

CHAPTER 350**NATIONAL INSURANCE****Proposed 2010 Amendments to Contributions, Benefits & Assistance and
Financial & Accounting Regulations incorporated.**

LIST OF AUTHORISED PAGES

1 – 8	LRO 1/2010	53 – 54	LRO 1/2006	109 – 120	Original
9 – 10	LRO 1/2006	55 – 60	Original	121 – 124	LRO 1/2006
11 – 14	Original	61 – 66	LRO 1/2008	125 – 130B	LRO 1/2010
15 – 20	LRO 1/2010	67 – 72	LRO 1/2010	131 – 132	LRO 1/2006
21 – 30	Original	73 – 76	Original	133 – 134	Original
31 – 32	LRO 1/2006	77 – 80	LRO 1/2006	135 – 136	LRO 1/2006
33 – 34	LRO 1/2008	81 – 92	Original	137 – 148	Original
35 – 40	LRO 1/2006	93 – 94	LRO 1/2010	149 – 162	LRO 1/2010
40A – 40H	LRO 1/2010	95 – 98	LRO 1/2006	163 – 164	Original
41 – 50	Original	99 – 100	Original	165 – 166	LRO 1/2006
51 – 52B	LRO 1/2008	101 – 106B	LRO 1/2010	167 – 170	Original
		107 – 108	LRO 1/2006		

ARRANGEMENT OF SUBSIDIARY LEGISLATION

SECTION 1

Appointed Day — Self-Employed Persons..... PAGE 2

SECTION 2(1), 16, 21(2), 23, 24, 26, 27, 29, 33, 36, 37, 59, and 62

National Insurance (Benefit and Assistance) Regulations. PAGE 2

SECTIONS 12, 15(2), 16, 17, 18, 19, 20, 55, 57(3), 58, 59 and 62

National Insurance (Contributions) Regulations..... PAGE 91

SECTION 27, 49, 50 and 62

National Insurance (Determination of Claims and Questions) Regulations..... PAGE 129

SECTION 44 and 62

National Insurance (Financial and Accounting) Regulations..... PAGE 150

SECTION 49

National Insurance (Appeals and References) Regulations. PAGE 165

CHAPTER 350**NATIONAL INSURANCE****S.I. 47/1976 APPOINTED DAY — SELF-EMPLOYED
PERSONS****(SECTION 1)**

The Minister, by Notice, appointed the 5th day of April, 1976, as the date on which the provisions of the National Insurance Act relating to self-employed persons came into operation.

**NATIONAL INSURANCE (BENEFIT AND ASSISTANCE)
REGULATIONS****ARRANGEMENT OF REGULATIONS**

1. Citation.
2. Interpretation.

**PART I
CLAIMS**

3. Claims to be made in writing.
4. Supply of claim forms.
5. Claims not on appropriate forms.
6. Information to be given when making claim for benefit or assistance.
7. Date of claim.
8. Amendment of claim forms.
9. Interchange with claims for other benefits under the Act.

**PART II
PAYMENTS**

10. Time and manner of payment of injury benefit, sickness benefit or sickness assistance, maternity benefit and unemployment benefit.
11. Time and manner of payment of pensions.
12. Board may make other arrangements for payment of pension in certain cases.
13. Conditions relating to payment of pension.
14. Entitlement to receive benefit or assistance.
15. Extinguishment of right to sums payable by way of benefit or assistance which are not obtained within the prescribed time.
16. Information to be given when obtaining payment for benefit or assistance.

**PART III
MEDICAL CERTIFICATION**

17. Certificates of incapacity and confinement.

PART IV
GENERAL BENEFITS

Retirement Benefit

- 18. Entitlement to retirement benefit and duration thereof.
- 19. Rate of retirement benefit.
- 20. Date of retirement immediately following invalidity benefit.
- 21. Award of retirement benefit between the age of sixty and sixty-five years.

Invalidity Benefit

- 22. Entitlement to invalidity benefit and duration thereof.
- 23. Rate of invalidity benefit.

Survivors Benefit

- 24. Order of priority.
- 25. Further conditions affecting title of widow or widower.
- 26. Further conditions affecting parents.
- 27. Rate increase for retirement, invalidity and survivor's benefit.
- 28. Entitlement to orphan benefit and duration thereof.
- 29. Rate of orphan's benefit.
- 30. Increase in certain retirement benefits, invalidity benefits and survivor's benefits.
- 30A. Increase in certain retirement benefits, invalidity and survivor's benefit.

Sickness Benefit

- 31. Entitlement to sickness benefit.
- 32. Conditions which must be satisfied.
- 33. Rate of sickness benefit.
- 34. Effect of statutory benefit on contractual benefit.

Maternity Benefit and Maternity Grant

- 35. Entitlement to maternity benefit.
- 36. Conditions for award of maternity benefit.
- 37. Duration of maternity benefit.
- 38. Rate of maternity benefit.
- 39. Effect of statutory benefit on contractual benefit.

- 40. Support of claim to maternity benefit.
- 41. Certificate of confinement.
- 42. Disqualification.
- 43. Incapacity for work immediately following the cessation of entitlement to maternity benefit.
- 44. Maternity grant.

Funeral Benefit

- 45. Entitlement to funeral benefit.
- 46. Persons who may receive funeral benefit.
- 47. Amount of funeral benefit.
- 47A. Entitlement to unemployment benefit.
- 47B. Claims.
- 47C. Conditions to be satisfied.
- 47D. Duration.
- 47E. Rate of benefit.
- 47F. Disqualification for unemployment benefit.
- 47G. Duration of disqualification and effect on benefit and contributions.
- 47H. Loss of employment through trade dispute.
- 47I. Refund to Director.

PART V INDUSTRIAL BENEFITS

Injury Benefit

- 48. Meaning of “injury benefit period”.
- 49. Entitlement to injury benefit; benefit days.
- 50. Rate of injury benefit.
- 51. Adjustment of employer’s sick leave payment.

Disablement Benefit

- 52. Entitlement of disablement benefit.
- 53. Duration of disablement benefit and manner of payment.
- 54. Rate of total disablement benefit and disablement grant.
- 55. Increase of disablement benefit during hospital treatment or incapacity for work.
- 56. Assessment of degree of disablement.
- 57. Additional amount for disablement.
- 58. Successive accidents.

Death Benefit

- 59. Order of priority for entitlement to death benefit and quantum.
- 60. Death benefit: further conditions affecting title to widows or widowers.
- 61. Rate of death benefit for orphan.
- 62. Further conditions affecting title of parents.
- 63. Entitlement of other dependants to death benefit.
- 64. Increase in certain disablement benefits and death benefits.
- 65. Rate increase for disablement and death benefit.

65A. Increase in certain disablement benefits and death benefits.

Funeral Benefit

66. Entitlement to funeral benefit.

67. Amount of funeral benefit.

Prescribed Diseases

68. Entitlement to industrial benefit and funeral benefit in respect of prescribed diseases.

69. Prescribed disease presumed to be due to nature of employment.

70. Date of development.

71. Recrudescence.

72. Sequelae or resulting conditions.

73. Disease other than prescribed diseases.

PART VI

INDUSTRIAL BENEFIT MEDICAL CARE

74. Entitlement to medical care.

75. Contents of medical care.

76. Purpose of medical care.

77. Medical care free of charge.

78. Pharmaceutical products.

79. Patient's consent to in-patient treatment.

80. Board may enter into agreement with the Minister of Health for provision of services.

81. Board may enter into agreement with other providers of medical care.

82. Medical case histories.

83. Confidential nature of personal health, etc. information.

84. Obligations of patient.

85. Refund of cost of medical care in emergency and exceptional circumstances.

86. Conveyance of insured person.

87. Interim arrangement.

88. Travelling and other expenses in relation to medical care.

PART VII

ASSISTANCE

89. Persons not entitled to assistance.

Old Age Non-contributory Pension

90. Award and duration of old age non-contributory pension.

Invalidity Assistance

91. Award and duration of invalidity assistance.

Survivor's Assistance

92. Award and duration of survivor's assistance.

Sickness Assistance

93. Award and duration of sickness assistance.

Rates of Assistance

94. Rates of assistance.

**PART VIII
COMMON PROVISIONS RELATING TO BENEFIT AND
ASSISTANCE**

95. Determination of invalidity and certification of permanent incapacity for work.
96. Disqualification.
97. Manner of claiming sickness and injury benefit or sickness assistance.
98. Duration of sickness benefit or sickness assistance.
99. Minimum amount of benefit

**PART IX
MISCELLANEOUS PROVISIONS**

100. Persons unable to act.
101. Payment on death.
102. Entitlement to more than one benefit or type of assistance.
103. Credit contribution.
104. Special provisions relating to persons absent, abroad.
105. Payment of benefit or assistance for which person is eligible under regulation 104.
106. Special provisions to persons undergoing imprisonment or detention in legal custody.
107. Notice of accident.
108. Obligations of employers in relation to accidents.
109. Accidents in the course of illegal employment, etc.
110. Transitional provisions for persons 35 years and above on appointed day.
111. Penalty.

FIRST SCHEDULE — Rules for Medical Certification

SECOND SCHEDULE — Rules for Certification of Confinement

THIRD SCHEDULE — Amounts of Disablement Benefit Payable in the form of a Grant.

FOURTH SCHEDULE — Prescribed Degrees of Disablement.

FIFTH SCHEDULE — Schedule of Prescribed Diseases.

SIXTH SCHEDULE — Self-Employed Persons Eligible to Receive Industrial Benefits.

SEVENTH SCHEDULE

**NATIONAL INSURANCE (BENEFIT AND ASSISTANCE)
REGULATIONS**

(SECTIONS 2(1), 16, 21(2), 23, 24, 26, 27, 29, 33, 36, 37, 59
and 62)

[Commencement 1st October, 1984]

1. These Regulations may be cited as the National Insurance (Benefit and Assistance) Regulations.*

2. (1) In these Regulations, unless the context otherwise requires —

“Act” means the National Insurance Act;

“appropriate place” means the Head Office or local office at which a pension is payable in any particular case;

“basic wages” means the wages (including payment in lieu of notice) for a period of work, whether weekly or monthly, payable for a normal period without overtime, severance pay or other additional payments as either agreed between the employer and the employed person or recognised as normal for the employment;

“weekly basic wages” means six twenty-sixths of the monthly basic wages;

“cohabitation” means a man and a woman living together in such a way as husband and wife whether or not there is an impediment to the persons being lawfully married;

“confinement” means labour resulting in the issue of a living child or labour after twenty-four weeks of pregnancy resulting in the issue of a child whether alive or dead;

“contribution week” has the same meaning as in the National Insurance (Contributions) Regulations;

“contribution year” means the year beginning with the first Monday in July of each year and ending with the week of the last Monday in June of the following year;

S.I. 70/1984
S.I. 57/1985
S.I. 62/1992
S.I. 55/1993
S.I. 84/1998
S.I. 66/1999
S.I. 46/2004
S.I. 95/2004
S.I. 36/2005
S.I. 31/2007
S.I. 40/2009
S.I. 51/2009
S.I. 54/2009

Citation.

Interpretation.

Ch. 350.

S.I. 46/2004.

S.I. 51/1984.

S.I. 84/1998.

- “a credit” means a contribution which has been credited to an insured person;
- “to credit” means to grant an insured person a credit pursuant to these or any other Regulations in lieu of a paid contribution;
- “current” in relation to the payment of contributions means less than sixty days past due;
- “day” means a period of twenty-four hours beginning at midnight or any other hour of any day (as may be prescribed) and ending at midnight or such other hour (as the case may be) on the following day;
- “the deceased” in relation to survivor’s benefit and death benefit means the person in respect of whose death the benefit is claimed or payable;
- “degree of disablement” means the loss of faculty suffered as a result of the relevant injury expressed in whole numbers as a percentage of total loss of faculty;
- “dependant” means —
- (a) in relation to a deceased person, such member of his family as was wholly or partially dependent upon the income of the deceased at the time of his death, or would but for his temporary incapacity for work or, in relation to Industrial Benefits the relevant injury, have been so dependent; and, where the deceased being the parent or grandparent of an illegitimate child leaves such child so dependent upon his income, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his income, shall include such an illegitimate child and parent or grandparent respectively; and
 - (b) in relation to a beneficiary, such member of his family under the age of sixteen years who was or would, but for posthumous birth, have been a dependant of the deceased person and has become wholly or partially dependent upon the income of the said beneficiary; but so that a person shall not be deemed to be a partial dependant of any other person unless he was dependent partially on, or on financial support from,

that other person for the provision of the ordinary necessities of life;

“determining authority” means, as the case may require, the Board or the Director, an appeal tribunal or a medical referee or medical appeal board appointed or constituted in accordance with any Regulations for the time being in force under the Act;

“economic employment” means gainful occupation as an employed or self-employed person, the earnings from which exceed fifty per centum of the ceiling on insurable wages; *S.I. 84/1998.*

“employment injury” means personal injury which is caused by accident arising out of and in the course of prescribed employment or self-employment or a prescribed disease being due to the nature of such employment.

“entry into insurance” means, in relation to any person, the date on which he first becomes an insured person under the Act;

“family unit” means — *S.I. 84/1998.*

(a) two adults living together either through lawful wedlock or in a common law relationship as husband and wife with dependent children under the age of twenty-one years; or

(b) an adult living with dependent children under the age of twenty-one years;

“funeral director” means the person, by whatever name called, who contracts for the carrying out of arrangements for funerals;

“grant” means any benefit which is payable in one sum and not by periodical payments;

“hospital” means any institution for the accommodation and treatment of persons needing medical care, and any institution for the accommodation and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and outpatient departments maintained in connection with any such institution as aforesaid;

“household” means any two or more persons, at least one of whom has attained the age of sixteen years, living together as members of a family, whether or not a state of marriage exists between any two members of such family;

“husband” includes a person treated as if he were a husband pursuant to paragraphs (2), (3) (4) and (5) of this regulation;

“incapacity” means incapacity by reason of which a person is rendered incapable of work;

S.I. 36/2005. “injury benefit period” has the meaning assigned to it in regulation 48;

“insurable occupation” means any occupation as an employed or self-employed person which is insurable under the Act for the benefit set out in subsection (1) of section 20 thereof;

S.I. 84/1998. “insurable wage or income” means the amount given in column 2 of the Fifth Schedule and columns 3 and 4 of the Sixth Schedule of the National Insurance (Contributions) Regulations respectively for the appropriate wage or income in column 1 of the Fifth Schedule and columns 1 and 2 of the Sixth Schedule of those regulations respectively;

“invalid” means a person who is incapable of work as a result of a specified disease or bodily or mental disablement, which is likely to remain permanent and the word “invalidity” shall be construed accordingly;

“local office” means an office appointed by the Board as a local office for the purposes of the Act;

“medical authority” means a medical referee or a medical appeal board, as the case may be;

“medical care” means medical care of any kind set out in regulation 75 provided in accordance with these Regulations;

“medical examination” includes bacteriological and radiological tests and similar investigations, and references to being “medically examined” shall be construed accordingly;

“medical officer of the Board” means such registered medical practitioner employed by the Board who

may be designated by the Board to perform on its behalf executive duties in connection with medical matters;

“medical referee” means a registered medical practitioner appointed to act as a. medical referee under regulation 21 of the *National Insurance (Determination of Claims and Questions) Regulations*; S.I. 64/1974.

“member of a family” means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister and any other person who was, or is, at the time in relation to which the question of dependency arises, living in the household of the person in relation to whom the question of dependency arises and was wholly or partially dependent on the last-mentioned person’s income;

“orphan” means an unmarried child under the age of eighteen years or, being above the age of sixteen but under the age of eighteen years, is receiving full-time education or training otherwise than under a contract of service under which wages are paid, or is an invalid who fulfils any of the following conditions — S.I. 84/1998.

(a) a legally adopted child on the death of his adoptive parent or parents;

~~(b) an illegitimate child when his mother dies;~~

~~(e**b**)~~ a child of divorced parents when the only parent with responsibility for his custody and maintenance dies;

~~(d**c**)~~ a child in a single parent family when that parent dies and it is impossible to trace the other parent; or

~~(e**d**)~~ a child whose parents are both dead;

“para-medical practitioner” means a trained nurse or a person registered or enrolled under the Nurses and Midwives Act and approved or accepted by the Minister, whose function is to render medical care when or in any area where no registered medical or dental practitioner is available; Ch. 225.

“patient” means a person who is or may be, or has been, entitled to medical care;

“payment instrument” means any instrument used for payment through any office of the Board of a sum on account of any benefit or assistance and includes cheque, cash, draft, pension order, or serial order;

“pension” means a periodical payment in respect of retirement benefit, invalidity benefit, survivor’s benefit, disablement benefit (other than a grant), death benefit (other than a grant), old age non-contributory pension, invalidity assistance or survivor’s assistance as the case may require;

“pensioner” means a person to whom a pension is payable;

“periodical payment” means a weekly payment in arrear, or a payment in arrear calculated for such longer period as may from time to time be decided by the Board;

“practitioner” means a registered medical or dental practitioner or para-medical practitioner;

Ch. 226.

“registered dental practitioner” means a person registered or licensed under the Dental Act;

Ch. 224.

“registered medical practitioner” means a fully licensed medical practitioner, or a medical practitioner registered under section 13 or section 25 of the Medical Act; and

Ch. 225.

“registered midwife” means a person registered under the Nurses and Midwives Act;

“relevant accident” and “relevant injury” in relation to any benefit, mean respectively the accident or injury in respect of which that benefit is claimed or payable, and “relevant loss of faculty” means the loss of faculty resulting from the relevant injury;

“the relevant person” means the person by whom the contribution conditions for benefit are, or were to be satisfied;

“signature” means, in relation to any certificate, the name by which the person giving the certificate is usually known (any name other than the surname being either in full or otherwise indicated) written by that person in his own

handwriting and the expression “signed” shall be construed accordingly;

“spouse” includes a person treated as if he were a spouse pursuant to paragraph (2), (3), (4) or (5) of this regulation;

“total loss of faculty” means loss of faculty resulting from an injury described in the first column of the Fourth Schedule where the degree of disablement set out in the second column thereof is given as one hundred per centum;

“widow” and “wife” include respectively, a person treated as if she were a widow or a wife pursuant to paragraph (2), (3) or (4) of this regulation;

“widower” includes a person treated as if he were a widower pursuant to paragraph (2), (3) or (4) of this regulation.

(2) Where it is a condition for title to benefit or assistance that —

- (a) a woman is the widow of any person, the Director may treat a single woman or widow, who was living with a single man or widower as his wife at the date of his death, as if she were in law his widow;
- (b) a man is the widower of any person, the Director may treat a single man or widower, who was living with a single woman or widow as her husband at the date of her death, as if he were in law her widower;

Provided that —

- (i) the Director is satisfied that in all the circumstances he or she should be so treated; and
- (ii) there was no lawful impediment to a marriage between the persons concerned.

(3) Where the question of marriage or remarriage or of the date of marriage or remarriage arises in regard to the title or cessation of title of a person to benefit or assistance, the Director shall, in the absence of the subsistence of a lawful marriage and of any impediment to lawful marriage,

decide whether or not the person or persons concerned should be treated as if he, she or they were married or as if he or she had remarried, as the case may be, and if so, from what date, and in determining the question the Director shall have regard to the terms of paragraph (2).

(4) The determination of the Director under paragraph (2) or (3) shall, unless the context otherwise requires, have the effect of extending (as regards title or cessation of title of a person to benefit or assistance payable to a man or woman), the meaning of the word “marriage” to include an association between a single man or widower and a single woman or widow in the circumstances described in paragraph (2) of this regulation and for this purpose the words “wife”, “husband”, “widow”, “widower” and “spouse” shall be construed accordingly.

(5) The expression “the husband” or “the wife” in relation to a person who has been married more than once refers only to the last husband or wife respectively.

PART I CLAIMS

Claims to be
made in writing.

3. Every claim for benefit or assistance shall be made in writing to the Director on the form approved by the Board for the purpose of the benefit or assistance for which the claim is made, or in such other manner, being in writing, as the Director may accept as sufficient in the circumstances of any particular case or class of cases.

Supply of claim
forms.

4. Forms of claim shall be supplied without charge by the Board.

Claims not on
appropriate
forms.

5. Where a claim for benefit or assistance has been made on an approved form other than the form appropriate to the benefit or assistance claimed, the claim may be treated as if it had been made on the appropriate form:

Provided that in any such case the Director may require the claimant to complete the appropriate form.

Information to
be given when
making claim for
benefit or
assistance.

6. (1) Every person who makes a claim for benefit or assistance shall furnish such certificates, documents, information and evidence for the purpose of determining the claim as may be required and, if reasonably so required, shall for that purpose attend at such office or place as the Director may direct.

(2) Every person who makes a claim for benefit or assistance shall furnish, if required, the following information —

- (a) the claimant's identity, date of birth, usual place of residence and postal address, occupation and (if he is acting as agent for a claimant) his relationship to the latter;
- (b) the claimant's position in regard to assistance, and where necessary for the determination of the claim, the claimant's available resources and the amounts contributed by any person towards his maintenance; and
- (c) in the case of a claim in respect of or based on the insurance of a wife, a husband, a widow or a widower, a certificate of the marriage, together with a declaration signed by him and (where appropriate) by the claimant that the information is true to the best of his knowledge and belief.

(3) Every person who makes a claim for funeral benefit shall furnish, if required, the following information —

- (a) a death certificate relating to the deceased;
- (b) the estimate or account of the funeral director;
- (c) in the case of any corporate body, association or other authority, the particulars referred to in subparagraphs (a) and (b) of this regulation or any other particulars relating to the deceased.

(4) The Director may accept in support of claims and in the absence of the certificates or documents aforementioned —

- (a) as proof of kinship or marriage, evidence of a trustworthy third person or documentary evidence;
- (b) as proof of age, extracts from baptismal records or school records or such other evidence including affidavit as he considers satisfactory.

7. For the purpose of any claim to benefit or assistance the day of receipt of the claim at an office of the Board shall be deemed to be the date of claim. Date of claim.

Amendment of
claim forms.

8. (1) If, owing to the absence of signature or of an incomplete declaration, a claim is defective at the date of its receipt by the Director, the Director may refer the claim to the claimant, and if the claim form is returned duly signed and completed within one month from the date on which it is so referred, the claim may be treated as if it had been duly made in the first instance.

(2) Any person who has made a claim for benefit or assistance in accordance with the provisions of these Regulations may amend his claim, at any time before a decision has been given thereon, by notice in writing delivered at the office of the Board at which he made his claim, or sent to the Director, and any claim so amended may be treated as if it had been duly made in the first instance.

Interchange with
claims for other
benefits under
the Act.

9. Where it appears that a person who has made a claim for benefit or assistance may be entitled to some other benefit or assistance any such claim shall be treated by the Director as a claim in the alternative for that other benefit or assistance.

PART II PAYMENTS

Time and manner
of payment of
injury benefit,
sickness benefit
or sickness
assistance,
maternity
benefit and
unemployment
benefit.

10. Subject to the provisions of these Regulations, injury benefit, sickness benefit or sickness assistance, maternity benefit and unemployment benefit and any grant shall be paid in accordance with an award thereof, as soon as is reasonably practicable after such an award has been determined, in the following manner —

- (a) in the case of injury benefit, sickness benefit or sickness assistance, maternity benefit and unemployment benefit, by means of payment instruments for the payment thereof payable through the Head Office or a local office of the Board, or a bank, or by cash payment in the home if the circumstances of any particular case appear to the Director to render this appropriate;
- (b) payments under subparagraph (a) shall be made weekly or fortnightly but, where payment is due for a period covering less than a week, there shall be paid, after the end of that period, an amount equal to the proportion of rate of benefit or

S.I. 40/2009, r. 2.

assistance (as the case may be) which the number of days in that period, (Sunday being disregarded) bears to six;

- (c) in the case of a grant, by means of a payment instrument for the payment thereof payable through the Head Office or a local office of the Board, or a bank, or by such other means as may appear to be appropriate in the circumstances of any particular case:

Provided that a person who applies for a payment of benefit or assistance shall produce on request satisfactory evidence of his identity.

11. (1) Subject to the provisions of these Regulations, pensions shall be paid in arrears by means of payment instruments payable in each case to the pensioner, or such other method as may be approved at the Head Office or a local office of the Board or a bank as (after enquiry from the pensioner) may from time to time be determined.

Time and manner of payment of pensions.

(2) The Board may determine, from time to time, that weekly or monthly sums on account of pensions may be payable on different days of the week or month, as the case may be.

12. Notwithstanding anything contained in these Regulations, the Board may arrange to pay pension in respect of periods less than a week or at different rates for different parts of the same week. The amount shall be the weekly amount of pension multiplied by the number of days for which pension is payable divided by seven.

Board may make other arrangements for payment of pension in certain cases.

13. (1) Notwithstanding anything contained in these Regulations, the Board may, in any particular case or class of cases, arrange for the payment of a pension otherwise than weekly or monthly in arrear;

Conditions relating to payment of pension.

(2) Every pensioner shall, at such intervals as may be required by the Director but not less than twice per year, produce evidence of his continuing eligibility to receive payment of a pension, failing which the payment shall be kept in abeyance, pending the production of such evidence.

S.I. 84/1998.

14. (1) A person making a claim for benefit or assistance shall be qualified to receive —

Entitlement to receive benefit or assistance.

- (a) in the case of injury benefit, sickness benefit or sickness assistance, the benefit or assistance payable from the fourth day of incapacity for work;

S.I. 40/2009, r. 3.

- (b) in the case of maternity benefit, the benefit payable from the beginning of the sixth contribution week before the week of expected confinement, or from the beginning of the contribution week following the week in which the woman stops work, whichever is the later;
- (c) in the case of retirement benefit, invalidity benefit, survivor's benefit, survivor's benefit (orphans), disablement benefit, death benefit, death benefit (orphans), old age non-contributory pension, invalidity assistance or survivor's assistance the benefit or assistance payable from the date of entitlement thereto;
- (d) in the case of funeral benefit, the benefit payable upon entitlement thereto;
- (e) in the case of unemployment benefit, the benefit payable from the 20th day of April, 2009 or the fourth day of the continuous period of unemployment, whichever is the later.

To whom payable.

(2) The benefit and assistance payment shall be regulated in accordance with the provisions of these Regulations and may comprise the following —

Benefit

- (i) Sickness Benefit
- (ii) Injury Benefit
- (iii) Maternity Benefit
- (iv) Retirement Benefit
- (v) Invalidity Benefit
- (vi) Survivor's Benefit
- (vii) Survivor's Benefit (Orphans)
- (viii) Disablement Benefit
- (iv) Death Benefit
- (x) Death Benefit (Orphans)
- (xi) Funeral Benefit
- (xii) Unemployment Benefit

S.I. 40/2009, r. 3.

Assistance

- (i) Sickness Assistance
- (ii) Old Age Non-contributory Pension
- (iii) Invalidity

(iv) Survivors

Provided that —

- (a) the old age non-contributory pension, invalidity or survivor's assistance payable to a person who is in the care of the Sandilands Rehabilitation Centre or any other similar institution, as an inmate, shall be made to the Institution in which the aforesaid person is an inmate. The said institution shall utilise 90% of the amount as paid for the care of the patient. The balance of 10% shall be used for the benefit of the patient or paid to him in cash; *S.I. 66/1999.*

For the purposes of subparagraph (a) — *S.I. 66/1999.*

“care of the patient” includes the repair, refurbishment, improvement and expansion of the living and recreational facilities in which inmates are housed;

- (aa) old age non-contributory pension, invalidity or survivor's assistance benefit paid to the Sandilands Rehabilitation Centre for the care of the patient on or before the 1st day of July, 1999 and held on account by the Sandilands Rehabilitation Centre for this purpose shall, after the coming into operation of these regulations be utilized by the institution for the care of the patient; *S.I. 66/1999.*
- (b) in the case of a person who is an alcoholic or addicted to any other form of drug, as may be determined by the Medical Officer of the Board on the basis of facts and information, the old age non-contributory pension, invalidity or survivors assistance to which he is entitled, shall not be paid in cash to that person; instead the payment instruments for the amounts of assistance shall be made in favour of the Department of Social Welfare who shall issue periodical vouchers which cannot be encashed or be used for any other purchase other than food articles or medicines.

(3) The time-limit for submission of claims in respect of benefit under (a), (b), (c) and (e) of paragraph (1) shall be six months from the day of entitlement. In the case of funeral benefit it shall be one year from the date of death. No claim submitted after the aforesaid periods shall be admitted unless otherwise determined under paragraph (4). *S.I. 40/2009, r. 3.*

(4) (a) No sum shall be paid by way of benefit or assistance, other than funeral benefit, in respect of any period more than six months before the date in which the claim therefor is duly made;

(b) no sum shall be paid by way of funeral benefit if the claim therefor is not made within twelve months after the date of death of the person in respect of whom the benefit is payable:

S.I. 84/1998.

Provided that the Board may waive the above provisions of limitation in individual cases if the circumstances warrant it.

S.I. 55/1993.

(5) An insured person —

(a) who is an employed person;

(b) who has attained the upper limit of compulsory school age but is under the age of twenty-four years; and

(c) whose periods of employment, in any year, commence on or after the 1st day of June, end on or before the 31st day of August, and do not exceed ten weeks in the aggregate,

shall not be qualified to receive, in respect of his employment during any such periods, any benefit other than an Industrial Benefit under Part V or Industrial Benefit Medical Care under Part VI.

S.I. 84/1998.

(6) The time limit for submission of the initial claim for medical care shall be six months from the date of the occurrence of the circumstances which gave rise to the need for the medical care, except that the Board may, in exceptional circumstances, waive this time limitation if the circumstances warrant it.

Adjustments to payments

14A. With effect from **July, 2010** and every second year thereafter, the amounts payable in respect of —

(a) Retirement Benefit;

(b) Invalidity Benefit;

(c) Survivor's Benefit;

(d) Maternity Grant;

(e) Funeral Benefit;

(f) Disablement Benefit;

- (g) Death Benefit;
- (h) Old age non-contributory pension;
- (i) Invalidity Assistance; and
- (j) Survivor's Assistance

shall be increased based on the annual percentage increase in The Bahamas Retail Price Index between Decembers of consecutive years.

Provided that where any increase will exceed eight per cent, the Board, after obtaining actuarial advice, shall recommend to the Minister an appropriate adjustment.

Extinguishment of right to sums payable by way of benefit or assistance which are not obtained within the prescribed time.

15. (1) The right to any sum payable by way of benefit or assistance shall be extinguished where payment thereof is not obtained within the period of six months from the date on which that sum is receivable:

Provided that the said period of six months may be extended to one year if the delay in obtaining such payment is due to circumstances beyond the control of the claimant.

(2) For the purposes of this regulation, a sum payable by way of benefit or assistance shall, subject to the provisions of paragraph (3) of this regulation and paragraph (3) of regulation 101, be receivable on the date indicated in the instrument of payment (e.g. cheque of draft or banker's order) or six months after the date on which the sum became payable whichever is favourable to the claimant.

(3) Any sum payable by way of benefit or assistance to a person who is for the time being unable to act shall be receivable by the person appointed under regulation 100 of these Regulations.

16. (1) Every beneficiary and every person by whom or on whose behalf sums payable by way of benefit or assistance are receivable shall furnish, in a manner and at times determined by the Director, certificates and other documents or information affecting the right to benefit or assistance or to the receipt thereof as may be required (either as a condition on which any sum or sums shall be receivable or otherwise).

Information to be given when obtaining payment for benefit or assistance.

(2) Every person mentioned in paragraph (1) of this regulation shall notify the Director in writing of any change of circumstances, as soon as may be practicable after the occurrence thereof, which he may reasonably be expected to know may affect the right to benefit or assistance or to the receipt thereof.

(3) Any person who, without good cause, fails to notify the Director of such change of circumstances mentioned in paragraph (2) of this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred dollars.

(4) Where any sum is receivable on account of any other person, the recipient shall (in such cases or classes of cases as may be directed by the Director) furnish a declaration signed by such other person confirming the particulars respecting that other person.

PART III MEDICAL CERTIFICATION

Certificates of
incapacity and
confinement.

First Schedule.

17. (1) Every person claiming sickness or injury benefit or sickness assistance shall furnish evidence of incapacity, in respect of the day or days for which the claim is made by means of a certificate given by a registered medical practitioner in accordance with the rules for medical certification set out in Part A of the First Schedule to these Regulations in the form appropriate to the circumstances of the case, as set out in Part B of that Schedule or by such other means as the determining authority may accept as sufficient in the circumstances of any particular case or class of cases.

(2) Every woman by whom or on whose behalf a claim for maternity benefit is made shall furnish evidence —

- (a) where the claim is made in respect of expectation of confinement, that she is pregnant and as to the stage which she has reached in her pregnancy; or
- (b) where the claim is made by virtue of the fact of confinement, that she has been confined, and shall furnish such evidence by means of a certificate given in accordance with the rules for certification set out in Part A of the Second Schedule to these Regulations on the appropriate form as set out in Part B of that Schedule or by such other means as the determining authority

may accept as sufficient in the circumstances of any particular case or class of cases; and, for the purposes of this paragraph, the expression “certificate” shall not include a certificate which is given only by the person by whom or on whose behalf the claim is made.

