party may, at the request of the institution which administers such legislation, be carried out in the territory of another Contracting Party by the institution of the place of stay or residence, and in such a case they shall be deemed to have been made in the territory of the first Contracting Party.

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

Article 56

Currency of Payment

1. Competent institutions shall discharge their financial obligations under this Agreement in their national currencies, subject to paragraph 2 hereof.

2. Where under this Agreement a competent institution is required to pay a benefit to a beneficiary resident in the territory of another Contracting Party or to another competent institution in such territory, it shall discharge its obligation in the currency of such other Contracting Party.

3. In the application of paragraph 2 hereof, the conversion rate shall be the rate of exchange in effect on the date of payment.

4. The benefit shall be paid to beneficiaries free from any deductions for administrative or other expenses.

Article 57

Disputes Settlement

1. Any dispute arising between two or more Contracting Parties concerning the interpretation or application of this Agreement shall first be subject to negotiation between the Contracting Parties concerned.

2. Where the dispute is not settled within three months from the request for commencement of negotiations as set out in paragraph 1, the dispute shall be submitted to arbitration on the written request of any of the Contracting Parties. Such request shall be addressed to the Secretary-General who shall promptly notify the parties to the dispute of the receipt of the request for arbitration.

3. Any dispute to be submitted to arbitration shall be referred to a tribunal consisting of three arbitrators. Each party to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall appoint the third arbitrator who shall be the chairman. The chairman must be a person with legal qualifications.

4. For the purpose of appointing a tribunal referred to in the preceding paragraph, a list of arbitrators consisting of persons experienced in the practice of social security shall be drawn up and maintained by the Secretary-General. To this end, every Contracting Party shall be invited to nominate two persons and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be three years and may be renewed. The chairman need not be appointed from the list.

5. If within thirty days following the date of notification by the Secretary-General in accordance with paragraph 2 of this Article, either party fails to appoint an arbitrator, any party may request the Secretary-General to appoint the other arbitrator. If within fifteen days of the appointment of the last of the two arbitrators the chairman has not been appointed, either party may request the Secretary-General to appoint the chairman.

6. Where more than two Contracting Parties are parties to a dispute, the parties concerned shall agree among themselves on the arbitrators to be appointed from the list. In the absence of such an appointment within the prescribed period, the Secretary-General shall appoint a sole arbitrator whether from the list or otherwise for the purpose.

7. The arbitral tribunals so established shall make a determination within ninety days from the date of their constitution. The decision of a sole arbitrator or of a majority in other cases shall be accepted by the parties to the dispute as final.

8. The procedure of the tribunal shall be determined by the arbitrators but the chairman shall be empowered to settle all questions of procedure in any case where there is disagreement.

9. The parties to a dispute shall bear the cost of the arbitration equally.

PART VI

Transitional and Final Provisions

Article 58

Entitlement Before Agreement is in Force

1. Subject to paragraph 3, where title to benefit arose before the entry into force of this Agreement, the benefits payable under such title shall be dealt with under the appropriate national legislation.

2. Every insurance period completed under the applicable legislation of a Contracting Party before the date on which this Agreement enters into force shall be taken into account for the purpose of determining rights under it.

3. Any benefit which has not been assessed or paid or which has been suspended on account of the residence of the person concerned in the territory of any Contracting Party other than that of the territory where the institution liable to pay the benefit is located, shall, by the request of the person concerned, be assessed and paid, or its suspension terminated as from the date this Agreement enters into force.

4. Where the request referred to in the preceding paragraph is made within two years of the date on which this Agreement enters into force, entitlement and rights arising in accordance with the provisions of this Agreement shall be acquired as from that date, and no provision to the contrary in the applicable legislation of any Contracting Party with respect to entitlement or rights lapsing or becoming statute-barred shall apply to the person concerned.

5. Where the request referred to in paragraph 3 is made more than two years after the date on which this Agreement enters into force, any entitlement or rights which are not held to be statute-barred or to have lapsed shall be payable only from the date on which the request was made, unless there are more favourable provisions in the applicable legislation of the Contracting Party concerned.

Article 59

Entitlement to Sign and Ratify, Accept or Accede

1. This Agreement shall be open for signature by the Members of the Caribbean Community and shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary-General.

2. The Agreement shall enter into force on the first day of the third month following that in which the third instrument of ratification or acceptance is deposited with the Secretary-General.

*National Insurance (CARICOM Reciprocal Agreement on
Social Security) Order, 1998*

3. Countries ratifying or accepting the Agreement after its entry into force shall become parties thereto one month following the deposit of an appropriate instrument of ratification or acceptance.

4. Countries mentioned in paragraph 1 may accede to the Agreement at any time. Accession shall take effect one month following the deposit of an appropriate instrument of accession.

Article 60

Participation by other Countries

1. After the entry into force of this Agreement, the Contracting Parties may, by unanimous vote, invite any other country to accede to it.

2. Accession shall be effected by the deposit of any appropriate instrument of accession with the Secretary-General and shall take effect three months after the date of such deposit.

Article 61

Amendments

1. This Agreement may be amended by a two-thirds majority vote of the Contracting Parties.

2. Any such amendment shall enter into force three months thereafter without prejudice to any rights accruing to an insured person or persons claiming through such insured person prior to the amendment.

Article 62

Review of the Agreement

The Contracting Parties may review this Agreement three years after its entry into force.

Article 63

Denunciation

1. Any contracting Party may denounce this Agreement not less than five years after its entry into force for that Contracting Party by giving notice in writing to that effect to the Secretary-General and withdraw therefrom.

2. Withdrawal shall take effect six months after the date of the written notice mentioned in paragraph 1.

Article 64

Depositary

The Secretary-General shall perform all depositary functions in relation to this Agreement.

Article 65

Termination

1. This Agreement shall terminate if at any time less than three Contracting Parties continue to participate in the regime established by this Agreement. In the absence of such termination, this Agreement shall remain in force indefinitely.

2. In the event of withdrawal from or termination of this Agreement, all rights acquired thereunder shall be maintained and negotiations shall take place for the settlement of any rights then in the course of acquisition by operation of the provisions hereof.

Made this 18th day of March, 1998.

A. LEUNG WOO-GABRIEL
Acting Secretary to Cabinet