PART IV GENERAL BENEFITS

Retirement Benefit

Entitlement to
retirement
benefit and
duration thereof.
S.I. 57/1985

18. (1) Subject to the provisions of these Regulations, retirement benefit shall be payable for life to an insured person who has attained the age of sixty-five years and —

- (a) in respect of whom not less than one hundred and fifty contributions have been actually paid; and
- (b) in respect of whom or to whom not less than seven hundred and fifty contributions (including those mentioned in subparagraph (a)) have been paid or credited:

Provided, however, a person who has attained the age of sixty-five years may postpone the date of receiving retirement benefit and may continue to pay contributions or to have contributions paid on his behalf in respect of his wages or income and continue to earn retirement benefit corresponding to the additional contributions made.

S.I. 84/1998.

- (2) An employed person —
 - (a) receiving a retirement benefit who remains in or subsequently re-enters the same or any other insurable occupation from which he does not earn more than fifty per centum of the ceiling on insurable wages by way of wages; or
 - (b) aged seventy years or over, shall not receive any further increase of retirement benefit for the contributions paid in respect of him in the same or subsequent insurable occupation, nor shall he be entitled to receive any other benefit except industrial benefit if he suffers personal injury which is caused by an accident arising out of and in the course of his employment, or contracts a prescribed disease due to the nature of his employment.

(3) An employed person receiving a retirement benefit of less than sixty per centum of the average weekly insurable wages, and aged less than seventy years who subsequently re-enters the same or any other insurable occupation from which he earns more than fifty per centum of the ceiling on insurable wages by way of wages shall forthwith notify the Director in writing and shall be disqualified from receiving retirement benefit thereafter until he subsequently retires or attains the age of seventy years.

S.I. 84/1998.

(4) In the case of an employed person covered by paragraph (3) above, contributions shall be paid by or in respect of him for the week or weeks of disqualification. These contributions shall count towards the fulfilment of the second contribution condition for retirement benefit, so, however, that the amount of such benefit when he subsequently retires, does not exceed sixty per centum of the average weekly insurable wages on which his subsequent retirement benefit is calculated.

S.I. 84/1998.

(5) An insured person receiving a retirement benefit of sixty per centum of the average weekly insurable wages or income who subsequently re-enters the same or any other insurable occupation from which he earns more than fifty per centum of the ceiling on insurable wages by way of wages or income shall not receive any further increase of retirement benefit for the contributions paid by or in respect of him in the subsequent insurable occupation.

S.I. 84/1998.

(6) A self-employed person —

- (a) receiving a retirement benefit who remains in or subsequently re-enters the same or any other insurable occupation from which he does not earn more than fifty per centum of the ceiling on insurable wages; or
- (b) aged seventy years or over who had previously retired from gainful occupation,

shall not receive any further increase of retirement benefit for the contributions paid by him in the same or any subsequent insurable occupation, nor shall he be entitled to receive any other benefit except industrial benefit, if applicable.

S.I. 84/1998.

(7) A self-employed person aged less than seventy years receiving a retirement benefit who subsequently re-enters the same or any other insurable occupation from which he earns more than fifty per centum of the ceiling on insurable wages shall be disqualified from receiving retirement benefit, but the contributions paid by him shall count towards the second contribution condition for retirement benefit.

(8) If a self-employed person retires and subsequently becomes an employed person he will be subject to the provisions of paragraphs (2), (3), (4) and (5) as if he were an employed person before retirement.

Rate of
retirement
benefit.

19. (1) The rate of retirement benefit shall be —

- (a) thirty-five per centum of the average weekly insurable wage or income in respect of the first seven hundred and fifty contributions and credits (of which not less than one hundred and fifty have actually been paid); and
- (b) for each additional fifty contributions and credits, a supplementation of one per centum of the average weekly insurable wage or income:

Provided that retirement benefit shall not exceed a maximum of sixty per centum of the average weekly insurable wage or income.

(2) Where an insured person has paid at least five hundred contributions but in respect of whom or to whom less than seven hundred and fifty contributions have been paid or credited, he shall be paid a retirement benefit at the rate shown in column (2) of the Table below for the number of contributions and credits shown in column (1) thereof —

TABLE	
Total Contributions and Credits	Benefit Payable as Percentage of Average Weekly Insurable Wage or Income
500–549	30
550–599	31
600–649	32
650–699	33
700–749	34

Provided that the actual amount of benefit payable under this regulation up to fifth of July, 1987, shall not be less than the amount to which a person would have been entitled had the benefit been calculated as if the insurable wage or income rates under the wage-group system had been applicable as on the first day of July 1985.

(3) For the purpose of paragraph (1) and (2), the average weekly insurable wage or income shall be the sum of the average weekly insurable wage or income of the insured person during the five best contribution years out of the last ten contribution years immediately prior to the contribution year in which the benefit is to be awarded or since the last contribution year that contributions were made, whichever is earlier or such lesser number being the number of contribution years since the Appointed Day or since the day of the insured person's entry into insurance, divided by five.

*S.I. 57/1985;
S.I. 84/1998.*

S.I. 84/1998.

(4) Where an insured person continues in an insurable occupation after he has attained the age of sixty-five years, and has not claimed the retirement benefit the said period of ten contributions years shall be extended up to and including the last complete contribution year before the date on which the insured person subsequently retires.

S.I. 84/1998.

(5) The weekly insurable wage for any week in the case of a person who by virtue of his employment prior to **July, 2011**, is eligible for a pension in accordance with the provisions of the Pensions Act (*Ch. 43*), shall be subject to the ceiling of \$110 per week.

S.I. 84/1998.

(6) Where an insured person makes contributions in respect of –

(a) a period of time, prior to **July 2011**, during which he was eligible for pension in accordance with the provisions of the Pensions Act (*Ch. 43*); and

(b) a period of time to which sub-paragraph (a) does not apply;

retirement benefit shall be determined as shown in the Seventh Schedule.

Date of
retirement
immediately
following
invalidity benefit.

20. (1) The amount of retirement benefit awarded to a person who at the age of sixty-five years is in receipt of invalidity benefit shall not be less than the amount of invalidity benefit payable to him immediately prior to that date.

(2) All cases of award of retirement benefit after first October, 1981 at age 65 years to persons in receipt of invalidity benefit, shall be reviewed and the benefit at the higher rate awarded from the first day of October, 1984.

Award of
retirement
benefit between
the age of sixty
and sixty-five
years.

21. Notwithstanding the provisions of paragraph (1) of regulation 18, an insured person between the ages of sixty and sixty-five years otherwise satisfying the conditions of eligibility prescribed in regulation 18 may elect to receive the retirement benefit before attaining the age sixty-five years. In that event the benefit payable shall be regulated as under —

S.I. 84/1998.

(a) the amount of benefit payable at age sixty-five years appropriate to the paid and credited contributions shall be reduced by seven-twelfths per centum for each month that the age at the date of award is less than age sixty-five. —

(b) the award shall be final;

(c) if such a person re-enters an insurable occupation, the provisions of paragraphs (2) to (5) of regulation 18 shall apply and any subsequent fresh award of Retirement Benefit shall be subject to the reduction factor that was originally applied.

21A. Retirement Grant.

(1) Subject to the provisions of these Regulations, a retirement grant shall be awarded to an insured person who does not satisfy the provisions of regulation 18 and 19, but who —

- (a) has attained the age of sixty-five years; and
- (b) in respect of whom not less than one hundred and fifty contributions have been actually paid.

S.I. 57/1985.

(2) The retirement grant shall be a lump sum grant equal to **six times** the average weekly insurable wage or income for each fifty contributions actually paid or credited.

Invalidity Benefit

Entitlement to
invalidity benefit
and duration
thereof.

22. (1) Subject to the provisions of these Regulations, invalidity benefit shall be payable, for so long as invalidity continues, to an insured person who —

- (a) is an invalid otherwise than as a result of employment injury;
- (b) has complied with the contribution conditions set out in paragraph (2) of this regulation; and
- (c) is under the age of sixty-five years.

(2) For the purpose of subparagraph (b) of paragraph (1) the contribution conditions to be complied with are that —

- (a) not less than one hundred and fifty contributions actually have been paid in respect of the insured person; and
- (b) not less than five hundred contributions (including those mentioned in subparagraph (a)) have been paid and credited in respect of him.

(3) On cessation of invalidity benefit, nothing in these Regulations shall prevent the contributions on which the said invalidity benefit was calculated from being taken into account for the purposes of establishing title to, and the rate of, either invalidity benefit for any subsequent period or retirement benefit.

Rate of invalidity
benefit.

23. (1) The rate of invalidity benefit shall be —

- (a) thirty-five per centum of the average weekly insurable wage or income in respect of the first five hundred contributions and credits (of which

not less than one hundred and fifty have actually been paid); and

- (b) for each additional fifty contributions and credits a supplementation of one per centum of the average weekly insurable wage or income:

Provided that the total invalidity benefit shall not exceed a maximum of sixty per centum of the average weekly insurable wage or income.

(2) Where an insured person has paid at least one hundred and fifty contributions but in respect of whom, or to whom, less than five hundred contributions have been paid or credited, he shall be paid an invalidity benefit at the rate shown in column (2) of the Table below for the number of contributions and credits shown in Column (1) thereof —

TABLE

Total Contributions and Credits	Benefit Payable as Percentage of Average Weekly Insurable Wage or Income
150–199	15
200–249	17
250–299	20
300–349	22
350–399	24
400–449	26
450–499	28
500–549	30
550–599	31
600–649	32
650–699	33
700–749	34

Provided that the actual amount of benefit payable under this regulation up to fifth of July 1987 shall not be less than the amount to which a person would have been entitled had the benefit been calculated as if the insurable wage or income rates under the wage-group system had been applicable as on the first day of July 1985.

(3) For the purpose of paragraphs (1) and (2) the average weekly insurable wage or income shall be the sum of the average weekly insurable wage or income of the insured person during the three best contribution years out

S.I. 57/1985;
S.I. 84/1998.

of the last ten contribution years immediately prior to the contribution year in which the claim is made or such lesser number being the number of contribution years since the Appointed Day or since the date of the insured person's entry into insurance, divided by three.

S.I. 84/1998. (4) The weekly insurable wage for any week in the case of a person who by virtue of his employment prior to **July, 2011** is eligible for a pension in accordance with the provisions of the Pensions Act (*Ch. 43*), shall be subject to the ceiling of \$110 per week.

S.I. 84/1998. (5) Where an insured person makes contributions in respect of –

(a) a period of time, prior to **July 2011**, during which he was eligible for pension in accordance with the provisions of the Pensions Act (*Ch. 43*); and

(b) a period of time to which sub-paragraph (a) does not apply;

invalidity benefit shall be determined as shown in the Seventh Schedule.

Survivors Benefit

S.I. 84/1998.

Order of priority. **24.** Subject to these Regulations —

(1) When an insured person has died otherwise than as a result of employment injury, survivors benefits shall be payable to survivors.

Quantum of benefit.

(2) The total benefits available in respect of survivors shall not exceed one hundred per centum of —

(a) the amount of retirement benefit or invalidity benefit to which the deceased was entitled at the date of his death; or

(b) the amount of retirement benefit to which he would have been entitled if he had reached the age of sixty-five years and had made a claim for retirement benefit or, if being under that age, he had been deemed to be an invalid and had made a claim for invalidity benefit.

(3) Such benefit as provided under paragraph (2) of this regulation shall be paid subject to the following provisions and have regard to the following priorities —

S.I. 84/1998.

- (a) in respect of the widow of the deceased in priority to all other claimants at the rate of fifty per centum;
- (b) in respect of the widower of the deceased in priority to all other claimants at the rate of fifty per centum;
- (c) in respect of unmarried children of the deceased in priority to all other claimants (apart from those specified in subparagraphs (a) and (b) of this paragraph) at the rate of ten per centum per child, provided that the children are —
 - (i) under the age of sixteen years; or
 - (ii) being above the age of sixteen years are under the age of twenty-one years and are receiving full-time education or training otherwise than under a contract of service under which wages are paid; or
 - (iii) are invalids:

Provided that where the total benefit available in respect of survivors is not taken up by any combination of persons mentioned above, benefit may be made available at the rate of ten per centum per child in respect of unmarried children who, not being children of the deceased, satisfy the conditions set out in subparagraph (c) (i), (ii) and (iii) of this paragraph and, additionally satisfy the condition that they were either living with the deceased at the date of his death or were wholly or mainly maintained by him.

- (d) parents of the deceased at the rate of fifty per centum.

(4) The actual amount of benefit payable under this regulation up to fifth of July, 1987 shall not be less than the amount to which the person would have been entitled had the benefit been calculated as if the insurable wage or income rates under the wage group system had been applicable as on the first day of July, 1985.

25. (1) Subject to these Regulations, the widow or widower of a deceased insured person shall be entitled for life to a survivor's benefit, and so long as, the following conditions are satisfied —

- (a) he or she was a dependant of the deceased;
- (b) he or she —
 - (i) was married to the deceased for not less than a year and is either an invalid, or

Further
conditions
affecting title of
widow or
widower.
S.I. 84/1998.

being over the age of forty years is incapable of economic employment; or

(ii) in the case of the widow, she is pregnant by her late husband; or

(iii) he or she has the care of a child of the deceased who is —

(aa) under the age of sixteen years; or

(bb) being over the age of sixteen years is under the age of twenty-one years and is receiving full-time education or training otherwise than under a contract of service under which the child is paid wages; or

(cc) an invalid.

(c) the deceased insured person was in receipt of retirement benefit or invalidity benefit or being over the age of sixty-five years would have satisfied the conditions for a retirement benefit or, being under that age, would have satisfied the conditions for an invalidity benefit if he or she would then have been deemed to be an invalid.

(2) The conditions mentioned in paragraph (1) of this regulation should be satisfied not only for the award but also for continuance of the payments.

(3) Survivor's benefit shall not be payable to a widow or widower in respect of marriage contracted after the insured person has been awarded retirement benefit.

(4) Survivor's benefit shall cease on remarriage.

(5) A widow with no dependent children over 40 years of age and who was receiving a survivor's benefit prior to 1st January, 1999 shall continue to be paid such benefit after 1st January, 1999.

Further
conditions
affecting parents.

26. Subject to the provisions of these Regulations, a parent of a deceased insured person shall be entitled for life to survivor's benefit, if and so long as the following conditions are fulfilled —

(a) he was wholly or mainly maintained by the deceased;

(b) there is no survivor, with a prior entitlement under regulation 24, 25 or 28 of these Regulations;

(c) he has no income or an income of less than thirty dollars weekly; and

- (d) in the case of a man, he is an invalid in the case of a woman, she is an invalid or, being over the age of forty years is incapable of economic employment other than domestic duties in her home:

S.I. 36/2005.

Provided that in a case where both the deceased's parents qualify for survivor's benefit, this regulation shall not be construed so as to prevent either of them from receiving benefit to which he is otherwise entitled.

Rate increase for retirement, invalidity and survivor's benefit.

S.I. 84/1998.

27. With effect from 1st January, 1999 the amount of any retirement benefit, invalidity benefit or survivor's benefit which commenced in the year 1998 or earlier shall be increased by ten per centum.

Entitlement to orphan benefit and duration thereof.

28. (1) An unmarried orphan who was a dependant child of a deceased insured person shall be entitled to survivor's benefit if —

- (a) he was a child of the deceased, whether legitimate, illegitimate, adopted or a stepchild;
- (b) he is under sixteen years of age, or being above the age of sixteen years and under the age of twenty-one years, he is receiving full-time education or training otherwise than under a contract of service under which he is paid wages; and
- (c) he was either living with, or wholly or mainly maintained by the deceased at the time of his death.

S.I. 84/1998.

(2) An orphan's benefit shall be payable under paragraph (1) until the orphan attains the age of sixteen years and during any period thereafter while he is under the age of twenty-one years and is receiving full-time education or training otherwise than under a contract of service under which he is paid wages:

S.I. 84/1998.

Provided that the orphan's benefit shall be payable to an orphan who is an invalid as long as he continues to be an invalid.

(3) Where there are more orphans than one, each of them shall be entitled to an orphan's benefit under this regulation.

29. The weekly rate of orphans benefit for an orphan shall be twenty-eight dollars and eighty-five cents effective 1st March, 2007.

Rate of orphan's benefit.
S.I. 31/2007.

29A. Survivor's Grant.

- (1) Subject to the provisions of these Regulations, a survivor's grant shall be awarded to a widow or widower who does not satisfy the provisions of regulation 25 but who was married to the deceased for at least one year and in respect of whom not less than one hundred and fifty contributions have been paid.
- (2) The survivor's grant shall be a lump sum grant equal to the annual equivalent of the amount of retirement or invalidity benefit to which the deceased was entitled or the amount of invalidity benefit to which the deceased would have been entitled had he been deemed an invalid and had made a claim for invalidity benefit.

Increase in certain retirement benefits, invalidity benefits and survivor's benefits.

30. With effect from 1st December, 1991, the amount of any retirement benefit, invalidity benefit or survivor's benefit which commenced in the year 1991 or earlier shall be increased by the respective percentages indicated below —

Year in which Benefits Commenced	Increase
1986 or earlier	25
1987	20
1988	15
1989	10
1990	5
1991	3

S.I. 62/1992.

Increase in certain retirement benefits, invalidity and survivor's benefit.
S.I. 31/2007.

30A. With effect from 1st March, 2007 the amount of any retirement, invalidity benefit or survivor's benefit which commenced on or before 28th February, 2007 shall be increased by the respective percentages indicated below —

Date Benefits Commenced	Increase
December 31, 1998 or earlier	15%
January 1, 1999 to December 31, 2000	12%
January 1, 2001 to December 31, 2002	8%
January 1, 2003 to December 31, 2004	5%
January 1, 2005 to February 28, 2007	3%.

Sickness Benefit

31.

(1) Subject to the provisions of these Regulations, sickness benefit shall be awarded to an insured person who —

Entitlement to sickness benefit.

- (a) is engaged in employment as an employed or self-employed person; and
- (b) is rendered incapable of work as a result of a specified disease or physical or mental disablement which is not an employment injury, nor caused by the habitual use of alcoholic liquor, narcotics or drugs other than those taken under the prescription of a registered medical practitioner.

(2) For the purposes of these Regulations, an insured person shall be treated as incapable of work for any day during which he is required to abstain from work because he is under observation by reason of being a carrier, or his having been in contact with a case of an infectious disease.

32. Sickness benefit shall be payable only if the insured person —

Conditions which must be satisfied.

- (a) had been previously engaged in an occupation as an employed or self-employed person and had paid contributions for not less than forty contribution weeks; and
- (b) had paid or been credited with at least either —
 - (i) thirteen contributions and credits in the twenty-six contribution weeks immediately preceding the first day of the continuous period of incapacity for work; or
 - (ii) twenty-six contributions and credits in the fifty-two contribution weeks immediately preceding the first day of the continuous period of incapacity for work; or
 - (iii) had paid and been credited with at least twenty-six contributions and credits in the contribution year immediately preceding the first day of the continuous period of incapacity for work.

33. (1) Subject to paragraph (2) of this regulation the weekly rate of sickness benefit shall be — Rate of sickness benefit.

- (a) in the case of the insured person who fulfils the conditions stipulated in regulation 32(b), the rate shall be 60% of the highest of the average insurable wage or income; and
- (b) in the case of the insured person who fulfils only one of the conditions, stipulated in regulation 32(b), the rate shall be 60% of the average insurable wage applicable to that condition.
- (c) the amount of benefit payable under this regulation up to the end of 1985 shall not be less than the benefit payable under the wage-group system in force prior to 1st July, 1984.

For the purpose of this regulation, the “average insurable wage or income” shall be the sum of the weekly insurable wage or income on which contributions are paid divided by the number of weeks to which the paid contributions correspond:

Provided that the actual amount of benefit payable under this regulation during the period from the 1st April, 1999 to the 30th June, 1999 shall be at the rate of sixty per centum of the sum of the average weekly insurable wage or income on which contributions are paid during the period from the 1st January, 1999 to the contribution week immediately preceding the first day of the continuous period of incapacity for work divided by the number of weeks to which the paid contributions correspond, subject to a minimum of thirteen contributions, or the amount calculated under this regulation whichever is favourable. S.I. 84/1998.

(2) The daily rate of sickness benefit shall be one-fifth of the weekly rate; two days in one week according to the work schedule or as the Director may determine, shall not qualify for the payment of sickness benefit.

34. (1) Where, apart from this regulation, an insured person would be entitled to receive both sickness benefit and sick leave payment from his employer under any agreement with his employer, the insured person shall, if requested so to do by his employer, inform the employer of the weekly rate of sickness benefit payable to him. Effect of statutory benefit on contractual benefit.

- (2) Where that weekly rate of sickness benefit —
 - (a) is less than the weekly rate of sick leave payment which the insured person would be entitled to

receive from his employer under any agreement mentioned in paragraph (1) hereof, the employer may reduce the weekly rate of the said sick leave payment by an amount equal to the weekly rate of sickness benefit;

- (b) is equal to, or exceeds, the weekly rate of sick leave payment which the insured person would be entitled to receive under any agreement mentioned in paragraph (1) hereof, the employer shall not be bound for the time being to make any sick leave payment under the said agreement.

Maternity Benefit and Maternity Grant

Entitlement to
maternity
benefit.

35. Subject to the provisions of these Regulations, maternity benefit and maternity grant shall be awarded in the case of the pregnancy and confinement of a woman who is an insured person.

Conditions for
award of
maternity
benefit.

36. (1) Maternity benefit shall be payable only if the woman —

- (a) had been engaged in an occupation as an employed or self-employed person and had paid contributions for at least fifty contribution weeks; and
- (b) has paid and been credited with at least twenty-six contributions in the forty weeks immediately preceding the week on which benefit is due to commence, or has paid and been credited with at least twenty-six contributions in the immediately preceding contribution year.

S.I. 46/2004.

S.I. 36/2005.

(2) For the purposes of paragraph (1) of this regulation, regulation 37 and paragraph (1) of regulation 38, the date from which a benefit is due to commence shall be the day which is six weeks before the expected date of confinement, or from the day following the day the woman stops remunerative work in respect of her confinement, whichever is later.

Duration of
maternity
benefit.

S.I. 46/2004.

37.(1) Subject to the provisions of these Regulations, maternity benefit shall be awarded to a woman for a continuous period of thirteen weeks starting from the date as defined in paragraph (2) of regulation 36.

(2) Subject to the approval of the Director, the benefit period may be broken where a child is required to

be hospitalized and the mother of that child returns to remunerative work.

(3) Where the benefit period referred to in paragraph (2) is broken the balance of the benefit payments shall be paid when the mother resumes her leave to care for the child:

Provided that the benefit payments shall not be payable once twenty-six weeks after the actual date of confinement has elapsed.

(4) The period of thirteen weeks referred to in paragraph (1) may be extended up to six weeks where a woman is suffering from an incapacity as a result of any illness arising out of such confinement.

(5) The period of thirteen weeks shall be extended by one week for each week that the actual date of confinement is later than the week in which the confinement was expected.

(6) Where a woman dies prior to the expiration of the said period of thirteen weeks, any unpaid portion that would have otherwise been paid but for her death, shall be paid in a single sum in accordance with regulation 101.

(7) For the purposes of paragraph (2) “a child” means a child resulting in confinement under this regulation.

38. (1) Subject to the provisions of these Regulations, the weekly rate of maternity benefit shall be sixty-six and two-thirds per centum of the average weekly insurable wage or income of the insured person during the forty weeks or the contribution year immediately preceding the date from which benefit is due to commence as defined in paragraph (2) of regulation 36, whichever is more favourable to the insured person:

Rate of
maternity
benefit.

S.I. 46/2004.¹

Provided that in the case of an insured person who fulfils only one of the conditions stipulated in regulation 36(1)(b), the rate shall be sixty-six and two-thirds per centum of the average insurable wage applicable to that condition.

*S.I. 57/1985.
S.I. 46/2004.*

(2) For the purpose of this regulation, the “average insurable wage or income” shall be the sum of the weekly

¹ Amendments to regulation 38 by S.I. 46/2004 are deemed to have commenced on 1st January 2002

insurable wage or income on which contributions are paid divided by the number of weeks to which the paid contributions correspond.

S.I. 84/1998.

(3) The actual amount of benefit payable under this regulation during the period from the 1st April, 1999 to the 30th June, 1999 shall be at the rate of sixty per centum of the sum of the average weekly insurable wage or income on which contributions are paid during the period from the 1st January, 1999 to the contribution week immediately preceding the first day of the continuous period of incapacity for work divided by the number of weeks to which the paid contributions correspond, subject to a minimum of thirteen contributions, or the amount calculated under this regulation whichever is favourable.

(4) The amount of benefit payable under this regulation up to the end of 1985 shall not be less than the benefit payable under the wage-group system in force prior to 1st July, 1984.

S.I. 46/2004.

(5) The daily rate of maternity benefit shall be one-fifth of the weekly rate; two days in one week according to the work schedule or as the Director may determine, shall not qualify for the payment of maternity benefit.

Effect of
statutory benefit
on contractual
benefit.

39. (1) Where, apart from this regulation, an insured person would be entitled to receive both maternity benefit and maternity leave payment from her employer under any agreement with her employer the insured person shall, if requested so to do by her employer, inform her employer of the weekly rate of maternity benefit payable to her.

(2) Where the weekly rate of maternity benefit payable —

- (a) is less than the weekly rate of maternity leave payment which the insured person would be entitled to receive from her employer under any agreement mentioned in paragraph (1) hereof, the employer may reduce the weekly rate of the said maternity leave payment by an amount equal to the weekly rate of maternity benefit; or
- (b) is equal to, or exceeds, the weekly rate of maternity leave payment which the insured person would be entitled to receive under any agreement mentioned in paragraph (1) hereof, the employer shall not be bound for the time being to make any maternity leave payment under the said agreement.

40. A claim for maternity benefit shall be accompanied —

Support of claim to maternity benefit.

- (a) in the case of a claim made prior to the date of confinement, by a certificate issued by a registered medical practitioner or a registered midwife as to the expected date of confinement; or
- (b) in the case of a claim made subsequent to the date of confinement, by a certificate issued by a registered medical practitioner or a registered midwife, as to the actual date of confinement:

Provided that the Director may accept such other evidence in support of such a claim as in his opinion the special circumstances of the particular case justify.

41. An insured woman who has been awarded maternity benefit prior to her confinement shall obtain a certificate of her confinement from the registered medical practitioner or registered midwife who assisted thereat, and forward it to the Director at an office of the Board within three weeks after the date of confinement:

Certificate of confinement.

Provided that the Director may accept other evidence in lieu of such certificate if, in his opinion, the special circumstances of the case justify his acceptance of such other evidence.

42. An insured woman entitled to payment of maternity benefit shall be disqualified from receiving such benefit for such period as the Director may decide if during the period for which benefit is payable she —

Disqualification.

- (a) engages in remunerative work;
- (b) fails, without good cause, to take due care of her health, or to answer any reasonable enquiries by an officer of the Board directed to ascertain whether she is doing so; or
- (c) fails, without good cause, to comply with a notice in writing by the Director requiring her to attend for, and submit herself to, a medical examination.

43. The provisions of these Regulations relating to sickness benefit shall apply in relation to a case where there is incapacity for work immediately following the cessation of entitlement to maternity benefit:

Incapacity for work immediately following the cessation of entitlement to maternity benefit.

Provided that where the incapacity for work arises from pathological complications of confinement, the conditions of regulation 32 shall be applied as if the first

day of the continuous period of incapacity had been the first day as from which maternity benefit was payable.

Maternity grant.

S.I. 84/1998.

S.I. 46/2004.

44. (1) Subject to these Regulations a lump-sum payment of \$430 shall be made to an insured woman who has been engaged in an occupation as an employed or self-employed person and has paid contributions for at least fifty contributions weeks, to meet the additional expenses incurred by the mother in the feeding period:

Provided that no such grant shall be admissible if the baby is still-born.

S.I. 46/2004.

(2) Where a woman has not paid the requisite number of contributions specified in paragraph (1) and her spouse has paid the requisite number of contributions as is required of a woman in accordance with regulation 36(1), the grant referred to in paragraph (1) shall be payable.

Funeral Benefit

Entitlement to funeral benefit.

45. (1) Subject to the provisions of these Regulations funeral benefit shall be payable on the death of a person who —

- (a) is an insured person; or
- (b) is the spouse of an insured person.

(2) The contribution condition to be fulfilled for the purpose of paragraph (1) is that the insured person, in respect of whose insurance the benefit is awarded, has paid fifty or more contributions under the Act.

Persons who may receive funeral benefit.

46. (1) Subject to the provisions of these Regulations, funeral benefit shall be paid to the person who has met or is liable to meet the cost of the funeral of the deceased person.

- (2) Where —
 - (a) death occurred at sea and the deceased person was buried at sea; or
 - (b) the person who has met or is liable to meet the cost of the funeral of the deceased person cannot be found; or
 - (c) the cost of the funeral was less than the amount of the benefit,

the benefit, or, as the case may be, the remainder thereof, shall be paid to such person or persons as the Director in his discretion may decide and no action shall lie before any

tribunal or court against the Director in respect of or in connection with the exercise of his discretion under this paragraph.

47. The amount of the funeral benefit shall be sixteen hundred dollars.

Amount of
funeral benefit.
S.I. 84/1998.

Unemployment Benefit

S.I. 40/2009, r. 4.

47 A. (1) Subject to the provisions of these Regulations, unemployment benefit shall be awarded to a person insured pursuant to section 12(1)(a) of the Act who has not attained the age of 65 years and is —

Entitlement to
unemployment
benefit.
S.I. 40/2009, r. 4.

- (a) unemployed and has an interruption of earnings from his employment; or
- (b) laid off and has suspension of earnings from his employment.

(2) For the purposes of these Regulations, an insured person shall —

- (a) not be treated as unemployed unless he satisfies the Director that he is unemployed, capable of and available for work or that he is unemployed and he is following a course of instruction or training under a scheme approved by the Board; or
- (b) be deemed to be laid-off for any week in which he has suspension of earnings because his employer has not provided him in that week with work.

(3) It shall be a condition of entitlement to unemployment benefit that the claimant shall report to the Department of Labour Employment Exchange or such other place as the Director may specify every four weeks or at such intervals as the Director may from time to time determine.

47B. (1) Where an employer terminates the services of his employee, the employer shall give to the employee on the date of the termination a form approved by the Board for the purpose, duly completed.

Claims.
S.I. 40/2009, r. 4.

(2) An employer who has complied with paragraph (1) shall send a copy of the completed form referred to in paragraph (1) electronically or otherwise to the Director

within one week from the date of termination of the services of an employee referred to in paragraph (1).

(3) Where an employer referred to in paragraph (1) is unable to comply with the provisions of paragraphs (1) and (2) within the times specified therein for reasons beyond his control, he shall so inform the Director as soon as possible after the date of termination of the services of the employee.

(4) Subject to paragraph (3), an employer who contravenes or fails to comply with the requirements of this regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars and if the offence of which he is convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof to a fine not exceeding fifty dollars for each day on which the offence is continued.

Conditions to be
satisfied.
S.I. 40/2009, r. 4.

47C. (1) With effect from the date of the coming into force of these Regulations, unemployment benefit shall be payable only if the insured —

- (a) had been previously engaged in an occupation as an employed person and had paid contributions for at least forty weeks; and
- (b) had paid or been credited with at least —
 - (i) thirteen contributions and credits in the twenty-six contribution weeks immediately preceding the first day that the continuous period of unemployment commenced;
 - (ii) twenty-six contributions and credits in the fifty-two contribution weeks immediately preceding the first day that the continuous period of unemployment commenced; or
 - (iii) had paid and been credited with at least twenty-six contributions and credits in any contribution year between July, 2003 and June, 2009; and
- (c) became unemployed and had an interruption of earnings from his employment on or after July 1, 2004.

S.I. 54/2009, r. 2.

(2) With effect from the date to be appointed by the Minister² in accordance with regulation 1(2), unemployment benefit shall be payable only if the insured person had been previously engaged in an occupation and —

- (a) had paid contributions for at least fifty-two weeks; and
- (b) had paid or been credited with —
 - (i) thirteen contributions and credits in the twenty-six contribution weeks immediately preceding the first day that the continuous period of unemployment commenced; and
 - (ii) seven contributions and credits in the thirteen weeks immediately preceding the first day that the continuous period of unemployment commenced.

(3) For the purposes of this regulation, only contributions paid in respect of the employment of an employed person shall be considered.

47D. (1) Subject to the provisions of these Regulations, unemployment benefit shall be paid for each day excluding Sundays —

*Duration.
S.I. 40/2009, r. 4.*

- (a) for a maximum of thirteen weeks in any continuous period of unemployment beginning on the first day that benefits commenced; or
- (b) for an aggregate of thirteen weeks in the fifty-two weeks immediately preceding the commencement of the current week of unemployment,

as long as unemployment continues.

(2) An employed person who has exhausted his entitlement to unemployment benefit shall not be entitled to another such benefit until the expiration of fifty-two continuous weeks from the last week in respect of which benefit was paid and unless he satisfies the conditions specified in regulation 47C.

(3) The Minister may by Notice published in the Gazette extend the time for which unemployment benefit is

² Regulation 1(2) of S.I. 40/2009, the National Insurance (Benefit and Assistance) (Amendment) Regulations, 2009, provides that Regulation 47C(2) shall come into operation on a date to be appointed by the Minister by notice in the Gazette – as at 31st December 2009, no such notice had been published.

paid under these Regulations by a maximum period of thirteen weeks.

Ch.321A.

(4) Where an employed person receives payment in accordance with sections 26 and 29 of the Employment Act, the continuous period of unemployment shall begin after the expiration of the period for which such payments have been made.

Rate of benefit.
S.I. 40/2009, r. 4.

47E. (1) Subject to paragraph (3), the weekly rate of unemployment benefit shall be 50% of an employed person's average weekly insurable wage or income.

(2) The daily rate of unemployment benefit shall be one-fifth of the weekly rate; two days in one week according to the work schedule or as the Director may determine, shall not qualify for the payment of unemployment benefit.

(3) For the purposes of this regulation, the "average weekly insurable wage or income" shall be the sum of the weekly insurable wage or income on which contributions are paid divided by the number of weeks to which the paid contributions correspond.

(4) Any two or more consecutive periods of unemployment not separated by more than eight weeks, shall be treated as one continuous period of unemployment beginning with the first day of the first of these periods; and the amount of the average weekly insurable wage or income taken into account in determining the amount of benefit for the first day of unemployment in the continuous period of unemployment shall be taken into account in determining the amount of benefit for any day of unemployment in the same period.

Disqualification
for
unemployment
benefit.
S.I. 40/2009, r. 4.

47F. (1) A claimant is disqualified from receiving unemployment benefit if without good cause —

- (a) he refuses suitable employment or fails to apply for suitable employment where there is a known vacancy;
- (b) he neglects to avail himself of an opportunity for suitable employment; or makes no reasonable effort to obtain suitable alternative employment;
- (c) he fails to carry out any written directions given to him by the Director of Labour with a view to assisting him to find suitable employment, if the

directions were reasonable having regard to both his circumstances and to the usual means of obtaining that employment;

- (d) he fails to attend an interview that the Director of Labour has directed him to attend;
- (e) he fails to attend a course of instruction or training to which the Director of Labour referred him for his attendance in order that he may become or keep fit for entry into or return to employment;
- (f) he voluntarily left his employment; or
- (g) he is terminated from his employment as a result of theft, fraudulent offences or dishonesty.

(2) For the purposes of this regulation, employment is not suitable employment for a claimant if it is —

- (a) employment arising in consequence of a stoppage of work attributable to a labour dispute;
- (b) employment in his usual occupation either at a substantially lower rate of earnings or on conditions significantly less favourable than those observed by agreement between employers and employees, or in the absence of any such agreement, than those recognized by industry standards; or
- (c) employment of a kind other than employment in his usual occupation either at a substantially lower rate of earnings or on conditions significantly less favourable than those that he might reasonably expect to obtain having regard to those conditions that he normally obtained in his usual occupation, or would have obtained had he continued to be so employed.

(3) Notwithstanding anything in this Part, a claimant is not disqualified from receiving any benefits under this Part by reason only of his leaving, or refusing to accept employment if by remaining in or accepting the employment he would lose the right —

- (a) to become a member of;
- (b) to continue to be a member and to observe the lawful rules of;
- (c) to refrain from becoming a member of, any association, organization or union of workers.

- (4) Any person who receives unemployment benefit for a period during which he was employed or otherwise not eligible to receive such payments, shall be disqualified from receiving any further benefit.

Duration of
disqualification
and effect on
benefit and
contributions.
S.I. 40/2009, r. 4.

47G. (1) The duration of disqualification to any benefit under this Part shall be determined by the Director but shall not exceed a period of six weeks for each disqualification.

(2) For the purposes of this Part, a benefit shall be deemed to be paid for any weeks of disqualification under paragraph (1) but no credited contributions shall be awarded for any such period of disqualification.

(3) Where a person fraudulently receives unemployment benefit under this Part, he shall be disqualified from receiving any further benefit for the remainder of the period for which he would otherwise have been entitled.

Loss of
employment
through trade
dispute.
S.I. 40/2009, r. 4.

47H. (1) Subject to paragraph (2), a claimant who has lost employment by reason of a stoppage of work that is attributable to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit as long as the stoppage continues.

(2) Paragraph (1) shall not apply to a person who satisfies the Director that —

- (a) he is not participating in, financing or directly interested in the trade dispute which caused the stoppage of work;
- (b) he does not belong to a grade or class of workers of which, immediately before the commencement of stoppage, there were members employed at his place of employment any of whom are participating in, financing or directly interested in the dispute;
- (c) he has become bona fide employed elsewhere in the occupation which he usually follows; or
- (d) he has become regularly engaged in some other occupation.

(3) For the purposes of this regulation, —

“place of employment” means shop, hotel, restaurant or other premises or place at which he was employed, and where separate branches of work

which are commonly carried on as separate businesses in separate premises or at separate places are in any way carried on in separate departments on the same premises or at the same place, each department shall be deemed to be a separate hotel, shop, restaurant or other business or undertaking or a separate place as the case may be;

“trade dispute” means any dispute between employers and employees or between employees and employees which is connected with the employment or nonemployment or the terms of employment, or the conditions of employment of any persons, whether employees within the employment of the employer with whom the dispute arises, or not.

47I. (1) Where a person receives unemployment benefit in respect of a period and an employer of that person subsequently becomes liable to pay his remuneration in respect of the same period, that person shall refund to the Director an amount equal to the benefits that would not have been paid if the remuneration had been paid or payable at the time the benefits were paid.

Refund to
Director.
S.I. 40/2009, r. 4.

(2) Where an employer becomes liable to pay earnings in respect of a past period and has reason to believe that benefits have been paid in respect of that period, that employer shall ascertain whether an amount is repayable under paragraph (1) and if so, shall deduct such amount from the earnings payable by him to the insured person and remit that amount to the Director.

PART V INDUSTRIAL BENEFITS

Injury Benefit

48. The expression “injury benefit period” means, in relation to any accident, the period of forty weeks beginning with the day on which the relevant accident happened, or the part of that period of forty weeks for which, under regulation 53(1), disablement benefit in respect of the relevant accident is not available to the employed person.

Meaning of
“injury benefit
period”.

Entitlement to
injury benefit;
benefit days.

49. (1) Subject to the provisions of these Regulations, an employed person or a self-employed person whose contributions are current at the time of the injury shall be entitled to injury benefit in respect of any day during the injury benefit period on which, as a result of the relevant injury, he is incapable of work.

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(2) For the purpose of this Part in determining whether the employed person or self-employed person is incapable of work on the date of the relevant accident, any part of the day before the accident happened shall be disregarded.

(3) Injury benefit shall not be payable for the first three days of incapacity during the injury benefit period.

50. (1) The weekly rate of injury benefit shall be sixty-six and two-thirds per centum of the average weekly insurable wage or income of the employed person or self-employed person during the twenty-six contribution weeks immediately preceding the first day of the injury benefit period. (The average weekly insurable wages or income for the purpose of this regulation shall be the sum of the weekly insurable wage or income on which contributions are paid divided by the number of weeks to which the paid contributions correspond):

Rate of injury
benefit.

Provided that —

- (i) where by reason of the shortness of the period during which the person concerned was employed either as an employed person or as a self-employed person, in the employment in which he suffered the relevant employment injury, no contributions were paid by or in respect of the employed or self-employed person in the said twenty-six contribution weeks, the average weekly insurable wage or income shall —
 - (a) in the case of an employed person be the average weekly insurable wage of a person of similar earning capacity engaged in employment of a similar nature with the same employer, or if there is no such person with the same employer, with another employer in similar circumstances;
 - (b) in the case of a self-employed person be the average weekly insurable income deemed to be appropriate to such self-employment;

- (ii) where the employed person or self-employed person is not insured under the Act, the average insurable wage or income for the purpose of calculating the benefit shall be the wages or income payable, or would, but for the relevant accident, have been payable for that week, subject to a minimum average weekly insurable wage or income of thirty dollars:

Provided that the actual amount of benefit payable under this regulation during the period from 1st October, 1984 to 29th December, 1984 shall be at the rate of sixty-six and two-thirds per centum of the sum of the weekly insurable wage or income on which contributions are paid during the period from 2nd July, 1984 to the contribution week immediately preceding the first day of the continuous period of incapacity for work divided by the number of weeks to which the paid contributions correspond.

(2) The amount of benefit payable under this regulation up to the end of 1985 shall not be less than the benefit payable under the wage-group system in force prior to 1st July, 1984.

(3) The daily rate of injury benefit shall be one-fifth of the weekly rate; two days in one week according to the work schedule shall not qualify for the payment of injury benefit.

Adjustment of
employer's sick
leave payment.

51. In any case, where, an employed person would be entitled to receive both injury benefit and, under any agreement with his employer, sick leave payment from his employer, the employed person shall when requested by his employer so to do, inform his employer of the weekly rate of injury benefit to him; and where that weekly rate —

- (a) is less than the weekly rate of sick leave payment which the employed person should be entitled to receive as aforesaid, the employer may reduce the weekly rate of the said sick leave payment by an amount equal to the weekly rate of injury benefit payable; or
- (b) is equal to or exceeds the weekly rate of sick leave payment which the employed person would be entitled to receive as aforesaid, the employer shall not be bound, for the time being, to make any payments under the said agreement.

Disablement Benefit

52. Subject to the provisions of these Regulations, an employed person or a self-employed person whose contributions are current at the time of the injury shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of faculty such that the degree of the resulting disablement assessed in accordance with regulation 56 amounts to not less than one per centum.

Entitlement of
disablement
benefit.

53. (1) Disablement benefit shall not be available to an employed person or a self-employed person for the first three days beginning with the day on which the relevant accident happened, nor until after the last day (if any), within the period of forty weeks beginning with the said three days during which he is incapable of work as a result of the relevant injury:

Duration of
disablement
benefit and
manner of
payment.

Provided that where he makes a claim for disablement benefit in respect of loss of faculty resulting from the relevant accident before the end of the said period of forty weeks and does not withdraw it before it is finally determined, then the injury benefit period comes to an end on the day the disablement benefit commences.

(2) Where, for the period taken into account by the assessment, the degree of disablement is assessed as amounting to less than twenty-five per centum and not less than one per centum, disablement benefit shall be paid in the form of a grant and the amount payable shall be the amount set out in the second column of the Third Schedule opposite the percentage assessment for the degree of disablement given in the first column thereof.

Third Schedule.

(3) Where the degree of disablement is assessed for the period taken into account as amounting to twenty-five per centum or more —

- (a) there shall be paid a grant as set out in the second column of the Third Schedule; and
- (b) there shall be paid a disablement benefit in the form of periodical payments which shall be that portion of the rate of benefit for total loss of faculty which the percentage assessed bears to one hundred per centum:

Provided that where the said period is limited by reference to a definite date, the disablement benefit shall cease on the death of the beneficiary before that date:

Provided further that only one grant shall be payable in respect of any one employment injury.

Rate of total
disablement
benefit and
disablement
grant.

54. The weekly rate of total disablement benefit payable in a case where the degree of disablement is assessed at one hundred per centum shall be at the weekly rate at which injury benefit was payable to the beneficiary in the injury benefit period or to which he would have been entitled had a claim been made. In addition, there shall be paid a grant as set out in the second column of the Third Schedule.

Increase of
disablement
benefit during
hospital
treatment or
incapacity for
work.

55. A person who —

- (a) receives as an in-patient in a hospital or other similar institution, medical treatment for the relevant injury or loss of faculty; or
- (b) is engaged in employment as an employed or self-employed person and is rendered incapable of work as a result of the relevant injury or loss of faculty, shall receive disablement benefit at one hundred per centum, under assessment or already awarded, if the degree of disablement lies between 25% and 100%;
- (c) the lump sum disablement grant for one per centum to twenty-four per centum disablement shall not be treated as disablement benefit for the purpose of this regulation.

Assessment of
degree of
disablement.

56. (1) Subject to paragraphs (2) to (6), for the purpose of disablement benefit the degree of disablement shall be assessed by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty in accordance with the following general principles —

- (a) save as hereinafter provided in this paragraph, the disabilities to be taken into account shall be all the disabilities (whether or not involving loss of earning power or additional expenses) to which the claimant may be expected, having regard to his physical or mental condition at the date of assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;

- (b) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to paragraph (2), it shall not be so treated in so far as the claimant either —
 - (i) would in any case have been subject thereto as a result of a congenital defect or of an injury or disease received or contracted before the relevant accident happened; or
 - (ii) would not have been subject thereto but for some injury or disease received or contracted after, and not directly attributable to, that accident;
- (c) the assessment shall be made without reference to the particular circumstances of the claimant other than his age, sex and physical or mental condition;
- (d) in assessing the degree of disablement in connection with a second or subsequent claim to disablement benefit arising out of a series of accidents, the medical authority shall, subject to these Regulations, assess the total degree of disablement arising from all the relevant injuries and diseases as if they had been caused by the last in the said series of accidents;
- (e) where the assessment of the degree of disablement in accordance with the foregoing principles does not appear to represent the actual loss of faculty suffered by the claimant, the medical authority shall have discretion to increase or reduce the assessment of the degree of disablement accordingly.

(2) Where the sole injury which a claimant suffers as a result of the relevant accident is one specified in the first column of the Fourth Schedule, the loss of faculty suffered by him as a result of that injury shall be treated for the purpose of this regulation as resulting in the degree of disablement set against such injury in the second column of that Schedule.

Fourth Schedule.

(3) For the purpose of assessing, in accordance with this regulation, the degree of disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (2), the medical authority shall have such regard as may be appropriate to the degree

Fourth Schedule. of disablement set against the injuries specified in the Fourth Schedule.

(4) Subject to paragraph (5), the period to be taken into account by the assessment of the degree of a claimant's disablement shall be the period (beginning not earlier than the day after the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty.

(5) If, on any such assessment, the condition of the claimant is not such, having regard to the possibility of changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the period referred to in paragraph (4) —

- (a) a provisional assessment shall be made, taking into account such shorter period only, not being less than thirteen weeks, as seems reasonable having regard to his condition and the possibility aforesaid; and
- (b) on the next assessment, the period to be taken into account shall begin with the day after the end of the period taken into account by the provisional assessment.

(6) An assessment shall state the degree of disablement in the form of a percentage and shall also specify the period taken into account thereby and, where that period is limited by reference to a definite date, whether the assessment is provisional or final:

Provided that —

- (a) no assessment of the degree of disablement shall be made where the extent of disablement is less than one per centum;
- (b) such percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with regulation 52 of the claimant's right to disablement benefit; and
- (c) a percentage of or above twenty-five and less than one hundred which is not a multiple of ten shall be treated —

- (i) if it is a multiple of five as being the next higher percentage which is a multiple of ten;
- (ii) if it is not a multiple of five; as being the nearer percentage which is a multiple of ten.

57. (1) If a person with disablement assessed at one hundred per centum requires constant care and attendance, he shall be entitled to receive an additional amount equal to twenty per centum of the disablement benefit.

Additional
amount for
disablement.
S.I. 84/1998.

(2) If a person no longer needs constant care and attendance as referred to in subsection (1), as determined by a medical officer, the additional amount equal to twenty per centum shall cease.

58. In the case of an employed person or a self-employed person who suffers from personal injury caused by two or more successive accidents, the benefits shall be regulated as under —

Successive
accidents.

- (i) For the period during which injury benefits is payable for the subsequent accident, the disablement benefit receivable by the person for the earlier accident shall not be payable.
- (ii) The disablement benefit payable after the subsequent accident shall be based upon the total disablement as a result of all the accidents and the disablement benefit receivable for the earlier accidents shall be discontinued.
- (iii) The lump sum disablement grant for one per centum to twenty-four per centum disablement shall not be construed as disablement benefit for the purpose of this regulation.
- (iv) He shall not for the same period be entitled to receive more than one disablement benefit which shall be calculated on the medical authority's assessment of the total degree of disablement arising from all the relevant injuries and diseases; and the rate of benefit so payable shall be computed by reference to the higher or highest rate of injury benefit payable, or which would have been payable, in any of the injury benefit periods related to any of the relevant accidents.

Death Benefit

Order of priority
for entitlement to
death benefit and
quantum.

59. Subject to these Regulations —

- (1) Where an employed person or a self-employed person whose contributions are current at the time of the injury has died as a result of the relevant employment injury, death benefit shall be payable to dependants of the deceased person.
- (2) The total benefit payable at any one time by way of periodical payments shall not exceed one hundred per centum of the injury benefit to which the deceased was entitled during the injury benefit period following the relevant employment injury or to which he would have been entitled but for his death.
- (3) Such benefit as is provided under paragraph (2) of this regulation shall be paid to the widow or the widower and in respect of unmarried children, and to parents subject to the same conditions and percentages of benefit and having regard to the same priorities as specified in paragraph (3) of regulation 24 (which lays down the order of priority and percentage of benefit to be allotted in the case of survivor's benefits).
- (4) The actual amount of benefit under this regulation up to July 1987 shall not be less than the amount calculated as if the insurable wage or income rates under the wage group system had been applicable as on the first day of July, 1985.

Death benefit:
further
conditions
affecting title to
widows or
widowers.
S.I. 84/1998.

60. (1) Subject to the provisions of these Regulations, the widow or widower of the deceased shall be entitled for life to a death benefit if, and so long as, the conditions for entitlement of a widow or widower to a survivor's benefit set out in paragraphs (1)(a) and (1)(b) of regulation 25 are fulfilled:

S.I. 84/1998.

Provided that the condition set out in paragraph (1)(b)(i) of regulation 25 (that the widow or widower was married to the deceased for not less than one year) shall not apply.

(2) Death benefit payable to a widow or widower shall cease on remarriage. *S.I. 84/1998.*

61. The weekly rate of death benefit for an orphan shall be the rate of survivor's benefit for an orphan in regulation 29 and the provisions of that regulation and regulation 28 shall apply to death benefit for orphans. *Rate of death benefit for orphan.*

62. Subject to the provision of these Regulations, a parent of the deceased shall be entitled for life to death benefit, if and so long as the conditions for entitlement of a parent set out in regulation 26 are fulfilled: *Further conditions affecting title of parents.*

Provided that where both of the deceased's parents qualify for death benefit, this regulation shall not be construed so as to prevent either of them from receiving benefit to which he is otherwise entitled.

63. (1) Subject to the provisions of this regulation, where no person has a prior claim under regulation 59, death benefit may be awarded to any other dependant of the deceased: *Entitlement of other dependants to death benefit. S.I. 57/1985.*

Provided that no award shall be made under this regulation until a period of six months has elapsed since the date of death of the deceased.

(2) Death benefit under this regulation shall be a grant or grants, the amount or aggregate amount of which shall not exceed —

- (a) five thousand dollars; or
- (b) one hundred and fifty times the weekly rate of injury benefit to which the deceased was entitled during the injury benefit period following the relevant employment injury, or to which he would have been so entitled but for his death, whichever is the greater sum (referred to in this regulation as "the maximum amount available").

(3) If more than one person is entitled to the benefit under this regulation, the maximum amount available shall ordinarily be distributed equally among the beneficiaries. If there are special circumstances establishing the need for payment of a higher share to any beneficiary or beneficiaries, the matter shall be duly considered by the Board and referred to the Minister with necessary recommendations, for a decision.

(4) No action or claim shall lie against the Minister or the Board or the Fund in respect of or in connection with the exercise by the Minister or the Board of any discretion under this regulation.

(5) Where a beneficiary under this regulation is unable to act and a person or authority has been appointed under the law to have charge of his estate, the Board may, after consulting that person or authority direct that payment of the benefit concerned shall be made subject to such conditions as the Board may think fit including a condition that the benefit or any part of it shall be paid by instalments.

(6) Subject to the provisions of paragraph (5), where a beneficiary under this regulation has not attained the age of eighteen years, the Board may direct that the benefit concerned shall be paid to a person, being over the age of eighteen years, who the Board is satisfied will apply the payment for the benefit of such beneficiary; and the Board's direction may include such conditions as to payment and receipt of the benefit as the Board may think fit, including a condition that the benefit or any part of it shall be paid by instalments.

(7) Subject to the provisions of paragraph (5) and (6), where the amount of benefit payable under this regulation to any one person exceeds one thousand two hundred dollars, the Board may direct that the benefit or any part of it shall be paid by instalments:

Provided that before making a direction under this paragraph the Board shall take into consideration any representations made by or on behalf of the beneficiary as to how the benefit should be paid.

(8) In any case in which the Board directs, in accordance with this regulation, that an amount of benefit shall be paid by instalments then, from the date of such direction, the unpaid balance of that amount shall be credited with interest at such rate, not being less than eight per centum per annum, as the Board may from time to time direct.

64. With effect from 1st December, 1991, the amount of any disablement benefit or death benefit which is periodically payable and which commenced in the year 1991 or earlier shall be increased by the respective percentages indicated below —

Increase in
certain
disablement
benefits and
death benefits.
S.I. 62/1992.

Year in which Benefits Commenced	Increase %
1986 or earlier	25
1987	20
1988	15
1989	10
1990	5
1991	3

65. With effect from 1st January, 1999 the amount of any disablement benefit or death benefit which is periodically payable and which commenced in the year 1998 or earlier shall be increased by ten per centum.

Rate increase for
disablement and
death benefit.
S.I. 84/1998.

65A. With effect from 1st March, 2007 the amount of any disablement, or death benefit which is periodically payable and which commenced on or before 28th February, 2007 shall be increased by the respective percentages indicated below —

Increase in
certain
disablement
benefits, and
death benefits.
S.I. 31/2007.

Date Benefits Commenced	Increase
December 31, 1998 or earlier	15%
January 1, 1999 to December 31, 2000	12%
January 1, 2001 to December 31, 2002	8%
January 1, 2003 to December 31, 2004	5%
January 1, 2005 to February 28, 2007	3%.

Funeral Benefit

66. (1) Subject to the provisions of these Regulations, a funeral benefit shall be payable to the person who has met or is liable to meet the cost of the funeral of an employed person or a self-employed person whose contributions are current at the time of injury whose death was due to personal injury caused by accident arising out of and in the course of his employment.

Entitlement to
funeral benefit.

(2) The provisions of regulation 46(2) shall apply to this regulation.

67. The amount of funeral benefit shall be the amount of funeral benefit in regulation 47.

Amount of
funeral benefit.

Prescribed Diseases

Entitlement to industrial benefit and funeral benefit in respect of prescribed diseases.
Fifth Schedule.

68. Subject to the provisions of these Regulations, an employed person or a self-employed person who contracts a prescribed disease, that is to say, a disease described in the second column of the Fifth Schedule which is due to the nature of his employment in any occupation described opposite that disease in the third column of that Schedule, shall be entitled to industrial benefit; and where such a person dies as the result of contracting the prescribed disease, funeral benefit and industrial benefit shall be payable; and for this purpose, in these Regulations —

- (a) any reference to an accident shall include a reference to a prescribed disease;
- (b) any reference to the relevant accident or the relevant injury shall include the reference to the relevant prescribed disease; and
- (c) any reference to the date of the relevant accident shall include a reference to the date of development of the relevant prescribed disease.

Prescribed disease presumed to be due to nature of employment.

Fifth Schedule.

69. A prescribed disease shall be presumed to be due to the nature of a person's employment if, at any time during the period of one month before the date of development of the disease, the person was employed in any occupation described opposite that disease in the third column of the Fifth Schedule, except that —

- (a) no such presumption shall be made in respect of the disease numbered 6(b) in the Fifth Schedule; and
- (b) the disease numbered 17 in the Fifth Schedule shall be presumed to be due to the nature of a person's employment if, at any time before the date of development of the disease, he was employed in an occupation so described.

Date of development.

70. For the purpose of these Regulations, the date of development of a prescribed disease shall be —

- (a) where the first claim made in respect of the relevant disease is for injury benefit, the first day of incapacity for work caused by the disease;
- (b) the date on which the claimant suffered from loss of faculty as a result of the disease; and
- (c) where the first claim made in respect of the disease is for death benefit, the date of death.

71. (1) Where benefit is claimed in respect of a prescribed disease which the employed person or a self-employed person has already contracted on a previous occasion the further attack shall be dealt with in accordance with the following paragraphs of this regulation. Recrudescence.

(2) If the date of development of the further attack in respect of which benefit is claimed falls within an injury benefit period, or within a period taken into account by an assessment of disablement, relating to a previous attack of the same disease, the further attack shall be treated, in the

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absence of proof to the contrary, as a recrudescence of the previous attack.

(3) In any case, including the case where it is proved that the further attack is not a recrudescence of the previous attack, that further attack shall be treated as a fresh attack of the disease and the date of development shall be determined as if the claim were a first claim in respect of the disease.

72. Where an employed person or a self-employed person has contracted a prescribed disease, and is suffering from a condition which in his case has resulted from that disease, these Regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself a prescribed disease.

Sequelae or resulting conditions.

73. Nothing in this Part shall be construed so as to prevent a person from establishing title to industrial benefit in respect of the contraction of a disease which is not a prescribed disease on the ground that the disease constitutes personal injury which was caused by an accident arising out of and in the course of his employment as an employed person or a self-employed person.

Disease other than prescribed diseases.

PART VI INDUSTRIAL BENEFIT MEDICAL CARE

74. (1) Where an employed person or self-employed person whose contributions are current at the time of the injury suffers personal injury which is caused by an accident arising out of and in the course of his employment as an employed person or a self-employed person or contracts any prescribed disease, then he is entitled to medical care in respect of that injury or disease whether the need is continuous or not.

Entitlement to medical care.
S.I. 84/1998.

(2) The medical care referred to in paragraph (1) shall cease at the end of forty weeks from the date of injury unless the degree of disablement assessed under regulation 56 is twenty-five per centum or more in which case, the medical care continues for two years from the date of injury.

S.I. 46/2004.

(3) Notwithstanding paragraph (2), the medical care may continue beyond two years in any individual case, if the Director considers it necessary.

(4) In paragraph (1), the expression “prescribed disease” has the same meaning as in regulation 68.

(5) An employed person’s or self-employed person entitlement to medical care shall not be conditional upon his entitlement to any other benefit.

Contents of
medical care.

75. Medical care shall comprise —

- (a) care by a registered medical practitioner including medical examination, diagnosis, treatment and first aid given by such practitioner;
- (b) care by a registered dental practitioner;
- (c) where no registered medical or dental practitioner is available, such care and treatment, including first aid, as may be given by a paramedical practitioner;
- (d) such consultant, diagnostic or specialist care as may be approved by the Board after approval by the Minister;
- (e) the supply of essential dental and pharmaceutical products and dressings prescribed or supplied by a practitioner;
- (f) medical, surgical and nursing care as a hospital patient, including maintenance as an in-patient in any case where, because of the nature of the injury or for any other reason, medical care cannot be otherwise provided;
- (g) rehabilitation and remedial services;
- (h) the provision, repair and renewal, within such limits as may be approved by the Board, after approval by the Minister, of orthopaedic, prosthetic, opthalmic and other appliances necessary for the rehabilitation of the injured person; and
- (i) such other services, incidental or supplementary to the foregoing forms of medical care, as may from time to time be approved by the Board after approval by the Minister.

76. Medical care shall be provided with a view to —

Purpose of
medical care.

- (a) maintaining, restoring or, where this is not possible, improving, the health of the injured person; and
- (b) preparing a disabled person wherever possible for the resumption of his previous activity or, where this is not possible, the most suitable alternative gainful activity,

and shall be given in such a manner as to secure maximum efficiency within the scope of the benefit at the minimum reasonable cost.

77. Medical care shall be free of charge to the person for whom it is provided.

Medical care free
of charge.

78. (1) A practitioner may prescribe or supply such pharmaceutical products as are necessary for the proper treatment of the patient.

Pharmaceutical
products.

(2) Such pharmaceutical products shall be prescribed or supplied as economically as possible and as far as they are necessary for the proper treatment of the patient.

(3) Where, in the opinion of the responsible practitioner in any particular case, equally good results can be obtained by the use of either of two pharmaceutical products, preference shall be given to the less expensive of the two.

(4) The quantity of pharmaceutical products prescribed or supplied for each patient shall be determined in accordance with the presumptive period for which medical care will be needed, but if it is necessary to extend the period of medical care, further quantities of such products (determined in the manner aforesaid) may be prescribed or supplied for the extended period.

(5) instructions for the use of the pharmaceutical products prescribed or supplied shall be given by the practitioner to the patient, or to a member of the patient's family.

79. Medical care as an in-patient in hospital shall be provided on the recommendation, where practicable, of a registered medical or dental practitioner, with the express or implied consent of the patient and such consent may be dispensed with only if —

Patient's consent
to in-patient
treatment.

- (a) the patient is suffering from an infectious disease;
or

- (b) the nature of the injury or the condition of the patient renders it necessary that he should be under continuous nursing and medical supervision; or
- (c) a near relative of the patient is not readily available to give consent on his behalf if the patient is unable to do so.

Board may enter into agreement with the Minister of Health for provision of services.

80. (1) Subject to the approval of the Minister, the Board may enter into an agreement with the Minister of Health for the provision by the Minister of Health of medical care services required by the Board.

(2) An agreement made under paragraph (1) may provide for annual or other periodical payments from the Fund to the Minister of Health of such sums as may be agreed between the Board subject to the approval of the Minister and the Minister of Health for the medical care services provided by the Minister of Health in accordance with the agreement.

Board may enter into agreement with other providers of medical care.

81. The Board, subject to the approval of the Minister, may also enter into agreements with any other body, organization or practitioner providing medical care services in The Bahamas for the provision of medical care services required by the Board.

Medical case histories.

82. (1) Any person who provides medical care for any patient under these Regulations shall, if requested by the medical officer of the Board, supply to the medical officer a case history of that patient giving, in addition to identification details the following information relating to the patient —

- (a) the dates on which he provided medical treatment;
- (b) particulars of certificates of incapacity for work;
- (c) diagnosis of morbidity;
- (d) short clinical particulars;
- (e) any medical instructions given; and
- (f) pharmaceutical products prescribed.

Confidential nature of personal health, etc. information.

83. Information regarding the health and medical treatment of any patient shall be kept in strict confidence by the medical officer of the Board and his staff; and no

person, other than the Minister, Director or an officer of the Board in the exercise of his duties as such, or an appeal tribunal or medical referee or medical appeal board appointed or constituted under any Regulations for the time being in force, or the Supreme Court acting under the National Insurance (Appeals and References) Rules, shall have access to the medical case history or to any health or medical records relating to a patient.

84. A person who has applied for and is entitled to medical care —

Obligations of patient.

- (a) shall not, without the prior consent given by the Board after approval by the Minister, seek medical care from a practitioner other than the one from whom he first sought medical care;
- (b) shall comply with the instructions given by the practitioner in charge of his case;
- (c) shall not, whilst receiving medical care, do anything which might retard or prejudice his recovery;
- (d) shall submit himself to such medical examination as may be authorised by or on behalf of the medical officer of the Board; and
- (e) shall not unreasonably refuse his consent to being medically treated as an in-patient in hospital.

85. (1) Nothing in these Regulations shall preclude the repayment out of the Fund to any person of the cost of medical care which might otherwise have been provided under these Regulations, where such cost has been incurred in an emergency in which the medical care services arranged by or on behalf of the Board were not immediately available and delay in obtaining such medical care would, in the opinion of the Medical Officer of the Board who may make such consultation for medical opinion as he considers necessary, or the medical referee, have caused, or would have been likely to cause, a risk to the patient's life or grave detriment to his health.

Refund of cost of medical care in emergency and exceptional circumstances.

(2) Furthermore the Board may, in exceptional circumstances and on the direction of the Minister repay out of the Fund to any person the cost of medical care, where such medical care was obtained otherwise than in accordance with these Regulations.

Interim
arrangement.

86. Pending finalisation of the agreements referred to in regulations 80 and 81 and the laying down of detailed procedures for giving effect to the said agreements, the cases of industrial benefit medical care shall be admitted if the Medical Officer of the National Insurance Board is satisfied with the *bona-fides* of the case, although there is a lapse in complying with some of the present procedures and conventions.

Conveyance of
insured person.

87. (1) Where an employed person suffers injury by accident in the course of his employment which necessitates his removal to hospital or to his residence, his employer shall forthwith provide a suitable conveyance.

(2) There shall be defrayed from the Fund the reasonable expense incurred by an employer or a self-employed person or any other person in complying with the provisions of paragraph (1).

Travelling and
other expenses in
relation to
medical care.

88. (1) Where an injured person entitled to medical care necessarily incurs expense in travelling from his home or place of work to a place where the medical care is provided, and returning therefrom, there shall be repaid to such person out of the Fund the reasonable costs of such travel.

(2) "Reasonable costs" for the purpose of this regulation may include —

- (a) subsistence payments according to scales approved from time to time by the Board after approval by the Minister; and
- (b) where the injured person is necessarily required to be accompanied by an escort, the reasonable costs of travel of the escort.

PART VII ASSISTANCE

Persons not
entitled to
assistance.

89. (1) Assistance shall be awarded in accordance with the provisions of this Part.

(2) Assistance shall not be awarded to a person who

—
(a) is entitled to benefit under Parts IV and V except as provided in regulation 102; or

(b) owns financial assets or real estate or has any interest in real estate that exceed five times the annual rate of old age non-contributory pension.

(3) The word “real estate” referred to in subparagraph (b) of paragraph (2) shall not include the place of residence of the person seeking an award of assistance.

Old Age Non-contributory Pension

90. (1) Subject to the provisions of these Regulations, assistance in the form of an old age non-contributory pension shall be awarded to —

Award and duration of old age non-contributory pension.

- (a) a person who immediately before the 7th day of October, 1974, was in receipt of a pension under the Old Age Pension Act; or
- (b) a person who has reached the age of 65 years and has retired from gainful occupation and who, being an insured person, fails on account of insufficient contributions, to qualify for retirement benefit; or
- (c) a person who has reached the age of 65 years and has retired from gainful occupation and who, not being an insured person is resident in The Bahamas at the date of the claim for assistance and —
 - (i) is a citizen of The Bahamas; or
 - (ii) had been ordinarily resident in The Bahamas, as an employed or self-employed person, for a period of not less than twelve months without interruption within the fifteen years immediately preceding the date of the claim for assistance.

(2) An old age non-contributory pension awarded under subparagraph (a) of paragraph (1) shall be paid at the full rate set out in paragraph (2) of regulation 94 unless and until there is a change in the person’s circumstances; and on the occurrence of such a change the said rate may be revised as in paragraph (6) of regulation 94.

(3) For the purpose of the award of old age non-contributory pension under subparagraphs (b) and (c) of paragraph (1), a pensioner shall be treated as having retired from gainful occupation if —

- (a) he is following any occupation or occupations the income or aggregate income, from which does not, having regard to the provisions or regulation 94, preclude the award of assistance to him; or

- (b) at any time after he has reached 65 years whether or not he has been engaged in a gainful occupation.

Invalidity Assistance

Award and
duration of
invalidity
assistance.

91. Subject to the provisions of these Regulations, invalidity assistance shall be awarded as long as invalidity continues, to —

- (a) a person who immediately before the 7th day of October, 1974, was in receipt of pecuniary assistance on account of invalidity from the Department of Social Services; or
- (b) an insured person who fails on account of insufficient contributions to qualify for invalidity benefit.
- (c) a person over the age of 16 years and who, not being an insured person, is resident in The Bahamas at the date of his claim for assistance and —
 - (i) is a citizen of The Bahamas; or
 - (ii) had been ordinarily resident in The Bahamas as an employed or self-employed person, for a period of not less than twelve months without interruption within the fifteen years immediately preceding the date of the claim for assistance.

Survivor's Assistance

Award and
duration of
survivor's
assistance.
S.I. 84/1998.

92. (1) Subject to the provisions of these Regulations, survivor's assistance shall be awarded in respect of —

- (a) a person who immediately before the 7th day of October, 1974, was in receipt of pecuniary assistance from the Department of Social Services as the dependent survivor of a deceased person; or
- (b) a person who, being the survivor of an insured person who dies otherwise than as the result of employment injury, and who fails, because of insufficient contributions paid by the deceased insured person, to qualify for survivor's benefit; or
- (c) a person who, being the survivor of a person who was not an insured person and who died

otherwise than as the result of employment injury, was resident in The Bahamas at the time of his claim for assistance and who —

- (i) is a citizen of The Bahamas; or
- (ii) had been ordinarily resident in The Bahamas as an employed or self-employed person for a period of not less than twelve months without interruption within the fifteen years immediately preceding the date of his claim; or
- (iii) is the survivor of a person who at the date of his death was a citizen of The Bahamas or had been ordinarily resident in The Bahamas as an employed or self-employed person for a period of not less than twelve months within the immediate preceding fifteen years.

(2) For the purpose of this regulation the survivor shall be that person who, if the deceased had been an insured person and the conditions for award of survivor's benefit had been satisfied in relation to the deceased, would have been entitled to survivor's benefit, in priority to any other claimants.

(3) A person receiving survivor's assistance payments prior to 1st January, 1999 shall continue to receive such payments after 1st January, 1999.

S.I. 84/1998.

Sickness Assistance

93. Subject to the provisions of these Regulations, sickness assistance shall be awarded to a person who is rendered incapable of work or is treated as being incapable of work as defined in regulation 31 and who is an insured person who has been engaged in an occupation as an employed or self-employed person in the contribution year or the 52 week period immediately preceding the first day of incapacity for work but who on account of insufficient contributions fails to qualify for sickness benefit:

Award and duration of sickness assistance.
S.I. 57/1985.

Provided that the Minister upon the recommendation of the Board, shall award sickness assistance to insured persons who have paid not less than forty contributions but fail to fulfil the other conditions set out in this regulation.

S.I. 57/1985.

Rates of Assistance

Rates of
assistance.
S.I. 31/2007.

94. (1) An orphan under the age of sixteen years or one who is of, or above that age but under the age of twenty-one years who is receiving full time education or training otherwise than under a contract of service under which he is paid wages, may be awarded survivor's assistance if he would have been deemed to comply with the conditions for the receipt of survivor's benefit (orphans) under Part IV; and the weekly rate of survivor's assistance shall be twenty-four dollars and twenty-three cents effective 1st March, 2007.

S.I. 31/2007.

(2) Except in the case of an orphan to whom paragraph (1) applies, assistance under the foregoing provisions of this Part may be awarded in any case, subject to the provisions of these Regulations, at a rate not exceeding fifty-three dollars and eight cents effective 1st March, 2007 weekly for a person of, or above the age of sixteen years with an addition not exceeding twenty-one dollars and twenty-three cents effective 1st March, 2007 weekly for each dependent child under the age of sixteen years subject to a maximum addition for dependent children in a household of eighty-four dollars and ninety-two cents effective 1st March, 2007 weekly.

S.I. 31/2007.

(3) Subject to paragraph (4), for the purpose of calculating the rate of assistance to be awarded under paragraph (2) the resources of the person to whom assistance, if any, is to be awarded shall be assessed on a weekly basis and if those resources are —

- (a) equal to or exceed the maximum weekly amount payable under paragraph (2) including the additions for children, wherever permissible, there shall be no award of assistance; or
- (b) less than the weekly amount payable under paragraph (1), assistance shall be awarded at a weekly rate equal to the said weekly amount and in the conversion of such weekly rate to a daily rate in a case of sickness assistance, the daily rate shall be calculated by dividing the weekly rate by six and in any other case by dividing the weekly rate by seven and where the division does not result in whole cents shall be calculated to the next cent above.

(4) In assessing the resources of a person for the purpose of paragraph (3) where that person is one of a couple living together, one half of the actual weekly aggregate resources of the couple or the actual weekly resources of the applicant, whichever is favourable to that person, shall be taken into account save however, notwithstanding anything to the contrary in the foregoing provisions of this paragraph or paragraph (3) —

Award of
assistance in the
case of a couple
living together.
S.I. 57/1985.
S.I. 84/1998.

- (a) where such weekly aggregate resources equal or exceed the aggregate of twice the maximum weekly amount of assistance payable under paragraph (2) and the amount deducted under paragraph (5)(c), if any, and twice the amount disregarded under paragraph (5)(d);
- (b) where the actual weekly resources of the person to whom assistance, if any, is to be awarded, are equal or exceed the maximum weekly amount of assistance payable under paragraph (2) plus any sum to be deducted or disregarded under paragraph (5), no assistance shall be awarded to that person.

(5) In assessing the resources of a person for the purposes of paragraph (3) or (4) —

- (a) capital resources shall be ignored;
- (b) only income that is money or money's worth earned by that person whether in respect of services rendered by him or accruing to him in respect of any office held by him or by reason of investments or capital resources owned by him shall constitute resources; and
- (c) any sum paid by that person by way of maintenance to a spouse living apart from that person pursuant to an order of court or a maintenance agreement shall be deducted from any income referred to in subparagraph (b);
- (d) the sum of thirty dollars of any income referred to in subparagraph (b) shall be disregarded; and
- (e) any reference to the actual weekly resources of a person is a reference to the actual income referred to in subparagraph (b) of that person without any sum deducted or disregarded under subparagraphs (c) and (d) and not to half of the aggregate of the resources referred to in paragraph (4).

(6) The rate of assistance in each case shall be reviewed from time to time and any change required as a result of such review shall be implemented when there is a change of circumstances affecting either title to the assistance or the rate of assistance payable.

S.I. 31/2007. (7) In the case of old age non-contributory pension, invalidity assistance, survivor's assistance and sickness assistance awarded prior to 1st March, 2007 the amounts payable thereunder shall be increased with effect from 1st March, 2007 to the respective amounts payable, in respect of the respective awards, on 1st March, 2007.

S.I. 31/2007. (8) The amounts awarded prior to 1st March, 2007 shall be increased with effect from 1st March, 2007 to the respective amounts payable in respect of the respective awards, on 1st March, 2007.

S.I. 84/1998. (9) For the purpose of paragraph (3), the person to whom survivor's assistance shall be awarded shall be such person who is in the case of a family unit the surviving parent or such person whom the Board deems to stand *in loco parentis* to any children (wherever permissible) under regulation 92(1), as the case may be and for the purpose of assessing the resources of such person, the aggregate income of the family unit shall be taken into consideration.

PART VIII
COMMON PROVISIONS RELATING
TO BENEFIT AND ASSISTANCE

95. Invalidity benefit or invalidity assistance shall not be awarded in any case unless and until a medical referee has determined, in accordance with the National Insurance (Determination of Claims and Questions) Regulations, that the claimant is an invalid as defined in regulation 2 of those Regulations and has certified the nature of the permanent incapacity as a result of which the claimant is determined to be an invalid.

Determination of
invalidity and
certification of
permanent
incapacity for
work.
S.I. 64/1974.

96. A beneficiary in respect of sickness benefit, invalidity benefit, sickness assistance or invalidity assistance shall be disqualified from receiving such benefit or assistance, as the case may be, for such period not exceeding six weeks as the Director may decide if —

Disqualification.

- (a) the claimant has become incapable of work through his own misconduct; or
- (b) the claimant fails, without good cause, to comply with a notice in writing by the Director requiring him to attend for, and submit himself to, a medical examination; or
- (c) the claimant fails, without good cause, to observe any of the following rules of behaviour, namely —
 - (i) to refrain from behaviour calculated to retard his recovery, or to answer any reasonable enquiries by an officer of the Board directed to ascertain whether he is doing so;
 - (ii) not to be absent from his place of residence without leaving word where he may be found; or
 - (iii) to do no work for which remuneration is or would ordinarily be payable.

97. A claim for sickness benefit, injury benefit or sickness assistance shall be made in the manner prescribed in Parts I and II and shall be supported by the certificate of a registered medical practitioner or by such other evidence as the Director may require for the purpose of establishing the person's incapacity for work:

Manner of
claiming sickness
and injury benefit
or sickness
assistance.

Provided that the Director may, for that purpose, require the claimant to attend for, and submit himself to, examination by one or more persons selected from a panel of registered medical practitioners appointed by the Board.

Duration of
sickness benefit
or sickness
assistance.

98. (1) Sickness benefit or sickness assistance, as the case may be, shall not be paid for the first three days of incapacity for work.

(2) For the purpose of computing the first three days of any continuous period of incapacity for work Sundays and Public Holidays shall be included.

S.I. 57/1985.

(3) Subject to paragraphs (1) and (4) of this regulation, sickness benefit or sickness assistance may be paid for each day (excluding Sunday) as long as incapacity for work continues, subject to a maximum period of twenty six week's benefit or assistance, as the case may be, in any continuous period of incapacity for work:

Provided that any two or more periods of incapacity for work separated by not more than eight weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of those periods and the daily rate of sickness benefit or sickness assistance so payable in respect of the later period or periods shall be the daily rate of such benefit or assistance paid during the first of such periods of incapacity for work:

Provided further that the period of twenty-six weeks may be extended up to forty weeks subject to the condition that the Medical Officer of the Board certifies that the insured person is likely to recover his health if he undergoes additional medical treatment.

(4) No person shall be entitled to sickness benefit or sickness assistance during retirement from an insurable occupation after attaining the age of sixty years if he is in receipt of retirement benefit.

Minimum
amount of
benefit.
S.I. 31/2007.

99. (1) The weekly rate of retirement benefit awarded at the age of sixty-five years or later, invalidity benefit, survivor's benefit, (other than the benefit to children under paragraph (3) of regulation 24 and under regulation 29), disablement benefit for total loss of faculty, or death benefit (other than the benefit to children under paragraph (3) of regulation 59 and under regulation 61) due under any of the provisions of these regulations shall not be less than sixty-two dollars and thirty-one cents effective 1st March, 2007 notwithstanding anything to the contrary in those provisions.

(2) The weekly rate of retirement benefit awarded to an insured person at any age prior to sixty-five years shall not be less than an amount derived by applying the factors prescribed in regulation 21(a) to the minimum amount stated in paragraph (1) of this regulation:

Provided that such minimum amount shall not be less than fifty-seven dollars and sixty-nine cents effective 1st March, 2007 and if such a person re-enters an insurable occupation, the fresh award of retirement benefit shall be subject to the same minimum amount as was applicable for the age at which the benefit was first awarded.

(3) The minimum disablement benefit in the form of periodical payment shall be that portion of the minimum benefit for total loss of faculty which the percentage assessed as the degree of disablement bears to one hundred per centum:

Provided that such prorated amount shall not be less than fifty-three dollars and eight cents effective 1st March, 2007.

(4) The weekly rate of survivor's benefit to a child under paragraph (3) of regulation 24 and death benefit to a child under paragraph (3) of regulation 59 shall not be less than twenty-five dollars and thirty - eight cents effective 1st March, 2007.

(5) The weekly rate of maternity benefit, sickness benefit or injury benefit with a start date after 28th February, 2007 shall not be less than sixty-two dollars and thirty one cents.

(6) In the case of the benefits awarded with an effective date prior to 1st March, 2007, if the amount of benefits is less than the minimum specified in paragraph (1), (2), or (3) of this regulation as the case may be, the amount shall be increased to such a minimum with effect from 1st March, 2007.

(7) The weekly rate of unemployment benefit shall not be less than sixty-two dollars and thirty-one cents: *S.I. 51/2009, r. 2.*

Provided that where the average weekly insurable wage or income is less than sixty-two dollars and thirty-one cents, the weekly rate of unemployment benefit shall be equal to the average weekly insurable wage or income.

PART IX MISCELLANEOUS PROVISIONS

Persons unable to act.

100.(1) In the case of any person to whom benefit or assistance is payable or who is alleged to be entitled to benefit or assistance or by whom or on whose behalf a claim for benefit or assistance has been made, and who is a child under the age of sixteen years, or is unable for the time being to act, where no person or authority has been appointed under the law to have charge of his estate, the Director may, upon written application being made to him, appoint a person to exercise, on behalf of the child or person who is unable to act, any right to which that child or person may be entitled under the Act and to receive and deal with any sums payable on behalf of such child or person:

Provided that —

- (a) any such appointment by the Director shall terminate on the day immediately prior to the date on which he is notified that a person or authority has been so appointed under any other law;
- (b) a person who has not attained the age of eighteen years shall not be capable of being appointed to act under this regulation;
- (c) the Director, acting in his absolute discretion, may revoke any appointment made under this regulation at any time;
- (d) any person appointed under this regulation may, on giving the Director one month's notice in writing of his intention to do so, resign his office.

(2) Anything required by these Regulations to be done by or to any person to whom benefit or assistance is payable or who is alleged to be entitled to benefit or assistance or by whom or on whose behalf a claim for benefit or assistance has been made, and who is a child under the age of sixteen years or is unable for the time being to act, may be done by or to any person or authority duly appointed under the law to have charge of such person or his estate or by or to the person appointed under this regulation to act on behalf of such person, and the receipt of any person appointed under this regulation shall be a good discharge to the Board and the Fund for any sum paid.

Payment on death.

101.(1) On the death of a person who has made a claim for benefit or assistance or who is alleged to have been entitled to benefit or assistance, or in respect of whose death a funeral benefit is alleged to be payable the Director

may appoint such person as he thinks fit to proceed with or to make a claim for, the benefit or assistance and the provisions of these Regulations shall, (subject to such modifications as may be required) apply to any such claim:

Provided that in the case of a funeral benefit a claim may be made by any person specified in paragraph (2) of this regulation.

(2) Subject to the provisions of paragraph (6) of this regulation, any sum payable by way of benefit or assistance which is payable under an award made, or a claim proceeded with, under paragraph (1) hereof, may be paid or distributed to or amongst persons claiming as personal representatives, legatees, next-of-kin, or creditors of the deceased or, (where the deceased was illegitimate) to or amongst other persons and the provisions of regulation 15 shall apply to any such payment or distribution:

Provided that —

- (a) the receipt of any person who has attained the age of sixteen years shall be a good discharge to the Board and the Fund for any sum so paid, notwithstanding that such person has not attained the age of 18 years; and
- (b) where the Director is satisfied that any such sum or part thereof is needed for the maintenance or welfare of any person under the age of sixteen years, the Board and the Fund may obtain a good discharge therefor by paying the sum or part thereof to a person over that age (who need not be a person specified in this paragraph) who satisfies the Director that he will apply the sum so paid for the maintenance or welfare of the person under the age of sixteen years.

(3) Subject to the provisions of paragraph (6) of this regulation, any sum payable by way of benefit or assistance to the deceased, payment of which he had not obtained at the date of his death, may, unless the right thereto was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2) and the provisions of regulation 15 and of the proviso to the said paragraph shall apply to any such payment or distribution:

Provided that, for the purpose of paragraph (1) of regulation 15 the period of six months shall be calculated from the date on which the sum was receivable by any such

person, and not from the date on which it was receivable by the deceased.

(4) In relation to funeral benefit, the reference in paragraph (2) of this regulation to creditors shall include a reference to any person who gives an undertaking in writing to pay the whole or part of the deceased's funeral expenses, so, however, that any payment of funeral benefit to a person by virtue of this paragraph shall be subject to the condition that if the person fails to carry out any such undertaking he shall repay to the Fund any funeral benefit so paid to him.

(5) Where any person has received an amount by way of funeral benefit by virtue of the provisions of this regulation and is entitled to reimbursement of the deceased's funeral expenses out of the deceased's estate, his right to such reimbursement shall be reduced by the amount of funeral benefit received by him.

(6) Paragraphs (2) and (3) shall not apply in any case unless written application for the payment of any such sum is made to the Director within six months from the date of the deceased's death or within such longer period as may be allowed in any particular case.

(7) The Director may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

Entitlement to more than one benefit or type of assistance.

102.(1) Notwithstanding that a person is entitled to two or more benefits or to two or more types of assistance or to both benefit and assistance for the same period, only one benefit or type of assistance shall be payable to such person in respect of that period. The benefit or assistance so payable shall be the benefit or assistance first awarded unless the other benefit or assistance is payable at a higher rate, in which case he shall be paid the benefit or assistance at such higher rate:

Provided that nothing in this regulation shall —

- (a) if the last mentioned benefit or assistance ceases to be payable, prevent the award or reinstatement of another benefit or type of assistance;
- (b) preclude the duplication with survivor's benefit or death benefit of sickness benefit, injury benefit, disablement benefit, maternity benefit or unemployment benefit, or so far as any prescribed test of resources may allow, of sickness assistance;

S.I. 40/2009, r. 5.

- (c) preclude the duplication with disablement benefit of retirement benefit, invalidity benefit, survivor's benefit, sickness benefit, maternity benefit or unemployment benefit; *S.I. 84/1998. S.I. 40/2009, r. 5.*
- (d) preclude the duplication with injury benefit of retirement benefit where a person earns less than fifty per centum of the ceiling on insurable wages; *S.I. 84/1998.*
- (e) prevent any other benefit or, in so far as any prescribed test of resources may allow, any type of assistance to be duplicated in full with funeral benefits; and
- (f) preclude the duplication of survivor's benefit to a widow or widower with retirement benefit or invalidity benefit as provided for in paragraph (4). *S.I. 84/1998.*

(2) Notwithstanding subparagraph (c) of the proviso to paragraph (1), there shall be no duplication with sickness benefit of an increase of disablement benefit on account of hospital treatment under regulation 55(a) or on account of incapacity for work under regulation 55(b). *S.I. 84/1998.*

(3) There shall be no duplication with funeral benefit payable under Part IV of funeral benefit payable under Part V in respect of the death of the same person.

(4) Where a person satisfies the conditions for the award of a retirement or invalidity benefit and was either previously in receipt of or subsequently meets the conditions for a survivor's benefit due to the death of his spouse, the benefit payable to the person shall be one hundred per centum of the retirement or invalidity benefit to which he is entitled plus fifty per centum of the survivor's benefit that would otherwise have been paid.

103. (1) For every contribution week for the whole of which a person has received any of the following benefits namely — *Credit contribution.*

- (a) sickness benefit;
- (b) maternity benefit;
- (c) injury benefit;
- (d) disablement benefit increased on account of hospital treatment under regulation 55(a);
- (e) disablement benefit increased on account of incapacity for work under regulation 55(b);

(f) disablement benefit assessed at one hundred per centum;

S.I. 40/2009, r. 6.

(g) unemployment benefit,

a contribution shall be credited to that person without actual payment thereof:

Provided that no contribution shall be credited to a person in respect of disablement benefit assessed at one hundred per centum if that person is not incapable of work as a result of the relevant loss of faculty.

S.I. 40/2009, r. 6.

(2) A contribution credited under paragraph (1) of this regulation shall, subject to the provisions of these Regulations, be valid for the second contribution condition for sickness benefit, maternity benefit, retirement benefit, invalidity benefit and unemployment benefit.

Special provisions
relating to persons
absent, abroad.

104. The benefits/assistance payable to a person while absent from The Bahamas shall be regulated as follows —

- (1) a person who is posted abroad by his employer in The Bahamas who is bound to pay contributions as prescribed in regulation 39 of the National Insurance (Contributions) Regulations, shall be entitled to receive sickness benefit, maternity benefit or injury benefit provided he satisfies the qualifying conditions and produces the medical certificates prescribed for making the claim;
- (2) a person who is not covered by paragraph (1) and who goes abroad, shall be qualified for receiving sickness benefit, sickness assistance or maternity benefit if he/she falls sick, meets with an accident or has confinement for delivery while he/she is temporarily absent from The Bahamas provided the contribution conditions are fulfilled before he/she went abroad;
- (3) a person shall not be disqualified for receiving injury benefit, sickness benefit, sickness assistance or maternity benefit by reason of being temporarily absent from The Bahamas for the specific purpose of being treated for incapacity which commenced before he left The Bahamas;
- (4) a person shall not be disqualified for receiving retirement benefit, invalidity benefit, survivor's benefit, disablement benefit, death benefit, funeral benefit, old age non-contributory pension, invalidity assistance or survivor's assistance by reason of being absent from The Bahamas:

Provided that entitlement to the benefits specified in paragraph (4) of this regulation was established before the person left The Bahamas.

Payment of benefit or assistance for which person is eligible under regulation 104.

105. (1) The benefit to which a person is entitled to under paragraph (1) of regulation 104 shall be paid in the country of posting.

(2) Subject to the provisions of regulation 13 for continued eligibility benefit or assistance covered by paragraphs (2), (3) and (4) of regulation 104 shall be payable in The Bahamas to such representative acting for and on behalf of the person concerned or credited to the bank account of the person in The Bahamas as may be approved by the Director:

Provided that where an agreement or understanding is entered into between the Government of The Bahamas and the Government of any other country to allow benefits accruing in one or other of those countries to be paid in the other, benefit or assistance for which a person is not disqualified by virtue of regulation 104 may be paid to a person residing in that other country.

106. A person shall be disqualified from receiving any benefit or assistance for any period during which that person is undergoing imprisonment or detention in legal custody:

Special provisions to persons undergoing imprisonment or detention in legal custody.

Provided that where the Director is satisfied that the person undergoing such imprisonment or detention has dependants who, immediately prior to such imprisonment or detention, were wholly or mainly maintained by him, the Director may authorise payment to, or in respect of, those dependants of an amount not exceeding three quarters of the benefit or assistance which would otherwise be payable, during such period as he may allow, having regard to the particular circumstances of the case. The provisions of regulation 102 relating to overlapping benefits or assistance, shall apply to each of the said dependants as if the benefit or assistance paid to or in respect of him under this regulation were a benefit or type of assistance to which the said dependants were entitled.

107. (1) Every employed person who suffers personal injury by accident in respect of which industrial benefit may be payable shall give notice of such accident either in writing or orally as soon as is practicable after the happening thereof:

Notice of accident.

Provided that any such notice may be given by some other person acting on behalf of the employed person.

(2) Every such notice shall be given to the employer, or to any foreman or other person under whose supervision the employed person was working at the time of the accident, or to any person designated for the purpose by the employer, or by means of an entry in an accident book as described in regulation 108 and shall contain the following particulars —

- (a) full name, address and occupation of the employed person;
- (b) date and time of the accident;
- (c) place where the accident happened;
- (d) cause and nature of the personal injury;
- (e) name and address of any witness to the accident; and
- (f) name, address and occupation of the person giving the notice, if not the injured person.

(3) Every self-employed person who suffers personal injury by accident in respect of which industrial benefit may be payable shall give notice of such accident, either in writing or orally, to the nearest local office of the National Insurance Board as soon as is practicable after the happening thereof:

Provided that any such notice may be given by some other person acting on behalf of the said self-employed person.

(4) No person shall be disentitled to receive industrial benefit by reason only that notice of the relevant accident was not given at the time or in the manner prescribed.

Obligations of employers in relation to accidents.

108.(1) Every employer by whom five or more persons are normally employed at the same time at or about the same premises shall keep readily accessible an accident book in which the particulars specified in regulation 107 may be entered; and shall cause to be entered in such book the particulars of every accident of which notice is given as in the said regulation or which otherwise comes to his knowledge.

(2) It shall be sufficient compliance with paragraph (1) that an employer maintains arrangements under which he may receive immediate written notice of the happening of any accident, whether such written notice is given in an

accident book or otherwise; and that he complies with any direction given by the Board in connection with such arrangements.

(3) Every employer shall forthwith investigate every accident of which notice is given as in regulation 107 or which otherwise comes to his knowledge, and shall make a record of discrepancies (if any) between the particulars given in such notice and the circumstances revealed by his investigation.

(4) An employer or a self-employed person, as the case may be, shall submit a report of an employment accident in the form and manner required by the Board within three months of the occurrence of the accident and furnish such further particulars as may be requested by the Director, except that in exceptional circumstances, the Board may waive this time limitation if an individual case warrants it.

S.I. 84/1998.

(5) Nothing in this regulation shall be construed as relieving an employer of any obligation in relation to the recording, investigation or reporting of accidents which may be contained in any enactment, agreement or other instrument.

109.(1) No person shall be disentitled to receive industrial benefit, nor shall any one be disentitled to receive industrial benefit in respect of the death of any person, by reason only that such person is or was regarded under the Immigration Act, as a restricted immigrant, or had illegally landed or been allowed to remain in The Bahamas.

Accidents in the course of illegal employment, etc.

(2) Any person below the upper limit of compulsory school age, who has been employed in any employment in contravention of any enactment passed for the protection of minors below that age shall not thereby be disentitled to industrial benefit.

(3) Where a claim is made for industrial benefit in circumstances other than those described in paragraphs (1) and (2), and the relevant accident is shown to have happened in the course of an illegal employment, the Minister may direct that for the purposes of the Act that illegal employment shall, in relation to the relevant accident, be treated as having been employed as an employed person or a self-employed.

(4) For the purposes of paragraph (3) “illegal employment” means any employment, the contract for which, under any enactment passed for the protection of

persons in employment or any class of such persons, was void or in which the person was not lawfully employed at the time when, or in the place where, the accident happened.

Transitional provisions for persons 35 years and above on appointed day.

110. An insured person who is of or above the age of thirty-five years on the day appointed for the Act to apply to persons in the class of insured persons in which he is classified, shall be awarded special credited contributions at the rate of twenty-five contributions for each complete year of his age at the appointed day in excess of thirty-five years subject to a maximum special credit of six hundred contributions:

Provided that such special credits —

- (a) shall be awarded for the purposes of retirement benefit, invalidity benefit and survivor's benefit only;
- (b) shall be awarded only where one hundred and fifty contributions actually have been paid by or in respect of, or credited to, the insured person during the three years commencing with the appropriate appointed day;
- (c) shall not, for the purposes of the rate of benefit, be taken into account in assessing average weekly insurable wage or income; and
- (d) in the case of an insured person who is classified as belonging to a class of insured persons to which the provisions of the Act applied on the 7th day of October, 1974, and is subsequently classified as belonging to another class to which the provisions of the Act applied on the 5th day of April, 1976, shall be awarded in respect of that classification which is the more or most favourable in the award of retirement benefit, invalidity benefit or survivor's benefit.

Penalty.
S.I. 84/1998.

111. If any employer or a self-employed person referred to in paragraph (4) of regulation 108 contravenes or fails to comply with the provisions of that paragraph, that person shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

FIRST SCHEDULE (Regulation 17(1))

PART A RULES FOR MEDICAL CERTIFICATION

1. In these Rules, unless the context otherwise requires —
 - “certificate” means a certificate of incapacity;
 - “claimant” means the person in respect of whom a certificate is given;
 - “practitioner” means a registered medical practitioner not being the claimant or the husband or wife of the claimant.
2. Every certificate shall be in writing in ink or other indelible substance, and shall contain the following particulars:
 - (a) the claimant’s name;
 - (b) the date of the examination on which the certificate is based;
 - (c) a concise statement of the disease or disablement by which the claimant is, in the practitioner’s opinion, at the time rendered incapable of work;
 - (d) the date on which the certificate is given;
 - (e) the address of the practitioner,and shall bear, opposite the words “Doctor’s signature” the signature of the certifying practitioner written after there have been entered on the certificate the claimant’s name and statement of the disease or disablement.
3. The statement of the incapacitating disease or disablement in the certificate shall specify the cause of incapacity as precisely as the practitioner’s knowledge of the claimant’s condition at the time of the examination permits:

Provided that, if in the practitioner’s opinion a disclosure to the claimant of the precise cause would be prejudicial to his well-being, the certificate may contain a less precise statement.
4. Every certificate must have been given on a date not later than one day after the date of the examination upon which it is based, and no further certificate based on the same examination upon which it is based, shall be furnished other than a certificate to replace an original certificate which has been lost or mislaid, but in that case the form shall be clearly marked “duplicate”.
5. A certificate shall be either on a form supplied by the Board or on such other form substantially to the like effect as the determining authority may accept.
6. The certificates shall be in the form set out in Part B of this Schedule.

7. In any case in which, in the opinion of the practitioner, the claimant will become fit to resume work on a day not later than the end of the 7th day after the date of the examination on which the certificate is based, the certificate shall specify the first-mentioned day.

8. In any other case, the certificate shall cover a specified number of days or weeks from and including the date of the examination on which the certificate is based, which shall not exceed 28 days, or where at that date the incapacity has continued for not less than 28 days, 13 weeks.

9. In computing any period of time in relation to any certificate given under rule 7 or 8, Sunday shall not be disregarded.

PART B FORM OF CERTIFICATE

MEDICAL CERTIFICATE

In confidence to —

Mr.

Mrs.

Miss

today

I certify that I examined you and that

yesterday

in my opinion —

1. You were incapable of work at the time of the examination by reason of

.....

.....

and

2. (a) you will be fit to resume work today/tomorrow/on next; ¹
or

(b) you will remain incapable of work for a period of ²
(complete 2(a) or (b), whichever is appropriate.)

Doctor's signature

Date

Any other remarks by doctor

¹ The day indicated must not be more than 7 days (Sundays included) after the date of the examination.

² The period entered must not exceed 28 days unless the incapacity has already continued for 28 days or more, in which case it must not exceed 13 weeks (Sundays included).

SECOND SCHEDULE (Regulation 17(2))

PART A RULES FOR CERTIFICATION OF CONFINEMENT

1. Certificates of confinement or expected confinement shall be in writing in ink or other indelible substance signed by a registered medical practitioner or certified midwife attending the woman.

2. The certificate shall be on a form provided by the Board for the purpose. The wording of the certificate shall be that set out in the appropriate form in Part B of this Schedule.

3. Every certificate of confinement or expected confinement shall contain the following particulars —

- (a) the woman's name;
- (b) in the case of a certificate of confinement, the date and place of the confinement, and the date of the examination on which the certificate is based;
- (c) in the case of a certificate of expected confinement, the week in which it is to be expected that the woman will be confined and the date of the examination on which the certificate is based;
- (d) the date on which the certificate is given;
- (e) where the certificate is signed by a midwife, either the registered number of the midwife or her address and the date of her qualification,

and shall bear, opposite the word "signature", the signature of the person giving the certificate written after there have been entered on the certificate the woman's name and the date, or (as the case may be) the expected date, of the confinement.

4. After a certificate based on an examination has been given, no further certificate based on the same examination shall be furnished other than a certificate to replace an original certificate which has been lost or mislaid, but in that case the form shall be clearly marked "duplicate".

PART B
FORMS OF CERTIFICATE

CERTIFICATE OF CONFINEMENT³

(To be given by a registered medical practitioner or certified midwife)

I certify that I attended in connection with her confinement⁴ which took place at (Address) and that she was there a child delivered of on the children⁵ day of 20

(It is important that, where the medical practitioner or midwife considers that the confinement⁶ took place before the week⁷ in which it was expected, the following paragraph should be completed. In any other case, it should be struck through.)

I certify that, in my opinion, it was to be expected that she would be confined⁸ in the week⁹ containing the.....day of..... 20

Signature

(If Certified Midwife, add Registered Number
or Address and Date of Qualification
.....)

Date of examination.....

Date of signing.....

³ Confinement is so defined by regulation 2 that this certificate can only be given —

- (i) where labour results in the issue of a living child, or
- (ii) where labour after 28 weeks of pregnancy results in the issue of a child whether alive or dead.

The certificate must not be given in any other circumstances.

⁴ Confinement is so defined by regulation 2 that this certificate can only be given —

- (i) where labour results in the issue of a living child, or
- (ii) where labour after 28 weeks of pregnancy results in the issue of a child whether alive or dead.

The certificate must not be given in any other circumstances.

⁵ Insert number of children, if more than one.

⁶ Confinement is so defined by regulation 2 that this certificate can only be given —

- (i) where labour results in the issue of a living child, or
- (ii) where labour after 28 weeks of pregnancy results in the issue of a child whether alive or dead.

The certificate must not be given in any other circumstances.

⁷ The week referred to is a contribution week, i.e. one which begins on a Monday.

⁸ Confinement is so defined by regulation 2 that this certificate can only be given —

- (i) where labour results in the issue of a living child, or
- (ii) where labour after 28 weeks of pregnancy results in the issue of a child whether alive or dead.

The certificate must not be given in any other circumstances.

⁹ The week referred to is a contribution week, i.e. one which begins on a Monday.

CERTIFICATE OF EXPECTED CONFINEMENT.

(To be given by a registered medical practitioner or certified midwife not earlier than the beginning of the eighth week¹⁰ before the week¹¹ containing the day of expected confinement.)

To

I certify that I examined you on the undermentioned date and that in my opinion you may expect to be confined in the week¹² which will include the

day of 20

(Here insert the expected date of confinement)

Signature

(If Certified Midwife, add Registered Number
or Address and Date of Qualification.....
.....)
.....)

Date of examination

Date of signing

Any other remarks by Doctor or Midwife

¹⁰ The week referred to is a contribution week, i.e. one which begins on a Monday.

¹¹ The week referred to is a contribution week, i.e. one which begins on a Monday.

¹² The week referred to is a contribution week, i.e. one which begins on a Monday.

**THIRD SCHEDULE (Regulations 53
and 54)**

**AMOUNTS OF DISABLEMENT BENEFIT PAYABLE IN
THE FORM OF A GRANT**

Column 1 Degree of Disablement	Column 2 Amount of Grant \$
1 per centum	100
2 per centum	200
3 per centum	300
4 per centum	400
5 per centum	500
6 per centum	600
7 per centum	700
8 per centum	800
9 per centum	900
10 per centum	1000
11 per centum	1100
12 per centum	1200
13 per centum	1300
14 per centum	1400
15 per centum	1500
16 per centum	1600
17 per centum	1700
18 per centum	1800
19 per centum	1900
20 per centum	2000
21 per centum	2100
22 per centum	2200
23 per centum	2300
24 per centum	2400
Amounts of disablement benefit in the form of a grant payable in addition to disablement benefit paid by periodical payments.	
25% to 66%	500
67% to 100%	1000

FOURTH SCHEDULE (Regulation 56)

PRESCRIBED DEGREES OF DISABLEMENT

Description of Injury	Degree of Disablement per centum
-----------------------	--

TOTAL LOSS OF FACULTY

1. Loss of both hands or amputation at higher sites...	100
2. Loss of a hand and foot.....	100
3. Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4. Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential.....	100
5. Very severe facial disfigurement	100
6. Absolute deafness	100
7. Forequarter or hindquarter amputation	100

AMPUTATION CASES — UPPER LIMBS (EITHER ARM)

8. Amputation through shoulder joint.....	90
9. Loss of arm between elbow and shoulder.....	80
10. Loss of arm at elbow.....	70
11. Loss of arm between wrist and elbow.....	70
12. Loss of hand or of thumb and four fingers of one hand	60
13. Loss of thumb	30
14. Loss of thumb and its metacarpal bone.....	40
15. Loss of four fingers of one hand.....	50
16. Loss of three fingers of one hand.....	30
17. Loss of two fingers of one hand.....	20
18. Loss of terminal phalanx of thumb	20

AMPUTATION CASES — LOWER LIMBS

19. Amputation of both feet resulting in end-bearing stumps.....	90
20. Amputation through both feet proximal to the metatarsophalangeal joint	80
21. Loss of all toes of both feet through the metatarsophalangeal joint	40
22. Loss of all toes of both feet proximal to the proximal interphalangeal joint.....	30
23. Loss of all toes of both feet distal to the proximal interphalangeal joint	20
24. Amputation at hip	90

Description of Injury	Degree of Disablement per centum
25. Amputation at or above knee but below hip	80
26. Amputation below knee	60
27. Amputation of one foot resulting in an end-bearing stump	40
28. Amputation through one foot proximal to the metatarsophalangeal joint	30
29. Loss of all toes of one foot through the metatarsophalangeal joint	20
OTHER INJURIES	
30. Loss of one eye, without complications, the other being normal	40
31. Loss of vision of one eye, without complications or disfigurement, the other being normal.....	30
Loss of fingers of right or left hand	
<i>Index finger —</i>	
32. Whole.....	14
33. Two phalanges	11
34. One phalanx	9
35. Guillotine amputation of tip without loss of bone...	5
<i>Middle finger —</i>	
36. Whole.....	12
37. Two phalanges	9
38. One phalanx	7
39. Guillotine amputation of tip without loss of bone	4
<i>Ring or little finger —</i>	
40. Whole.....	7
41. Two phalanges	6
42. One phalanx	5
43. Guillotine amputation of tip without loss of bone	2
Loss of toes of right or left foot	
<i>Great toe —</i>	
44. Through metatarsophalangeal joint.....	14
45. Part, with some loss of bone	3
<i>Any other toe —</i>	
46. Through metatarsophalangeal joint.....	3
47. Part, with some loss of bone	1

Description of Injury	Degree of Disablement per centum
<i>Two toes of one foot, excluding great toe —</i>	
48. Through metatarsophalangeal joint.....	5
49. Part, with some loss of bone	2
<i>Three toes of one foot, excluding great toe —</i>	
50. Through metatarsophalangeal joint.....	6
51. Part, with some loss of bone	3
<i>Four toes of one foot, excluding great toe —</i>	
52. Through metatarsophalangeal joint.....	9
53. Part, with some loss of bone	3

FIFTH SCHEDULE (Regulation 68)
SCHEDULE OF PRESCRIBED DISEASES

Description of disease or injury	Nature of occupation
1. Poisoning by —	Any occupation involving —
(a) lead	the use or handling of, or exposure to, the fumes, dust or vapour of lead or a compound of lead, or a substance containing lead;
(b) manganese	the use or handling of, or exposure to, the fumes, dust or vapour of, manganese or a compound of manganese or a substance containing manganese;
(c) phosphorus	the use or handling of, or exposure to, the fumes, dust or vapour of phosphorus or a compound of phosphorus, or a substance containing phosphorus;
(d) arsenic	the use or handling of, or exposure to, the fumes, dust or vapour of arsenic or a compound of arsenic or a substance containing arsenic;
(e) mercury	the use or handling of, or exposure to, the fumes, dust or vapour of mercury or a compound of mercury, or a substance containing mercury;

Description of disease or injury	Nature of occupation
(f) beryllium	the use or handling of, or exposure to, the fumes, dust or vapour of beryllium or a compound of beryllium or a substance containing beryllium;
(g) copper	the use or handling of, or exposure to, the fumes, dust or vapour of copper or a compound of copper;
(h) carbon bisulphide	the use or handling of, or exposure to, the fumes, or vapour of carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide;
(i) benzene or a homologue	the use or handling of, or exposure to, the fumes of, or vapour containing, benzene or any of its homologues;
(j) a nitro- or amino-derivative of benzene or a homologue of benzene	the use or handling of, or exposure to, the fumes, or vapour containing, a nitro- or amino-derivative of benzene or of a homologue of benzene.
(k) dinitrophenol or a homologue	the use or handling of or exposure to, the fumes of, or vapour containing, dinitrophenol or any of its homologues;
(l) halogen derivatives of hydrocarbons of the aliphatic series	any process involving the production, liberation or utilization of halogen derivatives of hydrocarbons of the aliphatic series;
(m) tri-cresyl phosphate	the use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate;
(n) tri-phenyl phosphate	the use or handling of, or exposure to, the fumes of or vapour containing, tri-phenyl phosphate;
(o) Diethylene dioxide (dioxan)	the use or handling of, or exposure to the fumes of, or vapour containing, diethylene dioxide (dioxan);
(p) chlorinated naphthalene (excluding the condition known as chloracne);	the use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.

Description of disease or injury	Nature of occupation
(q) nickel carbonyl; (r) nitrous fumes;	exposure to nickel carbonyl gas; the use or handling of nitric acid or exposure to nitrous fumes;
(s) gonioma kamassi (African boxwood)	the manipulation of gonioma kamassi or any process in or incidental to the manufacture of articles therefrom.
2. Anthrax infection	work in connection with animals infected with anthrax — the handling of animal carcasses or parts of such carcasses including hides, hoofs and horns — loading and unloading or transport of merchandise.
3. Glanders	contact with equine animals or their carcasses.
4. Infection by <i>Leptospira</i> <i>pherohaemorrhagiae</i> .	work in rat-infested places.
5. (a) Ulceration of the corneal surface of the eye;	
(b) Localised new growth of the skin, papillomatous or keratotic;	
(c) Epitheliomatous cancer or ulceration of the skin, due in any case to tar, pitch, bitumen, mineral oil (includ- ing paraffin), soot or any compound product, or residue of any of these substances.	the use or handling of or exposure to, tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound product, or residue of any of these substances.
6. (a) Chrome ulceration	the use or handling of chromic acid, chromate or bichromate of ammonium, potassium, sodium or zinc or any preparation or solution containing any of these substances;
(b) Inflammation or ulceration of the skin or of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour (including the condition known as chloracne but excluding chrome ulceration).	exposure to dust, liquid or vapour.

S.I. 84/1998.

S.I. 84/1998.

Description of disease or injury	Nature of occupation
7. Pathological manifestations due to: (a) radium and other radioactive substances;	any process involving exposure to the action of radium, radioactive substances, or X-rays; (b) X-rays
8. Cataract produced by exposure to the glare of, or rays from, molten glass or molten or red-hot metal;	frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal.
9. Compressed air illness.	subjection to compressed air.
10. Telegraphist's cramp	the use of Morse-key telegraphic instruments for prolonged periods.
11. Writer's cramp.	hand-writing for prolonged periods.
12. Twister's cramp.	the twisting of cotton or woollen (including worsted) yarn.
13. Subcutaneous cellulitis of the hand (Beat-hand)	manual labour causing severe or prolonged friction or pressure on the hand.
14. Subcutaneous cellulitis or acute bursitis arising at or about the knee (Beat-knee).	manual labour causing severe or prolonged friction or pressure at or about the knee.
15. Subcutaneous cellulitis or acute bursitis arising at or about the elbow (Beat-elbow).	manual labour causing severe or prolonged friction or pressure at or about the elbow.
16. Inflammation of the synovial lining of the wrist joint and tendon sheaths.	manual labour or frequent or repeated movements of the hand or wrist.
17. Pneumoconioses caused by sclerogenetic mineral dust (silicosis, anthracosilicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity for work, loss of faculty or death.	exposure to mineral dust of silica or asbestos.

Description of disease or injury	Nature of occupation
18. Pulmonary disease due to the inhalation of the dust of mouldy hay or other mouldy vegetable produce, and characterised by symptoms and signs attributed to a reaction in the peripheral part of the bronchopulmonary system, and giving rise to a defect in gas exchange (Farmer's lung).	<p>exposure to the dust of mouldy hay or other mouldy vegetable produce by reason of employment —</p> <ul style="list-style-type: none"> (a) in agriculture, horticulture or forestry; or (b) loading or unloading or handling in storage such hay or other vegetable produce; or (c) handling bagasse.
19. Primary malignant neoplasm of the mesothelium (diffuse mesothelioma) of the pleura or the peritoneum.	<ul style="list-style-type: none"> (a) the working or handling of asbestos or any admixture of asbestos; (b) the manufacture or repair of asbestos textures or other articles containing or composed of asbestos; (c) the cleaning of any machinery or plant used in any of the foregoing operations and of any chambers, fixtures and appliances for the collection of asbestos dust; (d) substantial exposure to the dust arising from any of the foregoing operations.
20. Adeno-carcinoma of the nasal cavity or associated air sinuses.	attendance for work in or about a building where wooden furniture is manufactured.

**SEVENTH SCHEDULE (Regulations 19(3)
and 23(3))**

Where an employed person who by virtue of his office made contributions in respect of a period of time, prior to **July 2011**, during which he was eligible for pension in accordance with the provisions of the Pensions Act (*Ch. 43*) (hereinafter called “civil service”) and for another period of time (hereinafter called “other service”), his retirement and invalidity benefits shall be determined as follows —

1. Insured persons eligible for pension under the Pensions Act (*Ch. 43*) on the 1st day of July, 1984 shall have all service prior thereto treated as civil service.
2. All other persons shall at 1st day of July, 1984 have all service prior thereto deemed as other service.
3. Retirement and invalidity benefits shall be determined by applying the relevant percentage prescribed in regulations 19 and 23 of these Regulations to the weighted average weekly insurable wage or income which is arrived at as follows —
 - (a) multiply the number of paid contributions by the average weekly insurable wage as civil service and add to this figure the number of paid contributions multiplied by the average weekly insurable wage as other service; then
 - (b) divide the sum in respect of both services by the combined total number of paid contributions.

For the purposes of this Schedule, the “average weekly insurable wage” has the same meaning as in regulations 19 and 23 of these Regulations.

4. The amount of retirement or invalidity benefit shall in no case be less than the amount of benefit to which a person would be entitled if the entire period of civil service is ignored for the purpose of calculation.

**Eighth Schedule (Regulations (26(c), 29, 44, 47,
94, 99)**

Benefit & Assistance Rates

The following rates shall be effective from July 1st 2010 to
June 30th 2012

Maternity benefit \$430

Funeral grant \$1,600

	<u>Weekly</u>	<u>Monthly</u>
<u>Minimum retirement benefit awarded at age 65 or older</u>	<u>\$66.42</u>	<u>\$287.82</u>
<u>Minimum retirement benefit awarded at ages younger than 65</u>	<u>\$61.50</u>	<u>\$266.50</u>
<u>Minimum invalidity benefit</u>	<u>\$66.42</u>	<u>\$287.82</u>
<u>Minimum Survivors/Industrial Death Benefit to an adult</u>	<u>\$66.42</u>	<u>\$287.82</u>
<u>Minimum Survivors/Industrial Death Benefit to a dependent child</u>	<u>\$27.06</u>	<u>\$117.26</u>
<u>Survivors/Industrial Death Benefit to an orphan</u>	<u>\$30.75</u>	<u>\$133.25</u>
<u>Minimum Disablement Benefit - 100% degree of disablement</u>	<u>\$66.42</u>	<u>\$287.82</u>
<u>Minimum Disablement benefit – degree of disablement less than 100%</u>	<u>\$56.58</u>	<u>\$245.18</u>
<u>Old Age Non-Contributory Pension & Invalidity Assistance</u>	<u>\$53.08</u>	<u>\$245.18</u>
<u>Survivors Assistance to an adult</u>	<u>\$53.08</u>	<u>\$245.18</u>
<u>Survivors Assistance – dependent child</u>	<u>\$21.23</u>	<u>\$98.06</u>
<u>Survivors Assistance – orphan</u>	<u>\$24.23</u>	<u>\$111.93</u>
<u>Minimum sickness benefit, maternity benefit, injury benefit, unemployment benefit</u>	<u>\$66.42</u>	<u>n/a</u>

THE NATIONAL INSURANCE (CONTRIBUTIONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Citation.
2. Interpretation.
3. Service of notice or certificates.

PART CLASSIFICATION

I

4. Employed person.
5. Classification of insured persons.
6. Exclusion of certain employments.
7. Employment treated as continuing.
8. Special provisions regarding persons declared to be included in a particular class of insured persons.

PART CONTRIBUTIONS

II

9. Exemption from liability for contributions in certain circumstances.
10. Contributions in respect of summer employment.
11. Disposal of contributions improperly paid.
12. Return of contributions paid in error.
13. Treatment for the purpose of any benefits of late paid or unpaid contributions without consent, connivance or negligence of employed person.
14. Treatment for the purpose of any benefit of contributions paid late through ignorance or error.
15. Treatment for the purpose of sickness or maternity benefit of late paid contributions.
16. Treatment for the purpose of age or invalidity benefit of late paid contributions.
17. Treatment for the purpose of funeral benefit of late paid contributions.
18. Waiver of rights not to be required to make contributions.

PART REGISTRATION AND RECORD OF CONTRIBUTION

III

19. Application for record of contributions.
20. Issue of National Insurance number.
21. Form of record of contribution.
22. Issue of record of contribution.

**PART
PAYMENT OF CONTRIBUTIONS — EMPLOYED PERSONS**

IV

- 23. Rates of contributions.
- 24. Liability for contributions on reaching upper limit of compulsory school age or for week of retirement.
- 25. Recovery by employer of contributions payable on behalf of employed persons.
- 26. Payment of contributions by employer.
- 27. Manner of recording contributions.
- 28. No contribution card held by employer.
- 29. Employer failing to pay contributions.

**PART
PAYMENT OF CONTRIBUTIONS — SELF-EMPLOYED PERSONS**

V

- 30. Rates of contributions.
- 31. Liability for contributions on reaching the upper limit of compulsory school age or retiring from self-employment.
- 32. Payment of contributions.
- 33. Manner of recording contributions.

**PART
VOLUNTARILY INSURED PERSONS**

VI

- 34. Voluntarily insured persons.
- 35. Rates of contribution.

**PART
INSURANCE AND CONTRIBUTIONS OF STEVEDORES,
MARINERS AND SHARE FISHERMEN**

VII

- 36. Contributions of mariners.
- 37. Contributions of stevedores.
- 38. Contributions of share fishermen.
- 39. Application of the Act and Regulations.

**PART
PERSONS ABROAD**

VIII

- 40. Payment of contributions in respect of periods abroad.
- 41. Contributions as a non-employed person in respect of persons outside The Bahamas.

**PART
MISCELLANEOUS**

IX

- 42. Concurrent or successive employments or occupations.

43. Person remunerated partly by tips or gratuities from persons other than the employer.
44. Where insured person works under general control of person not his immediate employer.
45. Returns by employer.
46. Issue of certificate to employee on termination.
47. Inspection of employer's records.
48. Payment as agent.
49. Death of employer or self-employed person.
50. Repayment of value of unused insurance stamps on delivery thereof to the Board.
51. Offences and penalties.

FIRST SCHEDULE — Deductions *Not* Allowed in Computing the Amount of Profit or Gain From Self-Employment.

SECOND SCHEDULE — Employments in Respect of which Persons are Treated as Self-Employed Persons.

THIRD SCHEDULE — Employments in respect of which Persons are Treated as not being Employed Persons or Self-Employed Persons.

FOURTH SCHEDULE — Form of Waiver of Right not to be Required To Make Contributions.

FIFTH SCHEDULE.

SIXTH SCHEDULE — Contribution For Self-Employed Persons and Voluntarily Insured Persons.

S.I. 68/1984
S.I. 69/1984
S.I. 56/1985
S.I. 54/1993
S.I. 66/1997
S.I. 82/1998
S.I. 36/2005
S.I. 42/2009

THE NATIONAL INSURANCE (CONTRIBUTIONS) REGULATIONS

(SECTIONS 12, 15(2), 16, 17, 18, 19, 20, 55, 57(3), 58, 59 and
62)

[Commencement 2nd July, 1984]

1. These Regulations may be cited as the National Insurance (Contributions) Regulations. Citation.
2. In these Regulations, unless the context otherwise requires — Interpretation.
 - “Act” means the National Insurance Act;
 - “basic wages” means the wages (including payment in lieu of notice) for a period of work, whether weekly or monthly, payable for a normal period without overtime, severance pay or other additional payments as either agreed between the employer and the employed person or recognised as normal for that employment;
 - “contribution as an insured person” means in the case of an employed person, that part of the contribution which by Part IV is payable by the employer and recoverable from the wages of the employed person, and, in the case of a self-employed person, the contribution which by Part V is payable by a self-employed person;
 - “contribution week” means a period of seven days commencing immediately after twelve o’clock midnight on each Sunday and ending at twelve o’clock midnight on the Sunday next following;
 - “contribution year” means the year beginning with the first Monday in July of each year and ending with the week of the last Monday in June of the following year; S.I. 84/1998.
 - “due date” means, in relation to any contribution, the date on which that contribution was due to be paid;
 - “employed person’s contribution” means that part of the contribution payable by the employer under these Regulations and recoverable hereunder from the wages of the employed person;

“employer” in relation to a mariner or share fisherman, means the owner or manager of a vessel and, where the mariner is entitled to a period of leave on pay at the termination of the voyage, the employer who was the mariner’s employer at the termination of the voyage;

“entry into insurance” means, in relation to any person, the date on which he first becomes an insured person under the Act;

“hospital” means any institution for the reception and treatment of persons suffering from illness or mental defectiveness, and any maternity home and any institution for the reception and treatment of persons during convalescence or of persons requiring medical rehabilitation;

“income” means the annual profit or gain arising or accruing to any self-employed person residing in The Bahamas from any trade, profession or vocation, but so that in computing the said annual profit or gain no sum shall be deducted in respect of any of the items set out in the First Schedule;

First Schedule.

“inspector” means an inspector designated under section 41 of the Act;

Fifth Schedule.

Sixth Schedule.

“insurable wage or income” means the basic wage, income or tips and gratuities of an insured person up to the wage ceiling set out in regulation 52;

“local office” means an office specified by the Board as a local office for the purpose of the Act;

“manager” means, in relation to any vessel, the person to whom the management of the vessel is entrusted by or on behalf of the owner and reference to the owner of a vessel shall, in relation to a vessel which has been demised, be construed as referring to the person for the time being entitled as charterer to possession and control of the vessel by virtue of the demise or any sub-demise and includes any person who is acting as agent of the owner in the recruitment or

payment of the master or any member of the crew, whether that function is or is not combined with any other function in relation to the vessel;

“period of the voyage” in relation to —

- (a) a mariner, means the period beginning with the first day when either the embarkation of passengers or the loading of cargo for the voyage begins and ending with the last day when disembarkation or unloading has been completed;
- (b) a share fisherman, means the period beginning with the first day on which preparation of the fishing gear for the voyage begins and ending with the last day of the unloading of the catch for sale,

and, where there are more voyages than one in a contribution week for each of which payment of wages or a share in the profits or earnings is made, includes all voyages in that week and, where there is a series of voyages at the end of which payment of wages or a share of the profits or earnings is made includes all voyages in the said series of voyages;

“quarter” means such period of three months as the employer uses for the purpose of his own record of wages;

“share fisherman” means any person, including the owner of the fishing vessel, who is or has been employed in the fishing industry, whether or not under contract of service, as master or a member of the crew of any vessel being a fishing vessel manned by more than one person and who is or has been remunerated in respect of that employment in whole or in part by a share in the profits or gross earnings of the fishing vessel and the expression “the fishing vessel” means that fishing vessel of which the person is master or a member of the crew;

“stevedore” includes a workman, by whatever name called, who is engaged in loading or unloading the cargoes of vessels but does not include any workman engaged in unpacking a crate or other receptacle who has not been engaged in unloading such crate or receptacle from the vessel;

“termination of the voyage” means the last day of the period of the voyage and, where there are more voyages than one in a contribution week the last day of the last voyage of that week;

“termination of employment” means the day on which the employment actually comes to an end, whether such termination is in accordance with the contract or not and whether or not the employment is to be resumed at a later date;

“termination of self-employment” means the day on which self-employment actually comes to an end whether or not it is to be resumed at a later date;

“voluntarily insured person” has the meaning assigned to it by regulation 34.

S.I. 82/1998.
S.I. 36/2005.

Service of notice
or certificates.

PART I

CLASSIFICATION

Employed
person.

4. Any person working as an insurance agent or an insurance salesman shall be treated as an employed person.

S.I. 69/1984.

Classification of
insured persons.

5. Subject to the provisions of regulation 6, every person shall, in respect of any employment specified in any paragraph of the Second Schedule, be treated for the purposes of the Act as a self-employed person in so far as he is gainfully occupied in such employment.

Second Schedule.

Exclusion of
certain
employments.

6. Any employment specified in any paragraph of the Third Schedule shall be treated for the purposes of the Act as not being employment either as an employed person or as a self-employed person.

Third Schedule.

Employment
treated as
continuing.

7. Where an insured person is occupied as a self-employed person and is ordinarily so occupied, that occupation shall be regarded as continuing, notwithstanding that in any particular contribution week he does not work as a self-employed person, unless and until he is no longer ordinarily occupied as a self-employed person.

Special provisions regarding persons declared to be included in a particular class of insured persons.

8. (1) Where under the provisions of the Act or any regulations made thereunder relating to references and appeals to the Supreme Court, the Supreme Court decides any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Board, the provisions of paragraph (2) of this regulation shall have effect.

(2) If the Board is satisfied that contributions of a prior class have been paid by or in respect of any person by reason of a determination referred to in paragraph (1) of this regulation or in the reasonable belief that that determination was applicable, the Board may, if it appears to the Board that it would be in the best interest of the person by or in respect of whom such contributions have been paid, or of any claimant or beneficiary by virtue of that person's insurance, so to do, direct that that person shall be treated as though he had been included in the class of insured persons corresponding to the contributions paid during any contribution week for which contributions of a prior class were so paid before the date on which the decision of the Supreme Court was given, and, if such a direction is given, that person shall be deemed to have been included in that class accordingly for any such weeks.

(3) In any case where the Board, on new facts being brought to its notice, has revised a determination previously given by the Board of a question as to the class of insured persons in which a person is to be included, the provisions of this regulation shall apply with the necessary modifications in the same manner as they apply where the Supreme Court has given a decision inconsistent with a determination previously given by the Board.

(4) In this regulation, the expression "contribution of a prior class" means —

- (a) in relation to a person who is not employed either as an employed person or as a self-employed person, contributions as an employed or a self-employed person and employer's contributions; and
- (b) in relation to a self-employed person, contributions as an employed person and employer's contributions.

PART II CONTRIBUTIONS

Exemption from liability for contributions in certain circumstances.

9. An insured person who has attained the upper limit of compulsory school age and his employer shall be exempt from liability to pay contributions for any contribution week —

- (a) for the whole of which the insured person receives sickness benefit, maternity benefit or injury benefit; or
- (b) for the whole of which the insured person receives disablement benefit increased on account of hospital treatment or incapacity for work; or
- (c) for the whole of which the insured person receives disablement benefit assessed at one hundred per centum and is incapable of work.

Contributions in respect of summer employment.

10. (1) An insured person —

- (a) who is an employed person;
- (b) who has attained the upper limit of compulsory school age but is under the age of twenty-four years; and
- (c) whose periods of employment, in any year, commence on or after the 1st day of June, end on or before the 31st day of August, and do not exceed ten weeks in the aggregate,

S.I. 54/1993.
S.I. 82/1998.

shall be exempt from the payment of his share of the contributions in respect of such employment and his employer shall pay in respect of such employment, in accordance with the provisions of these Regulations, a contribution at the rate set out in column 5 of Part A of the Fifth Schedule in relation to the wages paid to the employed person.

(2) A contribution paid by the employer pursuant to paragraph (1) shall not be valid for any benefit other than Industrial Benefits under Part V and Industrial Benefit Medical Care under Part VI of the National Insurance (Benefit and Assistance) Regulations.

S.I. 82/1998.

Disposal of contributions improperly paid.

11. Where contributions are paid which are of the wrong class or at the wrong rate, the Board may treat them as paid on account of the contributions properly payable.

Return of
contributions
paid in error.

12. (1) Subject to the provisions of regulation 11 and of this regulation, any contributions paid by a person or his employer under the erroneous belief that the contributions were payable by, or in respect or on behalf of that person shall be returned by the Board to that person or his employer, as the case may require, if application to that effect is made in writing to the Board within the appropriate time specified in paragraph (4) of this regulation.

(2) In calculating the amount of any repayment to be made under this regulation to such person or employer, there shall be deducted —

- (a) in the case of employer's contributions and contributions as an insured person, the amount of any contributions paid under an erroneous belief as aforesaid which have, under the provisions of regulation 11, been treated as paid on account of other contributions; and
- (b) in the case of contributions as an insured person, the amount, if any, paid to that person (and to any other person on the basis of the erroneous belief) by way of benefit which would not have been paid had the contributions (in respect of which an application for their return is duly made in accordance with paragraph (4) of this regulation) not been paid in the first instance.

(3) Contributions erroneously paid by an employer on behalf of any person and not recovered from that person may be repaid to the employer instead of that person, but if so recovered may be repaid to that person or, with his consent in writing, to his employer on his behalf.

(4) Subject to the provisions of paragraph (5) of this regulation, a person desiring to apply for the return of any contribution paid under an erroneous belief as aforesaid shall make the application in such form and in such manner as the Board may from time to time determine, and any such application shall be made —

- (a) if the contribution was paid at the due date, within two years from the date on which that contribution was paid; or
- (b) if the contribution was paid at a later date than the due date, within two years from the due date or within twelve months from the date of actual payment of the contribution, whichever period ends later.

(5) In its application to contributions payable under Part IV, this regulation shall have effect subject to the following provisions, namely —

- (a) the time within which the application shall be made by a person desiring to apply for the return of any such contribution paid under an erroneous belief as aforesaid shall be two years from the end of the contribution year during which the contribution was paid or such longer time as the Board may allow if it is satisfied that the person had good cause for not applying within those two years;
- (b) the provisions of this paragraph of this regulation shall apply to any part of a contribution as they apply to that contribution.

S.I. 82/1998.

Treatment for the purpose of any benefits of late paid or unpaid contributions without consent, connivance or negligence of employed person.

13. (1) Where a contribution payable by an employer in respect or on behalf of an insured person is paid after the due date or is not paid, and the delay or failure in making the payment thereof is shown to the satisfaction of the Board not to have been with the consent or connivance of or attributable to any negligence on the part of, the insured person, the contribution shall, for the purpose of any right to benefit, be treated as paid on the due date.

(2) The provisions of regulations 15, 16 and 17 shall, in their application to a contribution payable by an employer on behalf of an insured person, have effect subject to the provisions of this regulation.

Treatment for the purpose of any benefit of contributions paid late through ignorance or error.

14. In the case of a contribution paid after the due date, where —

- (a) the contribution is paid after the time when it would, under the following provisions of these Regulations, have been treated as paid for the purposes of the right to a benefit; and
- (b) the failure to pay the contribution before that time is shown to the satisfaction of the Board to be attributable to ignorance or error on the part of the insured person which was not due to any failure on his part to exercise due care and diligence, the Board may direct that for the purposes of the provisions of regulation 16 or 17 the contributions shall be treated as having been paid on such earlier day as it may consider appropriate in the circumstances, and those provisions shall have effect subject to any such direction.

15. (1) For the purpose of any right to sickness benefit or maternity benefit, a contribution paid after the due date shall, in determining whether the relevant contribution conditions are satisfied as respects the number of contributions paid in respect of the period between entry into insurance and the day for which benefit is claimed, be treated —

Treatment for the purpose of sickness, maternity or unemployment benefit of late paid contributions.
S.I. 42/2009.

- (a) for the purpose of the right to any such benefit in respect of any day before the date on which payment of the contribution is made, as not paid; and
- (b) for the purpose of the right to any such benefit in respect of any other day, as paid on the date on which payment of the contribution is made.

(2) For the purpose aforesaid, in determining whether the relevant contribution conditions are satisfied in whole or in part as respects the number of contributions paid or credited in respect of any period before the day for which sickness benefit or maternity benefit is claimed, a contribution paid after the due date shall be treated —

- (a) if paid after the commencement of incapacity for work and whilst incapacity continues or during the period for which maternity benefit would otherwise be payable, as the case may be, as not paid in respect of any day before the expiry of a period of thirty days (including Sundays) from and including the date on which payment of that contribution is made and as paid at the expiry of that period in relation to the right to such benefit in respect of any other day;
- (b) if paid after the cessation of incapacity for work or after the ending of the period for which maternity benefit would otherwise be payable, as the case may be, as not paid.

(3) The provision of this regulation shall apply *mutatis mutandis* to unemployment benefit.

S.I. 42/2009, r. 2.

16. For the purpose of any right to retirement benefit or invalidity benefit, a contribution paid after the due date shall be treated —

Treatment for the purpose of age or invalidity benefit of late paid contributions.

- (a) if paid before the expiration of twelve months next following the end of the year in which it became payable, as paid on the due date;

(b) if paid at any other time, as not paid.

17. For the purpose of any right to funeral benefit, a contribution paid after the due date shall be treated as not paid if the contribution is paid after the date of the death of the person in respect of whom the benefit is claimed.

Treatment for the purpose of funeral benefit of late paid contributions.

Waiver of rights not to be required to make contributions.

18. (1) Any person who claims a right not to be required to make contributions shall notify the Board of such right and shall inform the Board of the precise enactment under which he claims such right.

(2) If the Board accepts that a person has such a right, the Director shall supply to such a person a form as set out in the Fourth Schedule, on which to state whether or not he waives such right so as to be required to pay contributions under the Act.

Fourth Schedule.

PART III REGISTRATION AND RECORD OF CONTRIBUTION

S.I. 82/1998.

19. (1) Each employer shall present to the Director in respect of each person employed by him an application in the prescribed form containing a statement of personal particulars of each employee.

Application for record of contributions.
S.I. 82/1998.

(2) Each employed person shall be responsible for the accuracy of the personal particulars referred to in paragraph (1) and shall affix his signature to that part of the form provided therefor.

(3) Each self-employed person shall make application to the Director on the appropriate form and shall be responsible for the correctness of the personal particulars given therein and shall affix his signature to that part of the form provided therefor.

(4) Notwithstanding the provisions of paragraphs (1) and (2), an employed person may register directly with the Board.

(5) Each person who wishes to become a voluntarily insured person under these Regulations shall give notice thereof to the Director and apply on the appropriate form.

20. (1) If upon receipt of an application referred to in regulation 19, the Director is satisfied that the applicant is entitled to be insured, the applicant shall be issued a National Insurance number and notified of such.

Issue of National Insurance number.
S.I. 82/1998.

(2) Every person as aforesaid shall notify the Board of any change in the information supplied pursuant to regulation 19.

21. A record of contribution shall be in the form of a computer print out or any other form as authorized by the Director and shall contain information relating to the contributions paid or credited to the account of the insured person.

S.I. 82/1998.

Form of record of contribution.

22. A record of contribution shall be issued without charge to or in respect of a person properly applying therefor.

S.I. 82/1998.

Issue of record of contribution.

PART IV PAYMENT OF CONTRIBUTIONS — EMPLOYED PERSONS

23. (1) Subject to paragraph (2) of this regulation, for each period for which an employed person is paid wages, whether weekly, monthly, or otherwise, the employer shall pay for each contribution week beginning in that period a contribution at the rate set out in column 5 of the Fifth Schedule in relation to the wages paid to the employed person in accordance with regulation 26:

Rates of contributions.

Fifth Schedule.

Provided that —

- (a) if the employed person's wages are not fixed on a time basis, the total amount of wages paid to him in or immediately after the specific period for which the contribution is to be paid may be taken into account;
- (b) if the employed person's wages are paid on a time basis other than weekly or monthly, they may be converted to such basis by simple proportion, or in such other way as the Director may determine;
- (c) retrospective awards of increased wages for periods for which contributions have already been paid to the Board shall not be taken into account and no reassessment of contributions for those periods shall be made;
- (d) in the case of an employed person, who after the award of retirement benefit re-enters the same or any other insurable occupation from which he

*S.I. 69/1984;
S.I. 82/1998.*

does not earn more than fifty per centum of the ceiling on insurable wages by way of wages or income, or in the case of an employed person who has attained seventy years of age, the employer shall pay for each contribution week beginning in that period a contribution at the rate set out in column 5 of the Fifth Schedule;

S.I. 42/2009, r. 3.

- (e) in the case of an employed person, who after the award of retirement benefit reenters the same or any other insurable occupation from which he does not earn more than fifty per centum of the ceiling on insurable wages by way of wages or income, or in the case of an employed person who has attained sixty-five years of age, the employer shall pay for each contribution week beginning in that period a contribution at the rate set out in column 5 of the Fifth Schedule;

S.I. 42/2009, r. 3.

- (f) in the case of an employed person, who has not received the award of retirement benefit, but has attained the age of sixty five years but not the age of seventy years, the employer shall pay for each contribution week beginning in that period a contribution at the rate set out in column 5 of the Fifth Schedule.

(2) For the purpose of determining the wages of an employed person under paragraph (1) of this regulation, there shall be included only the following —

- (a) in the case of a person (other than a person paid wholly or partly by commission, fees or profits on sales or results) who is, or whose contract provides for him to be, subject to at least one week's notice of termination of the employment, the basic wages (excluding any housing allowance) for a normal week's work under the terms of the contract;
- (b) in the case of a person paid wholly or partly by commission, fees or profits on sales or results, the average weekly gross earnings in cash paid to him in the year ended 31st December immediately preceding the contribution week for which a contribution is due or, failing that, the gross earnings in cash paid to him for the period for which contributions are due; and
- (c) in the case of any other employed person, whether paid by time, or on a task or piece-

work basis, either the basic wages of a person in that particular type of employment in the district in which he is employed or the gross amount received in cash by the employed person, whichever is less.

(3) With a view to securing that liability for the payment of contributions is not avoided or reduced by an employer using any pay practice which is abnormal for the employment, the Director, whether or not application has been made to him, may, if he thinks fit, determine any question in relation to the payment of contributions where any such practice has been or is being followed as if the employer concerned had not followed such abnormal practice, but had followed a practice normal for the employment in question.

Liability for contributions on reaching upper limit of compulsory school age or for week of retirement.

24. There shall be liability for a contribution under the Act for all benefits —

- (a) in the case of an employed person attaining the upper limit of compulsory school age, for the week in which the person reaches that age;
- (b) in the case of an employed person retiring from employment, for the week in which the employed person retires:

S.I. 69/1984.

Provided that in a case to which subparagraph (b) refers, there shall be no liability for a contribution if the employed person retires from the said employment or occupation on the Monday of the week in question:

S.I. 82/1998.

Provided further an employed person who after the award of retirement benefit re-enters the same or any other insurable occupation from which he does not earn more than fifty per centum of the ceiling on insurable wages by way of wages or income, or, an employed person who has retired from gainful occupation and has attained seventy years of age, shall be exempted from the payment of his share of the contribution in respect of such employment.

Recovery by employer of contributions payable on behalf of employed persons.
Fifth schedule.

25. (1) Subject to paragraph (2) of this regulation, an employer shall be entitled to recover from an employed person the amount of any contribution payable by him on behalf of that person as set out in column 3 of the Fifth Schedule in relation to the wages for which the employer is liable to pay the total weekly contribution in column 5 thereof.

(2) The amount of any contribution paid by the employer on behalf of the employed person, notwithstand-

ing the provisions of any contract to the contrary, shall be recoverable by means of deductions from the wages of such person and not otherwise:

Provided that no such deduction may be made from any wages other than such as are paid wholly or partly in respect of the contribution week for which the contribution is payable.

Payment of
contributions by
employer.

26. (1) At the end of the month in which wages are paid, or within 15 days thereafter, an employer liable to pay contributions in respect of an employed person shall pay, by cash, cheque or other means acceptable to the Director, the contributions payable by the employer under these Regulations in respect of the wages paid by him to each employed person for each contribution week in that month.

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(2) Such payments shall be made to a local office or such other place as the Board may direct and shall be accompanied by a monthly contribution statement in such form as the Board may approve or prescribe in respect of each employed person containing such particulars as the Board may require.

(3) Where wages are paid in advance for any period the employer shall pay contributions in advance for that period before the payment of wages.

(4) In addition to his obligation to comply with any other requirements of the Act or these Regulations, the employer shall pay all contributions due from him but still outstanding in respect of any employed person whose employment is terminated within fifteen days of such termination.

(5) The Board may, if it thinks fit and subject to such terms and conditions as it may impose —

- (a) approve any arrangements whereby contributions are paid at times and in a manner other than those prescribed by these Regulations, and any such arrangement may include provision for the payment of such fees as may be determined by the Board to represent the estimated additional cost of administration to the Board;
- (b) as a condition of authorising the payment of any contribution at a date later than that upon which the contribution would, apart from any authorisation under subparagraph (a), be due to be paid, the Board may require the making of such deposits of money by way of security as the Board may approve.

(6) The provisions of these Regulations shall, subject to the terms and conditions of any such arrangement as is mentioned in paragraph (5), apply to any person affected by the arrangement and any contravention of or failure to comply with any requirement of any such arrangement shall be deemed to be a contravention of or failure to comply with these Regulations.

(7) The interest payable under subsection (1) of section 55 of the Act on late paid contributions shall begin to accrue as from the first day of the month following that in which they become due and payable under the foregoing provisions of these Regulations. *S.I. 36/2005.*

(8) If an employer, by reason of an error made in good faith has paid to the Director on account of contributions under these Regulations an amount which he was not liable so to pay, any amount which he is liable to pay subsequently in respect of other payments of wages made by him during the same year shall be reduced by the amount so overpaid:

Provided that if there was a corresponding over-deduction from any payment of wages to any employed person, this paragraph shall apply in so far as the employer has accounted to that person therefor.

Manner of
recording
contributions.

27. (1) Every employer shall record either on a contribution card or in such other form as may be authorised by the Director the following particulars in respect of every payment of wages which he makes to an employed person, namely —

- (a) the date of commencement of the contribution week;
- (b) the wages, determined in accordance with regulation 23;
- (c) the contribution which may be deducted from the wages;
- (d) the contribution which is payable by the employer in respect of the wages; and
- (e) the total of subparagraphs (c) and (d):

Provided that the employer may obtain authority from the Director to record the total only of subparagraphs (c) and (d).

(2) The employer shall certify each entry made on the contribution card under paragraph (1) by writing his initials in ink against each entry.

No contribution
card held by
employer.

28. If an employer makes any payment of wages to an employed person in respect of whom he does not hold a contribution card, and that payment is a payment of wages in respect of which contributions are payable, he may deduct the amount of the contributions based thereon which are payable by that person and shall keep a record of the particulars required by regulation 27 and shall do likewise on making any subsequent payment of wages to the employed person.

29. (1) If within the time prescribed by regulation 26 — Employer failing to pay contributions.

- (a) an employer has not paid any contribution which he is liable to pay to the Director for any month and the Director is unaware of the amount, if any, which the employer is liable to pay; or
- (b) the employer has tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month,

the Director may give notice to the employer requiring him to render, within the time specified in the notice (being not less than five days), a written return showing the name of every employed person to whom he made any payment of wages during such period as the Director may specify together with the following particulars regarding such employed person —

- (i) every payment of wages made during that period;
- (ii) the total amount of contributions which the employer was entitled to deduct during the period and which the employer is liable to pay;
- (iii) the total amount of contributions which was payable by the employer in addition to the amount deductible under subparagraph (ii); and
- (iv) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(2) The Director shall on receipt of a return under paragraph (1) ascertain the amount of contributions which the employer is liable to pay in respect of the period in question, and shall issue to the employer a certificate specifying the amount of contributions which he is liable to pay in respect of the said period.

(3) The certificate of the Director under paragraph (2) shall be good and sufficient evidence that the amount shown in the said certificate is the amount of contributions which the employer is liable to pay to the Director in respect of the said period.

PART V
PAYMENT OF CONTRIBUTIONS —
SELF-EMPLOYED PERSONS

Rates of
contributions.

30. (1) For each contribution week beginning in the period during which a person is self-employed he shall pay contribution at the rates set out in the Fifth Schedule in relation to his income from self-employment for the year ended the thirty-first day of December immediately preceding that contribution week:

Provided that where a person was not self-employed for the whole of that year —

- (a) in the period of self-employment up to the end of the first full calendar year following a period as an employed person, he shall pay a contribution at the rate corresponding to the rate he last previously paid as an employed person; or
- (b) in the period up to the end of the first full calendar year of self-employment, he shall, if he was not previously employed as an employed person, pay a contribution based on an estimate of his income from his self-employment.

(2) For the purposes of paragraph (1) of this regulation (except those contained in proviso (a) thereto) a self-employed person shall determine his income in the first instance.

(3) Where the Director or an inspector has reason to doubt the accuracy of the income determined by the self-employed person under paragraph (2) of this regulation, he may require that person to prove the determination by producing for examination his books of accounts and any other records that may be necessary in order to determine the income on which the self employed person should have paid a contribution.

(4) If the self-employed person fails to satisfy the Director or an inspector that his determination of income for any contribution week under paragraph (2) of this regulation is or was correct, the Director or the inspector, as the case may be, shall notify the self-employed person of the amount which he determines to be the income of the self-employed person on which the contribution for that contribution week should be or should have been calculated and, subject to paragraph (5) of this regulation, the self-employed person shall be liable to make good any

deficiency in the contributions or the Director shall refund to the contributor any excess, as the case may be.

(5) Any self-employed person aggrieved by the determination of the Director or an inspector made under paragraph (4) of this regulation may appeal against that determination to the Board in accordance with the provisions of Part II of the National Insurance (Determination of Claims and Questions) Regulations relating to the determination of reserved questions.

S.I. 64/1974.

31. A self-employed person shall be liable for a contribution under the Act for all benefits except unemployment benefit —

Liability for contributions on reaching the upper limit of compulsory school age or retiring from self-employment.

- (a) in the case of a self-employed person attaining the upper limit of compulsory school age, for the week in which the self-employed person reached that age;
- (b) in the case of a self-employed person retiring from self-employment, for the week in which the self-employed person retires,

Provided that in a case to which sub-paragraph (b) refers there shall be no liability for a contribution if the self-employed person retired from self-employment on the Monday of the week in question.

32. (1) At the end of every month during which a person is self-employed, or within fifteen days thereafter, he shall pay by cash, cheque or other means acceptable to the Director, the contributions payable in accordance with regulation 30 of these Regulations.

Payment of contributions.

(2) The Board may, if it thinks fit and subject to such terms and conditions as it may impose, approve arrangements whereby contributions are paid at times and in a manner other than those prescribed in these Regulations and any such arrangement may include provision for the payment of such fees as may be determined by the Board to represent the estimated additional expense in administration costs of the Board.

S.I. 66/1997.

(3) The interest payable under subsection (1) of section 52 of the Act on late paid contributions of a self-employed person shall begin to accrue as from the first day of the month following that in which they become due and payable under the foregoing provisions of these Regulations.

(4) If a self-employed person, by reason of an error made in good faith, has paid to the Director on account of contributions under this regulation an amount which he was not liable so to pay, any amount which he is liable to pay subsequently in respect of contributions as a self-employed person during the same year shall be reduced by the amount so overpaid.

Manner of
recording
contributions.
S.I. 82/1998.

33. Every self-employed person shall maintain at his business premises an accurate record containing the following information —

- (a) the date of commencement of the contribution week;
- (b) the income determined in accordance with regulation 30;
- (c) the contribution payable; and
- (d) the date of payment of contribution.

PART VI VOLUNTARILY INSURED PERSONS

Voluntarily
insured persons.

34. (1) A person who —

- (a) is above the upper limit of compulsory school age;
- (b) is ordinarily resident in The Bahamas;
- (bb) has paid at least five hundred contributions; and
- (c) ceases to be liable for contributions in respect of employment as an employed person or as a self-employed person,

may make application not later than twelve months after the applicant ceases to be employed or self-employed to become a voluntarily insured person under these Regulations.

S.I. 82/1998.

(2) A person approved to become a voluntarily insured person under these Regulations may pay voluntary contributions in respect of any contribution week (not being a contribution week earlier than the thirteenth contribution week immediately preceding the contribution week during which he makes application for the purpose) in respect of which no contribution is otherwise payable by him or on his behalf:

S.I. 82/1998.

Provided that any voluntary contribution paid pursuant to this paragraph shall not be valid for any benefit other than retirement benefit, invalidity benefit, funeral benefit, or survivor's benefit.

35. (1) The rate of contribution payable by a voluntarily insured person under regulation 34 shall be the rate set out in Part A of the Fifth Schedule to these Regulations in relation to his average weekly wages or income during either —

Rates of
contribution.
Sixth Schedule.

- (a) the last complete contribution year, or the year ended thirty-first day of December, immediately preceding the date on which he last ceased to be employed as an employed person or self-employed person as the case may be; or
- (b) any other period chosen by the Board as the Board thinks fit.

(2) The Board shall in writing notify every voluntarily insured person of the contributions due from him as such, and those contributions shall be paid to the Board not later than the thirtieth day of June of the contribution year in which they are due or such other day (not exceeding six weeks after the said thirtieth day of June) as the Board may in any special circumstances allow.

PART VII INSURANCE AND CONTRIBUTIONS OF STEVEDORES, MARINERS AND SHARE FISHERMEN

36. (1) Where a mariner's wages are paid at the end of the period of the voyage instead of weekly or monthly, the employer shall pay a contribution under regulation 23 of these Regulations, for each contribution week in the period of the voyage at a rate calculated under the said regulations on either the basic weekly wages of a mariner in the same class of employment, or the total gross wages of the mariner for the said period divided by the total number of whole or part contribution weeks in that period, whichever is less.

Contributions of
mariners.

(2) For any period of leave on pay to which a mariner is entitled at the termination of the voyage, the employer shall pay a contribution under regulation 23 of these Regulations, for each contribution week in the said period of leave on pay.

(3) In paragraph (2) of this regulation the expression “period of leave on pay” means that period of leave on pay to which a mariner is entitled on the termination of a voyage and which shall begin not earlier than the day next following the termination of that voyage.

Contributions of
stevedores.

37. (1) Where in any contribution week a stevedore's wages, instead of being paid weekly, are paid at the end of the loading or unloading of a vessel or of a hatch or other part of a vessel, the employer shall pay a contribution for that week under regulation 23 of these Regulations, as modified by the provisions of this regulation.

(2) Subject to paragraphs (3) and (4) of this regulation, for the purpose of determining the wages of a stevedore under the said regulation 23, the employer shall include only the average weekly gross earnings in cash paid to the stevedore in the quarter immediately preceding the contribution week for which a contribution is due.

(3) Noting in this regulation shall prevent the insured person and two or more of his employers agreeing amongst themselves that one of the employers shall pay a contribution for the stevedore based upon the average weekly gross earnings in cash paid to the stevedore by all those employers in the quarter immediately preceding the contribution week for which a contribution is due and that the employer so paying may recover from the wages paid by him the employed person's contribution for those earnings.

(4) If, at any time, the employers of stevedores or any association of such employers so agree with any trade union acting on behalf of stevedores, nothing in this regulation shall prevent the employer of a stevedore in any contribution week making a contribution based upon a standard average wage for stevedores as a whole, or for any class of stevedores or for any individual stevedore other than a stevedore who, under Part I of these Regulations, is classified as not being an employed person.

(5) Nothing in this regulation shall prevent any employer of stevedores agreeing with another such employer or other such employers that one of them or any agent for all of them shall be responsible for the payment of contributions notwithstanding the fact that he is not the employer liable to pay those contributions pursuant to regulation 42 of these Regulations, and where such an agreement is made the employer or agent so made

responsible and all other employers who are parties to the agreement shall be jointly and severally liable to pay the contributions.

38. (1) For the purposes of Parts IV and V of these Regulations, and of paragraph (1) of regulation 37 as applied by paragraph (2) of this regulation, a share fisherman's share of the proceeds of the voyage, whether that share is calculated by reference to the profits or to the gross earnings of the fishing vessel for the period of the voyage or otherwise, shall be treated as his total wages for the period of the voyage.

Contributions of
share fishermen.

(2) The employer of a share fisherman shall pay a contribution under regulation 23 of these Regulations, for each contribution week in the period of the voyage at a rate calculated in the same manner as the contribution of a mariner under paragraph (1) of regulation 36.

(3) The employer's share of the contribution of a share fisherman remunerated by a share in the profits of the fishing vessel shall not be deductible from the share fisherman's share of the profits.

(4) Notwithstanding the provisions of subsection (2) of section 17 of the Act or or paragraph (3) of this regulation, the contributions of the employer in respect of a share fisherman remunerated by a share in the gross earnings of the fishing vessel may be deducted from those gross earnings before the share of the person so employed is ascertained:

Provided that if, owing to the relation of contributions to wages, or for any other reason, such a deduction is not practicable, the contributions of the employer may be deducted from the share fisherman's share of the gross earnings.

39. The provisions of the Act and the Regulations made thereunder, so far as they deal with matters not covered by the provisions of these Regulations, shall apply to mariners and share fishermen with this modification, that where, on account of his being at sea or outside The Bahamas by reason of his employment a mariner or share fisherman is unable to perform an act required to be done either forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Application of
the Act and
Regulations.

PART VIII PERSONS ABROAD

Payment of
contributions in
respect of periods
abroad.

First Schedule.

40. (1) Where a person ceases to be an employed person in The Bahamas but is employed (whether by the same or a different employer) outside The Bahamas in continuation of employment as an employed person, that employment outside The Bahamas shall, subject to the provisions of these Regulations, be treated as employment within the provisions of the First Schedule to the Act for the period for which contributions are payable under subparagraph (a) of paragraph (2) of this regulation:

Provided that the employer has a place of business or residence in The Bahamas and the employed person is ordinarily resident therein.

(2) Where under paragraph (1) of this regulation employment outside The Bahamas is treated as employment within the provisions of the First Schedule to the Act, the following provisions shall apply with respect to the payment of contributions —

- (a) contributions shall be payable in respect of such employment at the appropriate rates specified in the Fifth Schedule; either —
 - (i) until the said employment ceases; or
 - (ii) until either of the conditions set out in the proviso to paragraph (1) of this regulation ceases to be satisfied;
- (b) after the completion of the period for which contributions are payable under subparagraph (a) of this paragraph, the person in question shall for any contribution week during the whole of which he is outside The Bahamas be entitled to pay contributions as a voluntarily insured person.

Fifth Schedule.

Contributions as
a non-employed
person in respect
of persons
outside The
Bahamas.

41. Where an employed person to whom regulation 40 of these Regulations applies is throughout any contribution week outside The Bahamas and is not in that week gainfully occupied as an employed person, he shall not be liable to pay any contribution for that week:

Provided that he shall be entitled at his option to pay contributions as a voluntarily insured person for that week if he satisfies the requirements of these Regulations respecting the payment of contributions by voluntarily insured persons.

**PART IX
MISCELLANEOUS**

42. (1) Where an insured person is employed by two or more employers in any contribution week, the first employer employing him in that week, shall, subject to the provisions of these Regulations, be treated as his employer for the purposes of the Act.

Concurrent or successive employments or occupations.

(2) Where an insured person is employed by two or more employers in any contribution week and no one of those employers is the first person employing him in that week, then, unless the case is one for which no other provision is expressly made by these Regulations, that one of the employers who first makes a money payment to the employed person in respect of his employment in that week shall be deemed to be the employer of that person for the purposes of the Act.

(3) Where an insured person is employed as an agent by two or more employers and paid by commission or fees or a share in the profits or partly in one and partly in another of those ways, the employer in respect of the employment on which the person employed as an agent is mainly dependent for his livelihood shall be deemed to be the employer of that person for the purposes of the Act.

(4) Nothing in this regulation shall prevent the insured person (in concurrent employments) from agreeing with the employer who pays him the higher or highest wage that contributions shall be paid in respect of him and on his behalf on that higher or highest wage.

(5) Nothing in this regulation shall prevent the insured person and two or more of his employers agreeing amongst themselves that one of the employers shall pay a contribution for the insured person based upon the total wages from all his employers and that the employer so paying may recover from the wages paid by him the employed person's contribution for those total wages and where such an agreement is made the employer so made responsible and all the other employers who are parties to the agreement shall be jointly and severally liable to pay the contribution.

(6) Where in any contribution week a person is self-employed either concurrently with, precedent to, or in succession to, employment as an employed person, only

one contribution shall be payable in respect of him as an insured person.

(7) If, in any contribution week referred to in paragraph (6) of this regulation, a contribution has already been paid for the insured person as a self-employed person, there shall be no liability on any employer to pay an employed person's contribution for that week.

(8) If, in any contribution week referred to in paragraph (6) of this regulation, a contribution has already been paid for an insured person as an employed person, there shall be no liability on the insured person to pay a self-employed person's contribution for that week.

43. Remuneration partly by tips or gratuities from persons other than the employer.

(1) Where an insured person, either as an individual or as one of a class of employed persons, is paid wages which have been fixed on the understanding, whether expressed or implied, that arising out of his duties or the duties of that class of employed persons, he will receive remuneration for his duties in the form of tips or gratuities donated by some person or persons other than his employer, such tips and gratuities received by him in any contribution week shall be included in calculating the wages of the insured person for that week for the purpose of the payment of contributions.

(2) For the purpose of calculating insurable wages, basic wages shall be considered first and tips and gratuities shall be considered second.

(3) The rate of contribution payable by an employer in respect of an insured person partly remunerated by tips or gratuities shall be the rate set out in the Seventh Schedule.

(4) An employer who fails to pay the contribution for any insured person at the increased rate resulting from the inclusion under paragraph (1) of tips and gratuities in the calculation of wages, shall be guilty of an offence under these Regulations.

44. (1) Where an insured person works under the general control and management of a person who is not his immediate employer, that person (hereinafter referred to as “the principal employer”) shall be deemed to be the employer for the purposes of the Act and the immediate employer shall furnish the principal employer with such particulars of the insured person's wages as may be necessary to enable the principal employer to comply with the provisions of the Act.

(2) If the insured person's wages are actually paid to him by the immediate employer —

- (a) the immediate employer shall notify the principal employer of the wages to be paid and the immediate employer shall be notified by the principal employer of the amount of contributions which may be deducted when such wages are paid to the insured person, and the immediate employer may deduct the amount so notified to him; and
- (b) the principal employer may make a corresponding deduction on making to the immediate employer the payment out of which the said wages will be paid.

45. (1) An employer shall, before the end of July of each year, render to the Director, in such form as the Board may approve or prescribe, a return in respect of each employed person containing such particulars as the Board may require.

Returns by
employer.

(2) The return mentioned in paragraph (1) shall be accompanied by a declaration and statement in a form approved by the Board.

(3) Where an employer is a body corporate, the declaration and the statement referred to in paragraph (2) shall be signed by a person duly authorised by the said body corporate.

(4) If having regard to the particulars of the return rendered under paragraph (1) it appears to the Director an employer has failed to pay that total amount of contributions which he is liable to pay in respect of the previous year, the Director may prepare a certificate showing the amount of contributions remaining unpaid for that previous year and the said certificate that any specified amount of contributions has not been paid to him, or, to the best of his knowledge and belief to any person to whom it might lawfully be paid, shall be good and sufficient evidence that the sum mentioned in the certificate is unpaid and due to the Board.

46. (1) Within thirty days from the date of termination of employment, an employer shall give to each employee a certificate showing in respect of the employment —

Issue of
certificate to
employee on
termination.

- (a) the employee's total insurable wages for the contribution year;
- (b) the total amount of contributions deducted from those wages;
- (c) the total amount of contributions paid to the Board; and
- (d) the number of contribution weeks covered by those contributions.

(2) The certificate specified in paragraph (1) shall be in such form as may be approved by the Board.

Inspection of
employer's
records.
S.I. 66/1997.
S.I. 36/2005.

47. (1) Every employer whenever called upon to do so by an Inspector designated under section 41 of the Act shall produce to such Inspector for inspection at the employer's premises such wage sheets, contribution cards or other documents and records as may be specified by the Inspector.

(2) The Director by reference to the information obtained from inspection of the documents produced under paragraph (1) may on the occasion of each inspection prepare a certificate setting out —

- (a) the amount of contributions which the employer is liable to pay to the Director for the said years or months in accordance with the documents so produced; and
- (b) any amount of contributions which have not been paid to him, or, to the best of his knowledge and belief, to any person to whom it might lawfully be paid.

(3) The production of a certificate such as is mentioned in paragraph (2) shall be good and sufficient evidence in any court that the employer is liable to pay to the Director in respect of the years or months mentioned in the certificate the amount shown therein pursuant to paragraph (2)(b).

Payment as
agent.

48. If under these Regulations a person is required to pay any contribution that under subsection (1) of section 18 of the Act another person is liable to pay, his payment thereof shall be deemed to be made as agent for that other person.

Death of
employer or self-
employed person.

49. If an employer or self-employed person dies, anything that he would have been liable to do under these Regulations shall be done by his legal personal representative or, in the case of an employer who paid wages on

behalf of another person, by the person succeeding him, or, if no person succeeds him, the person on whose behalf he paid wages.

50. Where any person has after the commencement of these Regulations any unused insurance stamp which has not been spoiled or rendered unfit or useless for the purpose intended, the Board may, if it thinks fit, repay to him the value of the stamp in money upon his delivering up the stamp and proving to the satisfaction of the Board that it was purchased by him from a person authorised to sell insurance stamps under the National Insurance (Collection of Contributions) Regulations, within two years prior to the application and with a *bona fide* intention to use it.

Repayment of value of unused insurance stamps on delivery thereof to the Board.

S.I. 63/1974.

51. If any person contravenes, or fails to comply with, any of these Regulations, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty dollars, and where the default continues after conviction he shall be liable to a further fine not exceeding fifty dollars for each day during which the default continues.

Offences and penalties.

52. Adjustment of maximum wages on which contributions payable.

With effect from the 3rd day of January, 2011, the ceiling on insurable wages or income shall be \$500 per week or \$2,166 per month and shall be further increased as indicated below -

EFFECTIVE DATE	MAXIMUM WAGES ON WHICH CONTRIBUTIONS PAYABLE
July 2 nd , 2012	\$600 per week or \$2,600 per month
July 2014 and every second year thereafter	To be determined based on the change in the Retail Price Index of The Bahamas over the immediately preceding two calendar years plus 2%.

FIRST SCHEDULE (Regulation 2)**DEDUCTIONS *NOT* ALLOWED IN COMPUTING THE
AMOUNT OF PROFIT OR GAIN FROM SELF-EMPLOY-
MENT**

1. Any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation.
2. Private disbursements or expenses.
3. The rent of any dwelling-house or domestic offices or any part thereof, except such part thereof as is used for the purpose of the said trade, profession or vocation and where any such part is so used, the sum so deducted shall not, (unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted) exceed two-thirds of the rent *bona fide* paid for the said dwelling-house or domestic offices.
4. Any sum expended for repairs of premises occupied, or for the supply, repair or alteration of any implements, utensils or articles employed for the purposes of the trade, profession or vocation, beyond the sum actually expended for those purposes.
5. Any loss not connected with or arising out of the trade, profession or vocation.
6. Any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade, profession or vocation, but so that this paragraph shall not be treated as disallowing the deduction of any interest.
7. Any capital employed in improvements of premises occupied for the purpose of the trade, profession or vocation.
8. Any interest which might have been made if any such sums as aforesaid had been laid out at interest.
9. Any debts, except bad debts proved to be such, and doubtful debts (to the extent that they are severally estimated to be bad debts) and in the case of the bankruptcy or insolvency of a debtor the amount which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof.
10. Any sum recoverable under an insurance or contract of indemnity.

SECOND SCHEDULE (Regulation 5)**EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE
TREATED AS SELF-EMPLOYED PERSONS**

1. Employment of a person in any of the following offices,
namely —

Governor-General;
President of the Senate;
Vice President of the Senate;
Senator;
Speaker of the House of Assembly;
Deputy Speaker of the House of Assembly;
Prime Minister or Minister;
Parliamentary Secretary;
Leader of the Opposition;
Member of House of Assembly.

2. Employment as an agent other than as an insurance agent *S.I. 69/1984.*
or as an insurance salesman and being an agent paid by
commission or fees or a share in profits, or partly in one and
partly in another of such ways, provided that the person so
employed is —

- (a) not earning wages from some occupation; and
- (b) free to be employed as such agent by more than one
employer.

3. Employment of a married person by or as a partner of, or in
association with, that person's spouse.

4. Employment as a nurse engaged in the nursing of private
patients, whether in hospital or elsewhere, by whom he is paid.

5. Employment of a person as a fishing guide —

- (a) on his own vessel by some other person who has chartered that
vessel; or
- (b) on any other vessel by any person for a period of less than three
months.

S.I. 36/2005.
6. Employment of an employed person who, pursuant to
subsection (3) of section 57 of the Act, has waived his right not to
be required to pay contributions for the purposes of the Act, but
whose employer, similarly possessing such a right, has not also
waived such right.

THIRD SCHEDULE (Regulation 6)**EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE
TREATED AS NOT BEING EMPLOYED PERSONS OR
SELF-EMPLOYED PERSONS**

1. Employment of any person who is not domiciled in The Bahamas and who by virtue of the Vienna Convention on Diplomatic Relations, 1961, is exempt from the application of social security provisions in force in The Bahamas.

2. Employment of any person by any international organisation of which The Bahamas or its Government is a member and to whom any scheme for social security benefits operated by the organisation applies. For the purpose of this paragraph “international organisation” includes a regional organisation of which The Bahamas or its Government is a member.

3. Employment or service of any person who is not domiciled in The Bahamas as a member of the armed forces of any other country.

FOURTH SCHEDULE (Regulation 18(2))**FORM OF WAIVER OF RIGHT NOT TO BE REQUIRED TO
MAKE CONTRIBUTIONS**

The National Insurance Act (Ch. 350)

To the Director

National Insurance Board, P.O. Box

I/We

of

hereby notify you that under¹³

.....

I/We have the right not to be required to pay contributions under the National Insurance Act. Notwithstanding that right, I wish to waive it in so far as the National Insurance Act is concerned in order to pay contributions thereunder.

Signed

Address

.....

..... 20.....

¹³ Here state the precise enactment and any subsidiary document that may be relevant, quoting numbered sections or paragraphs, which it is alleged confer the right not to be required to pay contributions.

S.I. 56/1985.

FIFTH SCHEDULE
(Regulations 23, 30 and 35)

S.I. 42/2009, r. 4.

PART A

**RATES OF CONTRIBUTIONS PAYABLE FOR
EMPLOYED PERSONS OTHER THAN THOSE TO
WHOM PART B OF THIS SCHEDULE APPLIES**

Category of Insured Person	Insurable wage or income	Percentage payable by employed person (%)	Percentage payable by employer (%)	Total percentage (%)
Employed persons (other than those in categories listed below)	Basic wages	3.9	5.9	9.8
Employed persons 65 years or over not in receipt of retirement benefit	Basic wages	3.4	5.4	8.8
Employed persons earning less than 50 % of ceiling and in receipt of retirement benefit or age 70 and over	Basic wages	-	2.0	2.0
Persons employed during the summer	Basic wages	-	2.0	2.0
Voluntarily insured persons	Basic wages	-	-	5.0
Self-employed persons under 70 years and not in receipt of retirement benefit	Income	-	-	8.8
Self-employed persons under age 70 earning less than 50% of the ceiling and in receipt of retirement benefit	Income	-	-	2.0
Self-employed persons 70 years and older	Income	-	-	2.0

PART B

**RATES OF CONTRIBUTIONS PAYABLE FOR
EMPLOYED PERSONS WHO BY VIRTUE OF THEIR
RESPECTIVE EMPLOYMENT ARE ELIGIBLE FOR
PENSIONS IN ACCORDANCE WITH THE PENSIONS
ACT AND WHICH ARE PAYABLE OUT OF THE
CONSOLIDATED FUND**

Actual Wages	Insurable Wages	Contribution payable as percentage of insurable wages by		
		Employed person	Employer	Total
Weekly	Weekly			
Less than \$110	Actual wage up to \$110 (inclusive)	3.9	5.9	9.8
\$110 or above	(a) Actual wage up to \$110	3.9 PLUS	5.9 PLUS	9.8 PLUS
	(b) Actual wage in excess of \$110 up to the ceiling	2.2	3.05	5.25

SEVENTH SCHEDULE (Regulation 43)

**RATES OF CONTRIBUTIONS PAYABLE FOR
EMPLOYED PERSONS REMUNERATED PARTLY
BY TIPS AND GRATUITIES**

Category of Insured person	Insurable wage or income	Percentage payable by employed persons	Percentage payable by employer	Total percentage (%)
Employed person remunerated partly by gratuities	Basic Wage	3.9	5.9	9.8
	Gratuities	9.8	-	9.8

*S.I. 64/1974***NATIONAL INSURANCE (DETERMINATION OF
CLAIMS AND QUESTIONS) REGULATIONS**

(SECTION 27, 49, 50 and 62)

*[Commencement 7th October, 1974]***PART I
PRELIMINARY**

- 1.** These Regulations may be cited as the National Insurance (Determination of Claims and Questions) Regulations. Citation.
- 2.** (1) In these Regulations, unless the context otherwise requires — Interpretation.
- “Act” means the National Insurance Act;
- “appeal tribunal” means a tribunal constituted under regulation 7 and the Schedule to these Regulations;
- “claimant”, in relation to the review of an award or decision, includes a beneficiary under the award or affected by the decision;
- “degree of disablement” means the loss of faculty, suffered as a result of the relevant injury, assessed in whole numbers as a percentage of that loss of faculty;
- “determining authority” means, as the case may require, the Board or the Director, an appeal tribunal or a medical referee or a medical appeal board appointed or constituted in accordance with any Regulations for the time being in force;
- “grant” means any benefit which is payable in one sum and not by periodical payments;
- “invalid” means a person who is incapable of work as a result of a specified disease or bodily or mental disablement which is likely to remain permanent, and the work “invalidity” shall be construed accordingly;
- “local office” means an office appointed by the Board as a local office for the purposes of the Act;
- “medical appeal board” means a medical appeal board constituted under regulation 24;

“medical examination” includes bacteriological and radiological tests and similar investigations, and references to being medically examined shall be construed accordingly;

“medical officer of the Board” means such medical officer in the employment of the board as may be designated by the Board to perform on its behalf executive duties in connection with the determination of medical questions;

“medical question” means any question set out in paragraph (1) of regulation 19;

“medical referee” means a registered medical practitioner appointed to act as a medical referee under regulation 21;

“paragraph” means a paragraph of a regulation;

“Part” means a Part of these Regulations;

“question” includes for the purposes of Part III, a claim for benefit or assistance;

“registered medical practitioner” means a person registered under the Medical Practitioners Act; Ch. 224.

“relevant accident”, “relevant injury” and “relevant disease”, in relation to any benefit, mean respectively the accident, injury or disease in respect of which that benefit is claimed or payable and “relevant loss of faculty” mean the loss of faculty resulting from the relevant accident, injury or disease;

“reserved question” means any question set out in regulation 3 for the determination of which the procedure in paragraph (1) of regulation 4 has been followed;

“Schedule” means the Schedule to these Regulations.

(2) In these Regulations, unless a contrary intention appears, references to a regulation are references to a regulation of these Regulations.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these Regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known postal address.

(4) Any power given in these Regulations to extend the period during which anything is required to be done under these Regulations or to dispense with any of the requirements thereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

PART II DETERMINATION OF QUESTIONS BY THE BOARD

Questions for
determination by
the Board.

3. Subject to the provisions of these Regulations the following reserved questions arising under or in connection with the Act, that is to say —

- (a) whether a person is or was an insured person;
- (b) whether a person is or was an employed person as defined in section 2 of the Act;
- (c) as to the class or category of insured persons in which a person is to be included;
- (d) whether the contribution conditions for any benefit are satisfied, or any question otherwise relating to a person's contributions;
- (e) who is or was liable for payment of contributions as the employer of any insured person,

shall be determined by the Board whose decision shall be final.

Procedure for
determination of
questions by the
Board.

4. (1) Any person desiring to obtain the decision of the Board on any question mentioned in regulation 3 shall deliver or send to the Board an application for the purpose in writing in a form approved by the Board and shall furnish such particulars as the Board may require for the purpose of the consideration and determination of any such question.

(2) The Board shall take steps to bring any such application and any such particulars to the notice of any person appearing to it to be interested therein and to obtain from such person such particulars within such time and in such form as it considers reasonably necessary for the proper determination of the question.

(3) The Board may, if it thinks fit, before determining the question, appoint a person to hold an inquiry into the matter and to report to it thereon and any person so appointed may, by summons, require persons to attend at

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The next page is 131*

any such inquiry to give evidence or to produce documents reasonably required for the purpose of the inquiry and may take evidence on oath and, for that purpose, administer oaths.

(4) For the purpose of the determination of any question under regulation 3 of these Regulations, the Board may, by summons, require any person to attend upon the Board to give evidence or to produce documents reasonably required for the purpose of determining that question and may take evidence on oath and, for that purpose, administer oaths.

(5) Reasonable notice of the date and place of the holding of such an inquiry shall be given to the applicant and to any person notified of the application in accordance with paragraph (2).

(6) The applicant and any person appearing to the Board or to the person holding the inquiry to be interested in the application shall be entitled to attend and be heard at the inquiry, and to be represented by any other person, and the procedure thereat shall, subject to this regulation, be such as the person holding the inquiry shall determine.

(7) The Board shall give notice in writing of its decision together with the reasons therefor to the applicant and to any persons appearing to it to be interested therein and may publish its decision in such manner as it thinks fit.

5. (1) Any question of law arising in connection with the determination by the Board of any such question as is mentioned in regulation 3 may, if it thinks fit, be referred by the Board for decision to the Supreme Court.

Reference to
Supreme Court
by Board of
questions of law;
appeals against
decisions of
Board on
questions of law.

(2) In the event of the Board determining in accordance with paragraph (1) to refer any question of law to the Supreme Court, it shall send notice in writing of its intention so to do to the applicant and to any other person appearing to it to be interested therein.

(3) Any person, aggrieved by the decision of the Board on any question of law which is not referred to the Supreme Court, may appeal from that decision to the Supreme Court, in accordance with rules of court made pursuant to section 49(4) of the Act, and the appellant and any other person appearing to the Board to be interested shall, on request, be furnished with such a statement of the grounds of the decision as will enable them to determine whether any question of law has arisen upon which they may wish to appeal.

(4) Without prejudice to the right of any other person, the Board shall be entitled to appear and be heard on any such reference or appeal.

Review of
decision of the
Board.

6. (1) The Board may, on new facts being brought to its notice or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review a decision given by it in accordance with this Part of these Regulations:

Provided that any such decision shall not be reviewed while an appeal is pending against the decision of the Board on a question of law arising in connection therewith or before the time for appealing has expired.

(2) The provisions of regulation 5 shall apply in relation to a decision on review as they apply to the original determination or decision.

PART III DETERMINATION OF CLAIMS AND QUESTIONS BY THE DIRECTOR OR AN APPEAL TRIBUNAL

Submission of
question to
Director.

7. (1) The following questions, that is to say —
- (a) any question as to the right to benefit or assistance;
 - (b) any other question arising under or in connection with the Act, not being a reserved question under Part II of these Regulations or a medical question to be determined under Part IV hereof,

shall be submitted to the Director who shall consider the question and, so far as practicable, dispose of it in accordance with these Regulations within fourteen days from the date when it was submitted to him.

(2) If on consideration of a question the Director is of opinion that no reserved or medical question arises then —

- (a) if he is satisfied that the question ought to be determined wholly in favour of the claimant, he may determine the question accordingly;
- (b) in so far as he is not so satisfied he may either —
 - (i) refer the question (so far as is practicable, within fourteen days from the date on which it was submitted to him) to an appeal tribunal, constituted as laid down by the Schedule, for its decision; or

Schedule.

(ii) himself determine the question in whole or in part adversely to the claimant.

(3) Where the Director refers a question to an appeal tribunal in accordance with paragraph (2), notice in writing of such reference shall be given to the claimant.

(4) Subject to the provisions of the Act and these Regulations, the Director may delegate to any officer of the Board the power to carry out on his behalf any of his functions under this regulation.

(5) Every delegation under paragraph (4) shall be revocable by the Director and no delegation shall prevent the exercise of the Director of any function.

8. (1) If the Director has determined a question in whole or in part adversely to the claimant, the claimant shall, subject to the provisions of this regulation, have the right to appeal in respect of the decision to an appeal tribunal and shall be notified in writing of the decision and the reason therefor and of his right to appeal therefrom:

Appeals to
appeal tribunal.

Provided that where a reserved question has arisen in connection with the decision of the Director and has been determined by the proper authority, and the Director certifies that the decision on that question is the sole ground of his decision, no appeal shall lie without the leave of the chairman of the appeal tribunal.

(2) An appeal against a decision of the Director must be brought by giving notice of appeal at an office of the Board within twenty-one days after the date of that decision or within such further time, not exceeding four months, as the chairman of the appeal tribunal may allow.

(3) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

9. (1) Reasonable notice of the time and place of the hearing before an appeal tribunal shall be given to the claimant and to any other person who may appear to the chairman of the tribunal to be interested and, except with the consent of the claimant, the appeal tribunal shall not proceed with the hearing of any case unless such notice has been given.

Time and place
of hearings
before appeal
tribunal.

Hearings before
appeal tribunal.

(2) If a claimant or other person to whom notice of hearing has been duly given in accordance with these Regulations should fail to appear either in person or by representative at such hearing and has not given a reasonable explanation for his absence, the tribunal may proceed to determine the case, or may give such directions with a view to the determination of the case as it may think proper.

10. (1) Every hearing by the appeal tribunal shall be in public except in so far as the chairman of the tribunal may otherwise direct if he is of the opinion that intimate personal and financial circumstances may have to be disclosed or that consideration of public security are involved.

(2) The following persons shall be entitled to be heard at the hearing of any case by an appeal tribunal —

- (a) the claimant;
- (b) the Director,

and any person appearing to the tribunal to be interested shall have the right to be present notwithstanding that the hearing of the case is not in public.

(3) The chairman of an appeal tribunal may, by summons, require any person to attend at any such hearing to give evidence or to produce documents reasonably required for the purpose of the hearing and may take evidence on oath and, for that purpose, administer oaths.

(4) Any person who by virtue of the provisions of this regulation has the right to be heard at the hearing of the case by an appeal tribunal, may be represented at the hearing by some other person (whether having professional qualifications or not) and, for the purpose of the hearing, any such representative shall have all the rights to which the person whom he represents is entitled under these Regulations.

(5) Any person who exercises the right conferred by this regulation to be heard at the hearing may call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(6) For the purpose of arriving at its decision, or discussing any question of procedure, an appeal tribunal

may, notwithstanding anything in this regulation, order all persons (not being members of the tribunal or an officer of the Board acting as clerk to the tribunal) to withdraw from the sitting of the tribunal.

11. (1) An appeal tribunal shall —

Decision of
appeal tribunal.

- (a) record in writing, in such form as may from time to time be approved by the Board, all its decisions (whether on an appeal or on a reference from the Director); and
- (b) include in the record of every decision (which shall be signed by all the members of the tribunal) a statement of the reasons for its decision including its findings on all questions of fact material thereto.

(2) Where the members of the tribunal are unable to reach a unanimous decision on any case, the decision of the majority of the members thereof shall be the decision of the tribunal.

(3) As soon as may be practicable after a decision has been reached, a copy of that decision shall be sent to the claimant and to the Director and to any other person who appears to the appeal tribunal to be interested.

12. (1) Any question of law arising in connection with the determination by an appeal tribunal of any question (whether on an appeal or on a reference from the Director) may, if it thinks fit, be referred by the appeal tribunal to the Supreme Court.

Reference to
Supreme Court
of questions of
law; appeals
against decisions
of appeal
tribunal on
questions of law.

(2) In the event of the appeal tribunal determining in accordance with paragraph (1) to refer any question of law to the Supreme Court, it shall send notice in writing of its intention to do so to the applicant and to any other person appearing to it to be interested therein.

(3) Any person aggrieved by the decision of an appeal tribunal on a question of law which is not referred to the Supreme Court in accordance with paragraph (1), may appeal from that decision to the Supreme Court in accordance with rules of court made pursuant to subsection (4) of section 49 of the Act, and the applicant and any other person appearing to the appeal tribunal to be interested shall, on request, be furnished with such a statement of the grounds of the decision as will enable them to determine whether any question of law has arisen upon which they may wish to appeal.

S.I. 36/2005.

(4) Without prejudice to the rights of any other person, the Director and the chairman of the appeal tribunal shall be entitled to appear and be heard on any such reference or appeal.

Review of
decisions of
Director and
appeal tribunal.

13. (1) Any decision under this Part made by the Director or an appeal tribunal may be reviewed at any time by the Director or, on a reference from the Director, by an appeal tribunal, if —

- (a) either he or the tribunal is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) there has been any material change of circumstances since the decision was given; or
- (c) the decision was based on the decision of any reserved or medical question and the decision on that question has been revised.

(2) A request for such a review may be made by means of an application in writing to the Director stating the grounds of the application.

(3) On receipt of any such application, the Director shall proceed to deal with or refer any question arising thereon in accordance with the Act and these Regulations.

(4) Any decision given on a review under this regulation, and any refusal to review a decision under this regulation, shall be subject to appeal in like manner as an original decision, and the provisions of this Part shall, subject to the necessary modifications apply in relation to any decision given on a review as they apply to the original decision on a question.

Payment of
benefit or
assistance.

14. (1) Subject to the provisions of this regulation and regulation 17, benefit or assistance shall be payable in accordance with an award, notwithstanding that an appeal is pending.

(2) Where it appears to the Director that a question has arisen whether —

- (a) the conditions for the receipt of benefit or assistance payable under an award are or were fulfilled; or
- (b) an award of benefit or assistance ought to be revised in accordance with these Regulations,

he may direct that payment of benefit or assistance shall be suspended in whole or in part until that question has been determined.

15. (1) Where on review a decision is revised so as to make benefit or assistance payable, or to increase the rate of benefit or assistance, the decision on review shall have effect as from the date of the application for the review:

Reviews of decisions involving payment or increase of benefits or assistance other than grants.

Provided that, if in any case the claimant proves that on a date earlier than the date on which the application for the review was made, he was (apart from satisfying the condition of making a claim therefor) entitled to benefit or assistance under the National Insurance (General Benefits and Assistance) Regulations or the National Insurance (Industrial Benefits) Regulations, or both of those Regulations, he shall not be disqualified by virtue of the foregoing provisions of this paragraph for receiving any benefit or assistance to which he would have been entitled in respect of the period between the earlier date and the date on which the application for the review was made.

(2) Notwithstanding anything contained in this regulation, the following provisions shall have effect —

- (a) the proviso to paragraph (1) of this regulation shall apply subject to the condition that no sum on account of benefit or assistance shall be paid to any person in respect of any part of the period referred to in that proviso which is earlier than six months before the date of the application for the review;
- (b) the decision on review shall not have effect for any period before the date on which the original decision took effect or would have taken effect if an award had been made;
- (c) if the said decision on review was based on a material change of circumstances subsequent to the date on which the original decision took effect, it shall not have effect for any period before the date declared by the director or the appeal tribunal, as the case may be, to be the date on which such material change took place.

(3) For the purpose of this regulation, where a decision is reviewed at the instance of the Director under paragraph (1) of regulation 13, the date on which it was first decided by the Director that the decision should be reviewed shall be deemed to be the date of the application for the review.

(4) In this regulation, “benefit” does not include a grant.

Review of
decisions
involving
payment of
grants.

16. (1) A decision shall not be reviewed so as to make a grant payable unless the claimant proves that the application for review was made not later than four years from the date of the decision.

(2) The provisions of paragraph (3) of regulation 15 shall apply in the application of paragraph (1) of this regulation as they apply in the application of paragraphs (1) and (2) of that regulation.

Adjustment of
benefit.

17. (1) Where a grant is awarded by a decision on review or appeal in lieu of a pension previously awarded, such decision shall direct that any payments made on account of such pension shall, in so far as they do not exceed the amount of the grant, be treated as being made on account of the grant.

(2) Where any benefit (other than a grant) or assistance is awarded by a decision on review or appeal in lieu of another kind of benefit or assistance previously awarded, that decision shall, (in relation to any payments made on account of benefit or assistance previously awarded) —

- (a) direct that, in so far as the amount thereof does not exceed the amount of any arrears payable by way of the benefit or assistance so awarded, such payments shall be treated as having been made on account of such arrears; and
- (b) to the extent by which the amount thereof exceeds the amount of the said arrears, direct that such payments shall (except in so far as they are required to be repaid under this regulation) be treated as having been made on account of sums becoming payable after the date of the decision on review or appeal by way of the benefit or assistance awarded thereby.

(3) Where on review or appeal a decision is revised, or is reversed or varied so as to make benefit or assistance not payable or to reduce the amount of benefit or assistance, the decision given on the review or appeal shall require repayment to the Fund of any benefit or assistance paid in pursuance of the original decision to the extent to which it —

- (a) would not have been payable if the decision on review or appeal had been given in the first instance; and
 - (b) is not directed to be treated as paid on account of the benefit or assistance awarded by the decision on review or appeal.
- (4) Where —
- (a) on appeal against an award of benefit or assistance a decision is reversed or varied, so that such benefit or assistance is not payable at a lesser rate; and
 - (b) on review, the decision on that appeal is revised so as to make such benefit or assistance payable or payable at a higher rate from a date before the decision on appeal,

any benefit or assistance paid in pursuance of the award before the decision on appeal shall (to the extent to which it would not have been payable if the decision on appeal had been given in the first instance) be treated as having been paid on account of any benefit or assistance made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit or assistance awarded by that decision.

(5) Where, in accordance with a decision given on a renew or appeal, any benefit or assistance is required to be repaid to the Fund then, without prejudice to any other method of recovery, such benefit or assistance shall be recoverable by deduction from any benefit or assistance which is then payable to the person by whom it is to be repaid, or which becomes payable to that person in respect of any part of the period of six months immediately following the day on which the decision is given.

18. (1) If on consideration of a question the Director is of the opinion that a reserved question arises he shall —

References of questions.

- (a) refer the reserved question to the Board to determine the same; and
- (b) deal with any other question as if the reserved question had not arisen:

Provided that the Director may —

- (i) postpone the reference of a reserved question or dealing with any question until after other questions have been determined;

- (ii) in cases where the determination of any question disposes of a claim or any part thereof, make an award, or decide that an award cannot be made as to the claim on that part thereof, without referring or dealing with, or before the determination of, any other question.

(2) The foregoing provisions of this regulation shall apply to an appeal tribunal in the same manner as they apply to the Director, except that an appeal tribunal instead of itself referring a question for determination in accordance with subparagraph (a) of paragraph (1) of this regulation, shall require it to be referred to the Director.

PART IV DETERMINATION OF MEDICAL QUESTIONS

Reference of
medical
questions.

19. (1) The following medical questions may be determined in accordance with this Part of these Regulations —

- (a) whether a person is, or was, an invalid as defined in regulation 2;
- (b) whether the relevant accident has resulted in a loss of faculty;
- (c) at what percentage the degree of disablement resulting from the relevant loss of faculty is to be assessed and what period is to be taken into account by the assessment;
- (d) whether the relevant injury has resulted from the relevant accident;
- (e) whether the death of a person has resulted from the relevant accident;
- (f) whether a person is, or was, suffering from a prescribed disease;
- (g) whether, in the case of a person who is suffering from a prescribed disease and who has previously suffered from that prescribed disease, his condition is to be treated as having recrudesced, or, due to further exposure as a risk of his occupation, the prescribed disease has developed afresh;

- (h) whether a person is, or was, incapable of work;
 - (i) whether or not a person is permanently incapable of work;
 - (j) whether a person whose age is in doubt is, or is not, likely to be the age he alleges;
 - (k) whether the disease from which a person is suffering is or is not a sequela to an employment injury;
 - (l) any other medical question which may arise in any case.
- (2) Any medical question referred to in subparagraphs (a), (b) and (c) of paragraph (1) shall be referred to and determined by a medical referee or, on appeal, by a medical appeal board in accordance with these Regulations.
- (3) The Director may refer any other medical question to a medical referee for decision and where such medical question is so referred, it shall be determined by a medical referee or, on appeal, by a medical appeal board in accordance with these Regulations.
- (4) Subject to these Regulations, the decision of a medical appeal board on a medical question shall be final.

20. Where the case of a claimant for disablement benefit has been referred by the Director for determination of the medical question in subparagraph (c) of paragraph (1) of regulation 19 and, on that or any other subsequent reference, the degree of disablement is provisionally assessed, the medical question arising in that case shall again be referred to a medical referee not later than the end of the period taken into account by the provisional assessment.

Further reference where extent of disablement is provisionally assessed.

21. (1) A medical referee shall be selected by the medical officer of the Board from a panel of medical referees prepared by him and approved by the Board.

Medical referees.

(2) A person shall not act as a medical referee for the purpose of the consideration of a medical question in any case if he —

- (a) is or may be directly affected by that case; or
- (b) has taken any part in such case as a registered medical practitioner, who has attended the claimant in respect of a condition out of which the medical question has arisen, or to whom any

medical question has been referred for examination and report; or

(c) is, or was during the material period, an employer of the claimant; or

(d) has taken any part in such case as a witness; or

(e) is a Senator or a Member of Parliament.

Notice of
consideration by
medical referee.

22. (1) Reasonable notice of the time and place at which a medical referee will consider any medical questions referred to him shall be given to the claimant and if, after such notice has been given, the claimant fails to appear, the medical referee may not, without his consent, proceed to determine the medical questions referred to him.

(2) No person shall be entitled to be present during the consideration of any medical question by a medical referee other than the claimant and any other person whom the medical referee may, with the consent of the claimant, allow to be present as being a person who, in the medical referee's opinion, is likely to assist him in the determination of that question.

(3) A medical referee shall have power to make or, through the medical officer of the Board, arrange for, any necessary medical examination to assist him in determining the medical question.

Notice of
decision of
medical referee.

23. (1) A medical referee shall on each medical question record his decision in writing in such form as may from time to time be approved by the Board and shall include in such record, which shall be signed by him, a statement of his findings on all questions of fact material to the decision and shall send the form to the Director.

(2) As soon as may be practicable after receipt of the decision of the medical referee, the Director shall send written notice of that decision to the claimant. The notice shall be in such form as may be approved by the Board from time to time and shall contain a summary of the findings of the medical referee.

Constitution of
medical appeal
board.

24. (1) A medical appeal board shall be appointed by the medical officer of the Board from a panel of registered medical practitioners prepared by him and approved by the Board for the purpose and shall consist of three members of whom one shall be appointed as chairman.

(2) The members of a medical appeal board shall hold office for such period as the Board may direct and the Board may at any time terminate the appointment of any member of a medical appeal board.

(3) A registered medical practitioner shall not act as a member of a medical appeal board for the purpose of the consideration of any medical question arising in a case if he —

- (a) is or may be directly affected by that case; or
- (b) has taken any part in such case as a medical referee, or as a registered medical practitioner who has attended the claimant in respect of a condition out of which the medical question has arisen, or to whom any question has been referred for examination and report; or
- (c) is, or was during the material period, an employer of the claimant; or
- (d) has taken any part in such case as a witness; or
- (e) is a Senator or Member of Parliament.

(4) A medical appeal board shall not determine any medical question referred to it or brought before it if any member thereof is unable to be present at the consideration of any such question.

(5) Where the members of a medical appeal board are unable to reach a unanimous decision on any case, the decision of a majority of the members thereof shall be the decision of the Board.

25. (1) This regulation shall have effect where the Director has referred a medical question to a medical referee for determination.

Appeals from
decisions of
medical referees.

(2) If a claimant is dissatisfied with the decision of a medical referee, he may appeal against that decision in accordance with regulation 26 and the medical question shall be referred to a medical appeal board.

(3) If the Director is of opinion that any decision of a medical referee ought to be considered by a medical appeal board and he notifies a medical appeal board in accordance with regulation 26, then the medical question shall be referred to a medical appeal board and the said board may confirm, reverse or vary the decision in whole or in part as on an appeal.

Notice of appeal
and notification
to the Board.

26. (1) An appeal by a claimant against a decision of a medical referee shall be brought by his giving notice of appeal at an office of the Board within three months after the notice of that decision has been given in accordance with regulation 23 or within such further period as the chairman of a medical appeal board may allow.

(2) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(3) For the purpose of securing the reference of a medical question to a medical appeal board in accordance with paragraph (3) of regulation 25, where the Director is of opinion that a decision of a medical referee ought to be considered by a medical appeal board, the Director may notify a medical appeal board of his opinion in that respect within three months after the date of that decision or such longer period as the chairman of the medical appeal board may for good reason allow.

Hearing by
medical appeal
boards.

27. (1) For the purpose of determining any medical question referred to it, a medical appeal board shall hold a hearing which may be held in public if the medical appeal board so decides.

(2) Reasonable notice of the time and place at which a medical appeal board will hear a case shall be given to the claimant and to the Director and, except with the consent of the claimant, the medical appeal board shall not proceed with the hearing unless such notice has been given.

(3) The chairman of a medical appeal board may, by summons, require any person to attend at any such hearing to give evidence or to produce documents reasonably required for the purpose of the hearing and may take evidence on oath and, for that purpose, administer oaths.

(4) if a claimant to whom notice of hearing has been given in accordance with paragraph (2), fails to appear at the hearing, the medical appeal board may proceed to determine the medical question notwithstanding his absence, or may give such directions with a view to the determination of the medical question as it may think proper having regard to all the circumstances including any explanation for the absence:

Provided that if a reasonable explanation for his absence has been given by him or on his behalf, the

medical appeal board shall not, without his consent, determine the medical question in his absence unless the hearing has first been adjourned for at least one month and reasonable notice of the time and place of the adjourned hearing has been given to him.

(5) In any case where there is before a medical appeal board medical advice or evidence relating to the claimant which has not been disclosed to him and in the opinion of the chairman of the medical appeal board the disclosure of that advice or evidence would be harmful to the claimant's health, such advice or evidence shall not be required to be disclosed to him but the medical appeal board shall not by reason of such non-disclosure be precluded from taking it into account for the purposes of its determination of the medical question.

(6) The Director and the claimant shall have the right to be heard at a hearing by a medical appeal board and each may be represented by some person duly authorised by him and, for the purpose of the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under these Regulations.

(7) Any person who exercises the right conferred by this regulation to be heard at a hearing by a medical appeal board, may call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(8) A medical appeal board shall have power to make, or through the medical officer of the Board, to arrange for, any necessary medical examination to assist it in determining the medical question.

28. (1) A medical appeal board shall on each medical question record its decision in writing in such form as may from time to time be approved by the Board and shall include in such record, which shall be signed by all the members of the medical appeal board, a statement of the reasons for its decision, including its findings on all questions of fact material to the decision.

Record and
notice of decision
of medical appeal
board.

(2) Written notice of the decision of a medical appeal board (in such form as the Board may from time to time approve) shall be sent to the claimant as soon thereafter as practicable and shall contain a summary of the record of that decision made in accordance with paragraph (1) of this regulation.

Medical and
other questions.

29. (1) If on consideration of a medical question, a medical appeal board is of opinion that —

- (a) no question other than a medical question arises, it may determine the medical question accordingly;
- (b) a question other than a medical question arises, it may proceed to determine the medical question and refer the other question, including any question of law, to the Director to be dealt with pursuant to Part II of these Regulations if it is a reserved question, or to Part III if it is not a reserved question.

(2) If a medical appeal board has purported to make a decision on a medical question, which includes a decision on any other question including a question of law, the Director may deal with that other question under these Regulations as if it had been referred to him under subparagraph (b) of paragraph (1) of this regulation.

Review of
decisions of
medical referee
or medical appeal
board.

30. (1) Under this Part of these Regulations any decision made on a medical question by a medical referee or a medical appeal board, whether provisional or final, may be reviewed at any time by a medical referee or, on a reference from the Director, by a medical appeal board, if —

- (a) the determining authority is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) there has been any material change of circumstances relating to the medical question, since the decision was given including, in the case of any assessment of the degree of disablement, any substantial or unforeseen aggravation of the result of the relevant injury; or
- (c) the decision was based on the determination or purported determination of a question (other than a medical question) and that determination has been revised.

(2) An application to the Director for a review of any decision that is mentioned in paragraph (1) of this regulation shall be made in writing and shall state the grounds thereof.

(3) On receipt of such an application, the Director shall refer any medical question arising thereon to the appropriate determining authority in accordance with this Part of these Regulations.

(4) Any decision given on a review under this regulation by a medical referee, and any refusal by a medical referee to review a decision under this regulation, shall be subject to appeal in like manner as an original decision, and the provisions of this Part shall, subject to the necessary modifications, apply in relation to any decision given on a review as they apply to the original decision of the medical question.

31. On a review of any assessment on account of unforeseen aggravation under subparagraph (b) of paragraph (1) of regulation 30, the period to be taken into account in revising any assessment may include any period (not exceeding three months before the date of the application for the review) if the medical referee or the medical appeal board is satisfied that throughout the period there has been substantial unforeseen aggravation of the results of the injury since the making of the assessment under review.

Period to be taken into account by assessment revised on grounds of unforeseen aggravation.

PART V MISCELLANEOUS

32. (1) Where in any proceedings —

- (a) for an offence under the Act; or
- (b) involving any question as to the payment of contributions under the Act; or
- (c) for the recovery of any sums due to the Fund,

Decisions to be conclusive for purpose of proceedings under Act, etc.

any question arises which, under the Act or Regulations made thereunder, is to be determined by the Board or the Director or an appeal tribunal or a medical appeal Board, or by the Court in the event of an appeal on a point of law, the decision by the appropriate determining authority shall, unless an appeal under these or any other Regulations is pending or the time for so appealing has not expired, be conclusive for the purpose of those proceedings.

(2) If any such decision under paragraph (1) has not been obtained and the decision of the question is necessary for the determination of the proceedings, the question shall

be referred to the appropriate determining authority, as the case may require, in accordance with the procedure (modified where necessary) prescribed in these or any other Regulations.

(3) Where any such appeal as is mentioned in paragraph (1) of this regulation is pending, or the time for so appealing has not expired, or where any question has been referred under paragraph (2) hereof, the authority dealing with the case shall adjourn the proceedings until such time as a final decision upon the question has been obtained.

Authority for
payment of
expenses.

33. (1) There shall be paid to persons required to attend on the consideration of a case before a determining authority such travelling or other allowances as the Board may by resolution declare and such sums shall be properly payable out of the Fund.

(2) There shall be paid such other expenses incurred in connection with the work of a determining authority in the determination of questions under these Regulations as the Board may by resolution declare and such sums shall be properly payable out of the Fund.

(3) In this regulation, reference to travelling or other allowances, include a reference to compensation for loss of remuneration:

Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under the Act.

Chairman of
Board, appeal
tribunal, medical
appeal board and
medical referee
to determine
procedure.

34. Subject to the provisions of the Act and of these Regulations, the procedure of the Board when determining a reserved question and the procedure of an appeal tribunal, a medical appeal board or a medical referee shall be such as the respective chairman or the medical referee (as the case may be) shall determine.

SCHEDULE (Regulation 7)

APPEAL TRIBUNAL

1. An appeal tribunal shall consist of —

- (a) one person drawn from a panel of persons chosen by the Board to represent employers, in accordance with paragraph 3 of this Schedule; and

- (b) one person drawn from a panel of persons chosen by the Board to represent insured persons, in accordance with paragraph 3 of this Schedule; and
- (c) a chairman who, subject to the provisions of this Schedule, shall hold office for such period (not exceeding two years) as the Minister may determine, and shall be eligible for reappointment.

2. (1) The chairman of an appeal tribunal shall be a counsel and attorney of at least five years' standing and the Minister may appoint one or more persons to perform the functions of chairman.

(2) The members of a panel shall be appointed by the Board so, however, that before appointing members to either of the panels, the Board may take into consideration any recommendation from —

- (a) a confederation, representative of employers and employers' associations or, in the absence of such a confederation, such employers and associations of employers as in the opinion of the Board are representative of employers generally; and
- (b) an association of registered trade unions, or, in the absence of such an association, such registered trade unions as, in the opinion of the Board, are representative of insured persons generally.

3. As far as practicable, the members of each panel shall be summoned by the Board to serve in turn on an appeal tribunal for which the panel is established:

Provided that no person shall sit on a tribunal during the consideration of a case —

- (a) in which he appears as the representative of the claimant; or
- (b) by which he is or may be directly affected; or
- (c) in which he has taken any part as an employer or as a witness; or
- (d) if he is a Senator or a Member of Parliament.

4. An appeal tribunal may, with the consent of the claimant but not otherwise, proceed with any case in the absence of any member other than the chairman and in any case the chairman shall, if the number of members of the tribunal is an even number, have a second or casting vote.

5. Members appointed to a panel pursuant to this Schedule shall, subject to the provisions of this Schedule, hold office for such term and on such conditions as may be determined by the Board.

6. The Minister may, if he considers it expedient so to do, at any time revoke the appointment of a chairman of an appeal tribunal and the Board may, if it considers it expedient so to do, at any time revoke the appointment of any member of a panel.

7. No member of the Board shall be eligible for appointment as a chairman or member of an appeal tribunal.

**NATIONAL INSURANCE (FINANCIAL AND
ACCOUNTING) REGULATIONS**

(SECTION 44 and 62)

S.I. 69/1974
S.I. 90/1982
S.I. 58/1985
S.I. 83/1998
S.I. 36/2005
S.I. 41/2009

[Commencement 7th October, 1974]

- 1.** These Regulations may be cited as the National Insurance (Financial and Accounting) Regulations. Citation.
- 2.** (1) In these Regulations, unless the context otherwise requires — Interpretation.
- “the Act” means the National Insurance Act; *S.I. 36/2005.*
- “expenditure” means payment out of the Fund under the provisions of subsection (3) of section 41 of the Act;
- “income” means payments into the Fund under the provisions of subsection (2) of section 44 of the Act;
- “other securities” means investments made under the provisions of paragraph 4 of the Third Schedule to, or under section 44(6) of, the Act; *S.I. 90/1982.*
- “paragraph” means a paragraph of a regulation;
- “Part” means a Part of these Regulations;
- “Reserve” means any one of the Reserves constituted under regulation 20;
- “Schedule” means a Schedule to these Regulations;
- “trustee securities” means investments made under the provisions of paragraph 3 of the Third Schedule to the Act.
- (2) In these Regulations, unless a contrary intention appears, references to a regulation are references to a regulation of these Regulations.

**PART I
FINANCIAL ORGANISATIONS**

- 3.** The benefits and assistance to be provided by the Fund shall be grouped into four branches — Benefit branches.
S.I. 58/1985.
- (a) *Short-term Benefits Branch*, comprising sickness benefit, maternity benefit, funeral benefit, *S.I. 41/2009, r. 2.*

unemployment benefit; maternity grant, and sickness assistance;

- (b) *Pensions Branch*, comprising retirement benefit, invalidity benefit, survivor's benefit, old age non-contributory pension, invalidity assistance and survivor's assistance;
- (c) *Industrial Benefits Branch*, comprising medical care, injury benefit, disablement benefit, death benefit and funeral benefit payable on death due to employment injury;
- (d) *Medical Benefits Branch*, providing funding for development of health infrastructure, funding expenditure of the Perscription Drug Fund established under the National Insurance (Chronic Diseases Prescription Drug Fund) Act, and funding for studies relating to circumstances, manner and conditions under which medical care and attention can be provided to an insured person and his dependants.

Financial
autonomy of
benefit branches.
S.I. 58/1985.

4. (1) Each of the four benefit branches specified in regulation 3 of these Regulations shall, so far as the circumstances allow, be financially autonomous, that is to say, income allotted to one benefit branch shall not be used to cover expenditure relating to another branch:

Provided that —

- (a) if there is a temporary insufficiency in any one branch, the Board may authorise the transfer of any amounts that may be necessary from another branch;
- (b) amounts transferred under subparagraph (a) shall be repaid to the lending branch by the borrowing branch as soon thereafter as possible with payment of interest at such rate as the Board may determine;
- (c) if the insufficiency mentioned in subparagraph (a) continues, the Board, acting in accordance with subparagraph (a) of the proviso to regulation 21, and subject to subsections (1) and (2) of section 45 of the Act, may authorise the transfer of any amounts that may be necessary from another branch:

S.I. 36/2005.

Provided further, transfers among the Branches specified in regulation 3 of accumulated Reserve Funds

may be authorised by the Board with the prior approval of the Minister, if recommended as a result of an actuarial review of the Fund.

(2) Separate income and expenditure accounts shall be established for each of the benefit branches, and shall be prepared in accordance with Part IV of these Regulations.

(3) Separate reserves shall be established and maintained in respect of each of the benefit branches in accordance with Part IV of these Regulations.

PART II BUDGET ESTIMATES

5. The financial year for the purpose of the budget and accounts shall be the year ending on the 31st day of December, provided that the first financial year shall cover such period as the Minister may direct.

Financial year.

6. Before the 31st day of October of each financial year, the Director shall submit to the Board for its approval estimates of the income to be received and expenditure to be incurred in the following financial year.

The annual budget.

7. These estimates shall be made under the heads shown in the First Schedule, and shall be accompanied by a memorandum giving full explanations of any variation of the amounts expected to be received or spent as compared with the corresponding amounts included in the approved estimates of the current financial year, and of any expected receipts or expenditure of a type not included in the approved estimates of the current financial year.

Estimates.

8. The Board may add to the heads under which the estimates are to be submitted to them, and may require information relating to the make-up, calculation or reason for inclusion of any items in the estimates as submitted.

Power of Board regarding Estimates.

9. The estimates submitted in accordance with the preceding regulations, when approved by the Board, shall show the income which is expected to be collected and shall set limits to the expenditure which may be incurred under each of the relevant heads. Expenditure shall not be incurred under any head in excess of the limit set for that head without the prior approval of the Board:

Income and expenditure.

Provided that expenditure in excess of the limits set may be incurred in respect of benefits or assistance, subject to subsequent ratification by the Board as soon thereafter as possible.

10. If the budget estimates have not been approved by the Board before the beginning of the financial year to which they relate, the Director shall be authorised by the Board to incur expenditure under the various heads subject to such conditions as it may deem fit to impose until such time as the budget is duly approved.

Expenditure
before Estimates
approved.

PART III BUDGETARY CONTROL

Financial
provisions
relating to staff.

11. The Director shall draw up a list which shall contain the names of such of the officers of the Board, as, from time to time, shall be authorised to approve payment vouchers, sign cheques, approve accounting transfers or exercise other similar functions, and the list shall state such limits, financial or otherwise, as the Board may approve, within which each officer whose name appears on the list shall be authorised to exercise the function or functions allotted to him.

Fidelity bonds.

12. Insurance by way of fidelity bond or other similar security shall be arranged by the Board giving cover, up to such amounts as may be approved by the Board, against the risk of defalcation by the cashiers, storekeepers, or other custodians of the property of the Board.

Losses,
deficiencies and
overpayments.

13. The Board may authorise the writing off of any loss, deficiency or overpayment as irrecoverable if it is satisfied that adequate investigation has been made into the causes of, and responsibility for, the loss, deficiency, or overpayment and that steps have been taken as far as possible to prevent the recurrence of similar losses, deficiencies, or overpayments in the future.

Internal audit.

14. (1) The Director shall make adequate arrangements for the internal audit of the financial procedures and accounts of the Fund.

(2) The internal audit shall comprise the following functions —

- (a) examining and certifying every payment voucher, every accounting transfer authority, and every receipt;
- (b) testing awards of benefits and assistance for regularity and conformity in all respects with the Act and the relevant Regulations;

- (c) checking that all income due to the Fund has been either received and brought to account or written off as irrecoverable with the authority of the Board;
- (d) assisting in the exercise of budgetary control by maintaining a continuous review of the progress of income and expenditure, and reporting whenever it appears likely that the income under any head of the estimates as approved by the Board will fall short of, or the expenditure under any such head will exceed, the amount stated in the approved estimates;
- (e) examining and certifying the correctness of the accounts submitted periodically by sub-accountants of local offices or other sub-accounting units as may be set up, and the periodical accounts of the Fund, including the annual accounts;
- (f) checking on the continuous observance and intelligent carrying out of those directions contained in the code of instructions designed to facilitate accounting controls or provide safeguards against error or fraud;
- (g) carrying out similar functions as may from time to time be required by the Director:

Provided that the Director, with the prior approval of the Board, may reduce the cent per cent audit of items (a) to (g) of this regulation to such percentage or percentages having due regard to the availability of the requisite technical staff and to the relative financial importance of the various items.

15. The Director shall submit to the Board reports on the latest financial situation of the Fund with reference to income and expenditure, at such intervals and in such form as the Board may direct, together with any comments or remarks that may be called for.

Periodical reports to the Board.

PART IV ACCOUNTS

16. (1) Accounts shall be opened for each of the heads under which the estimates of income and expenditure have been approved by the Board and for such other heads or subdivisions of heads as may be deemed necessary; and

Head of accounts and accounting instructions.

therein shall be recorded, by the double-entry system of book-keeping, the financial transactions of the Fund.

(2) Subject to the approval of the Board, the Director shall issue detailed instructions governing the methods and procedures to be followed in maintaining the accounts, and in particular the basis on which the various items of income and expenditure are to be recorded.

Annual accounts.
S.I. 58/1985.

Second Schedule.

17. (1) At the end of each financial year the accounts as a whole shall be balanced and the following summary accounts shall be prepared in accordance with the models presented in the Second Schedule —

- (a) a consolidated Income and Expenditure Account for the Fund as a whole;
- (b) the Income and Expenditure Account in respect of each of the benefit branches;
- (c) a Balance Sheet for the Fund as a whole:

Provided that the Balance Sheet shall be supplemented by an account showing the current transactions of the Disablement and Death Benefits Reserve in accordance with the model presented in the Second Schedule:

Provided further the assets and liabilities of the Medical Benefit Branch shall be separately identified in the Balance Sheet.

(2) Subject to paragraph 3 of regulation 20, the Income and Expenditure Accounts shall show the income and expenditure recorded during the financial year and the Balance Sheet shall show the liabilities and assets of the Fund as at the end of the financial year.

(3) The Board may add to, or subdivide, the heads of the summary accounts as may be deemed necessary from time to time.

Distribution of
Fund's income
among the
Income and
Expenditure
Accounts of the
benefit branches.
S.I. 58/1985.
S.I. 83/1998.
S.I. 41/2009 r. 3.

18. (1) The income from contributions shall be distributed among the benefit branches in the following proportions —

- | | |
|---------------------------------|------|
| (a) Short-term Benefits Branch | 25% |
| (b) Pensions Branch: | 67% |
| (c) Industrial Benefits Branch: | 7.5% |
| (d) Medical Benefits Branch: | .5% |

Provided that if an actuarial report made under section 45 of the Act recommends a redistribution of the contribution income among the benefit branches, the Minister, acting on the recommendation of the Board, may, by Regulation, modify the proportions of income to be distributed among the benefit branches.

(2) The income by way of grant out of the Consolidated Fund under subsection (3) of section 45 of the Act shall be fully credited to the Pensions Branch. *S.I. 36/2005.*

(3) The income from the investment of the Reserves shall be allocated as follows —

- (a) the income from the investment of the Short-term Benefits Reserve shall be allocated to the Short-term Benefits Branch;
- (b) the income from the investment of the Pensions Reserve shall be allocated to the Pensions Branch;
- (c) the income from the investment of the Industrial Benefits (Short-term) Reserve shall be allocated to the Industrial Benefits Branch;
- (d) the income from the investment of the Disablement and Death Benefits Reserve shall be allocated as provided in paragraph (3) of regulation 20;
- (e) the income from the assets of the Medical Benefits Branch shall be allocated to the Medical Benefits Branch.

(4) All other income to the Fund which cannot be identified with any specific branch shall be distributed among the four benefit branches in equal parts.

19. (1) The expenditure on the benefits and assistance grouped under a specific branch in regulation 3 of these Regulations shall be ascribed to that branch.

(2) The administrative expenditure of the Medical Benefits Branch shall be ascribed to that Branch; otherwise the administrative expenditure of the Fund shall be distributed among the other three benefit branches in such a manner that the proportion allocated to a particular branch shall be equal to the proportion which the sum of the contribution income and benefit expenditure shown in the Income and Expenditure Account of that branch bears to the sum of the contribution income and benefit expenditure of the Fund as a whole.

Distribution of Fund's expenditure among the Income and Expenditure Accounts of the benefit branches. S.I. 58/1985.

S.I. 58/1985.

(3) All other expenditure which is not attributable to any specific branch shall be distributed among the four benefit branches in equal parts.

Reserves to be constituted.

20. (1) A Short-term Benefits Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Short-term Benefits Branch.

(2) A Pensions Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Pensions Branch.

(3) A disablement and Death Benefits Reserve shall be constituted in the following manner:

The capital values of periodically payable disablement and death benefits awarded in a year shall be charged against the year's income in the Income and Expenditure Account of the Industrial Benefits Branch and shall be credited to a current account which shall be further credited with the income from the investment of the said Reserve and debited with the actual payments of current periodical disablement and death benefits effected during the year, the balance thereof being transferred at the end of the year to the said Reserve.

(4) Subject to paragraph (3) above, an Industrial Benefits (Short-term) Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Industrial Benefits Branch.

S.I. 58/1985, r. 7.

(5) A Medical Benefits Reserve shall be constituted by transferring thereto annually the excess of the income over the expenditure of the Medical Benefits Branch.

Circumstances under an interim actuarial review may be required.

21. (1) The Short-term Benefits Reserve and the Industrial Benefits (Short-term) Reserve shall be used to meet any unforeseen or abnormal expenditure which the current income of any other branch may not be sufficient to cover:

Provided that —

- (a) if the Short-term Benefits Reserve falls below the level of the average six months' expenditure of the branch concerned on benefits during the

S.I. 36/2005.

preceding three financial years, or, if the Industrial Benefits (Short-term) Reserve falls below the level of the average six months' expenditure of the branch concerned on benefits other than periodically payable disablement and death benefits during the preceding three financial years, and if the trend of reduction continues, actuarial advice shall be sought as provided for in subsection (1) of section 48 of the Act, and necessary action taken so that the contribution income available to the branch concerned may be sufficient to cover the expenditure of that branch and to restore the Reserve concerned to the required level;

- (b) where the branch concerned has been in operation for less than three financial years, the six-monthly average mentioned in subparagraph (a) of this proviso shall be computed with reference to the actual period of operation.

(2) Where it is anticipated that the current income of the Pensions Branch will become insufficient to meet the current expenditure of that branch, actuarial advice shall be sought in accordance with subsection (1) of section 48 of the Act.

S.I. 36/2005.

22. Having regard to its nature and purpose and to the probable periods at which it may be necessary to realise the investment, each of the Reserves specified in regulation 20 of these Regulations shall be invested only in accordance with the provisions of section 44 of the Act.

Investment of Reserves.
S.I. 90/1982.
S.I. 36/2005.

23. The capital values of awards of periodically payable disablement and death benefits shall be calculated in accordance with Tables established on the advice of an actuary.

Table of capital values.
S.I. 83/1998.

24. The Annual Balance Sheet shall be supplemented by a schedule, giving a complete list of the investments of the Fund as at the date of the Balance Sheet, classified by the Reserves to which the investments relate. This list shall show the following particulars:

List of investment to supplement the Balance Sheet.

- (a) the name or identification of the investment; the rate of interest and the maturity date;
- (b) the cost price of the investment;
- (c) the face value of the investment;
- (d) the market value of the investment.

Adjustment of
ceiling based
upon retail price
index.

FIRST SCHEDULE (Regulation 7)

S.I. 58/1985, r. 9.

HEADS UNDER WHICH BUDGETS, ESTIMATES OF IN-COME AND EXPENDITURE ARE TO BE SUBMITTED TO THE BOARD

INCOME

- (1) Contributions:
 - (a) by employers;
 - (b) by insured persons.
- (2) Income from investments:
 - (a) interest on investment in trustee securities;
 - (b) interest on investment in other securities.
- (3) Grant from the Consolidated Fund.
- (4) Income from property.
- (5) Other income.
- (6) Total income.

CURRENT EXPENDITURE.

- (1) Benefits:
 - (a) Short-term Benefits Branch;
 - sickness benefit;
 - maternity benefit;
 - funeral benefit;
 - sickness assistance;
 - maternity grant;
 - unemployment benefit.
 - (b) Pensions Benefits Branch;
 - retirement benefit;
 - invalidity benefit;
 - survivor's benefit;
 - old age non-contributory pensions;
 - invalidity assistance;
 - survivor's assistance.
 - (c) Industrial Benefits Branch;
 - medical care;

S.I. 41/2009, r. 4.

- injury benefit;
- disablement benefit;
- death benefit;
- funeral benefit.

(2) Administration:

- (a) Salaries and allowances of administrative staff;
- (b) Allowances and expenses of the Board;
- (c) Other expenses of administration;
- (3) Other expenditure.
- (4) Administrative expenditure of Medical Benefits Branch.
- (5) Total expenditure.

CAPITAL EXPENDITURE.

(1) Investment:

- (a) trustee securities;
- (b) other securities;
- (c) other investments.

(2) Purchase or acquisition of:

- (a) premises;
- (b) furniture and equipment;
- (c) motor vehicles;
- (d) other items.

- (3) Utilisation of Medical Benefit Reserve for acquisition of assets.

SECOND SCHEDULE (Regulation 17(1))

HEAD OF ANNUAL SUMMARY ACCOUNTS

1. CONSOLIDATED INCOME AND EXPENDITURE ACCOUNT INCOME

INCOME

- (1) Contributions: ¹⁴
 - (a) by employers;
 - (b) by insured persons;
- (2) Grant from Consolidated Fund.
- (3) Income from investments:
 - (a) trustee securities;
 - (b) other securities:
- (4) Income from property.
- (5) Other income.
- (6) Total income.

EXPENDITURE

- (1) Benefit expenditure:
 - (a) Short-term Benefits Branch;
 - (b) Pensions Branch;
 - (c) Industrial Benefits Branch.
- (2) Administrative expenditure of the Medical Benefits Branch.
- (3) Administrative expenditure.
- (4) Other expenditure.
- (5) Total expenditure.
- (6) Excess of income over expenditure.

2. INCOME AND EXPENDITURE ACCOUNT OF THE SHORT-TERM BENEFITS BRANCH

INCOME

- (1) Contributions.
- (2) Income from investments of the Short-term Benefits Reserve —
 - (a) trustee securities;
 - (b) other securities.

¹⁴ If the distribution of the total income from contributions between employers and insured persons cannot be evaluated accurately, estimates of such distribution may be provided to the extent possible.

(3) Part of other income of Fund ascribed to the branch.

(4) Total income.

EXPENDITURE

(1) Benefit expenditure:

- (a) Sickness benefit;
- (b) Maternity benefit;
- (c) Funeral benefit;
- (d) Sickness assistance;
- (e) Maternity Grant;
- (f) unemployment benefit.

S.I. 41/2009, r. 5.

(2) Part of administrative expenditure ascribed to the Branch.

(3) Part of other expenditure ascribed to the Branch.

(4) Total expenditure.

(5) Excess of income over expenditure.¹⁵

3. INCOME AND EXPENDITURE ACCOUNT OF THE PENSIONS BRANCH

INCOME

(1) Contributions.

(2) Grant from Consolidated Fund.

(3) Income from investment of the Pensions Reserve:

- (a) trustee securities;
- (b) other securities.

(4) Income from property.

(5) Part of other income of Fund ascribed to the Branch.

(6) Total income.

EXPENDITURE

(1) Benefit expenditure:

- (a) Retirement benefit;
- (b) Invalidity benefit;
- (c) Survivor's benefit:
 - (i) Widows/widowers;
 - (ii) Orphans;
 - (iii) Other dependants;
- (d) Old age non-contributory pensions;
- (e) Invalidity assistance;
- (f) Survivor's assistance.

¹⁵ Credited to the Short-term Benefits Reserve if positive; debited to the Short-term Benefits Reserve if negative.

- (2) Part of administrative expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the Branch.
- (4) Total expenditure.
- (5) Excess of income over expenditure.¹⁶

4. INCOME AND EXPENDITURE ACCOUNT OF THE INDUSTRIAL BENEFITS BRANCH

INCOME

- (1) Contributions.
- (2) Income from investments of the Industrial Benefits (Short-term) Reserve:
 - (a) trustee securities;
 - (b) other securities.
- (3) Part of other income of Fund ascribed to the branch.
- (4) Total income.

EXPENDITURE

- (1) Benefit expenditure:
 - (a) Medical care;
 - (b) Injury benefit;
 - (c) Disablement benefit:
 - (i) Grants;
 - (ii) Benefits payable periodically;
 (Capital value)
 - (d) Death benefit:
 - (i) Lump-sum payments;
 - (ii) Benefits payable periodically;
 (Capital value)
 - (e) Funeral benefit.
- (2) Part of administrative expenditure ascribed to the Branch.
- (3) Part of other expenditure ascribed to the Branch.
- (4) Total expenditure.
- (5) Excess of income over expenditure.¹⁷

¹⁶ Credited to the Pension Reserved if positive; debited to the Pension Reserved if negative.

¹⁷ Credited to Industrial Benefits (Short-term) Reserve if positive; debited to Industrial Benefits (Short-term) Reserve if negative.

4(a). ACCOUNT SHOWING THE CURRENT
TRANSACTIONS OF THE DISABLEMENT AND DEATH
BENEFITS RESERVE

(Subsidiary to the Balance Sheet.)

INCOME

(1) Capital value of awards of periodically payable disablement and death benefits transferred from Income and Expenditure Account of Industrial Benefits Branch:

- (a) Disablement benefit;
- (b) Death benefit.

(2) Income from investment of the Disablement and Death Benefits Reserve.

(3) Total Income.

EXPENDITURE

(1) Payments of current periodically payable disablement and death benefits effected during the year.

(2) Total Expenditure.

(3) Excess of income over expenditure.¹⁸

5. INCOME AND EXPENDITURE ACCOUNT OF THE
MEDICAL BENEFITS BRANCH

INCOME

(1) Contributions.

(2) Income from the assets of the Medical Benefits Branch.

(3) Total income.

EXPENDITURE

(1) Administrative Expenditure ascribed to the Branch.

(2) Total Expenditure.

(3) Excess of income over expenditure.¹⁹

6. ANNUAL BALANCE SHEET

ASSETS

(1) Cash in hand and in the Bank.

(2) Sundry debtors.

(3) Investments:

¹⁸ Credited to Disablement and Death Benefits if positive; debited to Disablement and Death Benefits Reserve if negative.

¹⁹ Credited to the Medical Benefit Reserve if positive; debited to the Medical Reserve if negative.

- (a) Trustee securities;
- (b) Other securities;
- (c) Other investments.
 - (4) Premises.
 - (5) Stocks in hand.
 - (6) Office furniture and equipment.
 - (7) Motor vehicles.
 - (8) Assets of the Medical Benefits Branch.
 - (9) Other assets.
 - (10) Total assets.

LIABILITIES

- (1) Sundry creditors.
- (2) Reserves:
 - (a) Short-term Benefits Reserve;
 - (b) Pensions Reserve;
 - (c) Industrial Benefits (Short-term) Reserve;
 - (d) Disablement and Death Benefits Reserve;
 - (e) Medical Benefits Reserve.
 - (3) Liabilities of the Medical Benefits Branch.
 - (4) Other liabilities.
 - (5) Total liabilities.

NATIONAL INSURANCE (APPEALS AND REFERENCES) RULES

(SECTION 49)

[Commencement 7th October, 1974]

Citation. **1.** These Rules may be cited as the National Insurance (Appeals and References) Rules.

Interpretation. **2.** In these Rules, unless the context otherwise admits —

“the Act” means the National Insurance Act;

S.I. 64/1974. “an appeal tribunal” means an appeal tribunal constituted under regulation 7 and the Schedule

to the National Insurance (Determination of Claims and Questions) Regulations (hereinafter referred to as “the Determination of Claims and Questions Regulations”);

“the Board” means the National Insurance Board established under section 3 of the Act;

“Order” means an order of the English Rule; as adapted by paragraph (1) of Rule 2 of the Supreme Court Rules;

“Registrar” means the Registrar of the Supreme Court and “Registry” shall be construed accordingly;

“reserved question” means any question reserved for determination by the Board under regulation 3 of the Determination of Claims and Questions Regulations.

3. (1) Where any question of law arises in connection with —

- (a) the determination by the Board of a reserved question; or
- (b) the determination by an appeal tribunal of any question (other than a reserved or medical question) arising under the Determination of Claims and Questions Regulations,

Appeal against decision of Board or appeal tribunal on question of law.

and that question of law is not referred by the Board or appeal tribunal to the Supreme Court for decision, any person aggrieved by the decision of the Board or the appeal tribunal (as the case may be) may, by notice in writing within twenty-one days after delivery of the decision by the Board or appeal tribunal (or within such further time as the Board or appeal tribunal may allow) require the Board or appeal tribunal to state that question of law together with the facts relating thereto and its decision thereon.

(2) The Board or appeal tribunal (as the case may be) shall, as soon as may be after the receipt of the notice referred to in paragraph (1) of this rule, state the case and send it by registered post to the person aggrieved (hereinafter referred to as “the appellant”).

(3) A case stated by the Board or an appeal tribunal shall be signed by the Chairman or Deputy Chairman of the Board or the chairman of an appeal tribunal or by such person as the Board or appeal tribunal may authorise in that behalf.

Appeals to
Supreme Court.

4. (1) An appeal from —
- (a) a decision of the Board under paragraph (3) of regulation 5 of the Determination of Claims and Questions Regulations; or
 - (b) a decision of an appeal tribunal under paragraph (3) of regulation 12 of the said Regulations,

shall be instituted by notice of appeal which shall be lodged by the appellant in the Registry within twenty-one days after the delivery of the decision by the Board or appeal tribunal or within such further time as the Court may allow.

Schedule.

(2) The notice of appeal shall be served upon the Board or appeal tribunal and upon every party to the proceedings before the Board or appeal tribunal. The notice of appeal shall be in Form 1 of the Schedule to these Rules and shall state the grounds of the appeal.

(3) The case shall be entered in a list to be kept in the Registry for that purpose.

Reference by
Board or appeal
tribunal of
question to
Supreme Court.

5. (1) Proceedings on a reference of a question by —
- (a) the Board (under paragraph (1) of regulation 5 of the Determination of Claims and Questions Regulations); or
 - (b) an appeal tribunal (under paragraph (1) of regulation 12 of the said Regulations),

to the Supreme Court for decision, shall be instituted by notice in Form 2 of the Schedule to these Rules.

(2) The notice of reference shall be filed in the Registry and shall be entered in the list referred to in paragraph (3) of rule 4.

Questions to be
stated by the
Board of appeal
tribunal.

6. The Board or appeal tribunal shall state the question referred by it to the Court, together with the facts relating thereto in a case which shall be signed in the same manner as in paragraph (3) of rule 3.

Service of notice
of reference.

7. The Board or appeal tribunal shall serve a notice of reference, together with a copy of the case stated, upon the other party or parties to the proceedings, at least twenty-one days before the time fixed by the notice for making the reference.

- 8.** Unless the Court otherwise directs, the Registrar shall set down the appeal or reference for argument not earlier than ten clear days after service of the notice of appeal or reference. Set down for appeal.
- 9.** An appeal against a decision of the Board or an appeal tribunal on a question of law under the Determination of Claims and Questions Regulations, and a reference by the Board or appeal tribunal of any question of law thereunder shall be heard and determined by a single Justice. Appeals and references to be heard by single Justice.
- 10.** Upon the hearing of an appeal or a reference, the Court may, if it thinks fit, amend the case stated or order the case sent back to the Board or appeal tribunal to amend the same or to receive further evidence. Power of the Court to amend or remit case.
- 11.** The Court may, in the case of an appeal or a reference, draw inferences of fact from the facts set forth in the case, and shall determine all questions arising thereon and, on the hearing of an appeal, may reverse, affirm or amend the decision appealed against or make such order as it may think fit. Other powers of Court.
- 12.** The decision of the Court on an appeal or reference shall be embodied in an order, signed by the Justice, the original thereof shall be filed in the Registry and a copy sent to the Board and to every other party appearing at the hearing of the appeal or reference. Decision of court to be embodied in order.
- 13.** On the hearing of appeals or references under the Determination of Claims and Questions Regulations, the ordinary rules and procedure of the Court shall apply unless they are inconsistent with the Determination of Claims and Questions Regulations or these Rules. Application of ordinary rules and procedure.
- 14.** Order 111 of the English Rules shall cease to have effect. Cesser of application of Order 111 of English Rules.

SCHEDULE

FORM 1

COMMONWEALTH OF THE BAHAMAS IN THE SUPREME COURT

In the matter of the National Insurance (Determination of Claims
and Questions) Regulations,

and

In the matter of an appeal against a decision of the National
Insurance Board (*or appeal tribunal*) under regulation 5 (*or as the
case may be*) of the National Insurance (Determination of Claims
and Questions) Regulations.

A

B

Appellant

and

The National Insurance Board Respondent To: The
National Insurance Board of (*here insert the Board's
address*).

The above named appellant hereby appeals against the
decision of the National Insurance Board (*or as the case may
be*) delivered on the day of to the
effect that (*here state the effect of the decision against which
you are appealing*).

And that the general grounds of such appeals are- (*here state
each ground of appeal*)

Dated this day of, 20
Appellant (or Counsel and Attorney for Appellant).

FORM 2 (Rule 5(1))

COMMONWEALTH OF THE BAHAMAS IN THE SUPREME COURT

No.

In the matter of the National Insurance Act

and

In the matter of the determination of a reserved question under
the National Insurance (Determination of Claims and Questions)
Regulations (*or in the matter of a determination of the question
whether (here state question) by an appeal tribunal etc.*)

The National Insurance Board
(or appeal tribunal)

Plaintiff

and

A B

Defendants

C D

This is a case stated by the Chairman of the National Insurance Board (*or an appeal tribunal*) for the purpose of a reference on a question(s) of law which arose as hereinafter stated.

(*here set out the case in numbered paragraphs*)

Dated the day of
....., 20

Signed