

National Insurance and Social Security

Cap. 47.

**NATIONAL INSURANCE AND SOCIAL
SECURITY (EMPLOYMENT INJURY CLAIMS
AND PAYMENTS) REGULATIONS, 1984**

1984/149.
1996/60.
2006/139.

Authority: These Regulations were made on 8th October, 1984 by the Minister under section 50 of the *National Insurance and Social Security Act*.

Commencement: 1st May, 1984.

1. These Regulations may be cited as the *National Insurance and Social Security (Employment Injury Claims and Payments) Regulations, 1984*. Citation.

PART I

Preliminary

2. In these Regulations,

Interpreta-
tion.

"beneficiary", in relation to any benefit, means the person entitled to that benefit;

"benefit" means any benefit under section 21(3) of the Act;

"claimant" means a person claiming benefit, and includes, in relation to the review of an award or decision, a beneficiary under the award or affected by the decision;

"day" means a period of 24 hours from midnight to midnight, or such other period as may be prescribed;

"determining authority" means, as the case may require, the Board, the Director, the medical board, the appeal tribunal, the National Insurance Commissioner or the medical appeal tribunal appointed or constituted in accordance with any regulations for the time being in force under the Act;

"Director" means the Director, National Insurance;

"disablement pension" means disablement benefit paid or payable, as the case may require, in the form of a pension;

"disablement grant" means disablement benefit paid or payable, as the case may require, in the form of a grant;

"insured person" means a person insured pursuant to section 14 of the Act;

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

2006/139. "medical practitioner" means a registered medical or dental practitioner, and includes a person practising medicine or dentistry outside Barbados who, not being a registered medical or dental practitioner, is qualified to practise medicine or dentistry and is not prohibited from so doing under the law of the place where he practises;

"payable instrument" includes a draft, voucher, cheque, or pension order;

"pension" means a disablement benefit or a death benefit paid in the form of a pension;

"pensioner" means a person to whom any pension is payable;

1971/7. "relevant accident", "relevant injury" and "relevant loss of faculty" have the meanings respectively assigned to them by regulation 2 of the *National Insurance and Social Security (Employment Injury Benefit) Regulations 1970*;

"relevant person" means the person by whom the conditions for benefit are to be satisfied;

"sickness benefit", "survivors' benefit" or other benefit identified by name, means sickness benefit or survivors' benefit or other specified benefit payable in accordance with section 21 of the Act.

PART II

General

3. (1) Every insured person who suffers personal injury by accident shall give notice of the accident either in writing or orally as soon as practicable after the happening of that accident, and before the insured person has voluntarily left the employment in which he was injured. Notice of accidents.

(2) Notwithstanding paragraph (1), the notice required to be given by an insured person under that paragraph may be given by some other person acting on his behalf.

(3) Every notice referred to under paragraph (1) shall be given to the employer or to any foreman or other servant of the employer under whose supervision the insured person is employed at the time of the accident or to any person designated for the purpose by the employer and shall set out the specified particulars.

(4) For the purposes of this regulation and of regulation 4, the expression "specified particulars" means the particulars specified in the Schedule.

Schedule.

4. (1) Every employer shall take reasonable steps to investigate the circumstances of every accident of which notice is given to him or to his servant or agent and where there appears to be any discrepancy between the circumstances found by him as a result of his investigation and the circumstances appearing from the notice so given, he shall record the circumstances so found.

Obligations
of employ-
ers.

(2) Where an insured person had been injured as a result of an accident or alleged accident arising out of and in the course of his employment and either

- (a) absents himself from work within a period of 5 consecutive days next succeeding the day on which the accident or alleged accident happened; or
- (b) dies within a period of 5 consecutive days next succeeding the day on which the accident or alleged accident happened,

the employer shall report the accident and the specified particulars of the accident or alleged accident in writing to the Board within a period of 7 days reckoned from the date on which the accident or alleged accident happened.

(3) Every employer who is required to do so by the Board shall furnish to an officer of the Board, within such reasonable period as may be required, such information and particulars as shall be required

- (a) of any accident or alleged accident in respect of which benefit may be payable to or in respect of the death of a person employed by him at the time of the accident or alleged accident; or
- (b) of the nature of and other relevant circumstances relating to any occupation prescribed for the purposes of Part IV of the Act in which any person to whom or in respect of whose death benefit may be payable under that Part, was or is alleged to have been employed by him.

Obligations
of claim-
ants for
and
beneficia-
ries in
receipt of
benefits.

5. (1) Subject to paragraphs (2) and (3), every claimant for and every beneficiary in receipt of a benefit shall comply with every notice given by the Director which requires him

- (a) to submit himself to a medical examination by a medical authority for the purposes of determining the effect of the relevant accident or the treatment appropriate to the relevant injury or loss of faculty;
- (b) to submit himself to such medical treatment for the said injury or loss of faculty as is considered appropriate in his case by the medical practitioner in charge of the case or by any medical authority to whose examination he had submitted himself in accordance with this regulation;
- (c) to attend for and submit himself to medical examination by one or more registered medical practitioners appointed by the Board; or
- (d) to attend any course of vocational or industrial rehabilitation training which is considered by the Director to be appropriate in his case.

(2) Every notice given to a claimant or beneficiary requiring him to submit himself to medical examination shall be given in writing and shall specify the time and place of examination, but shall not require the claimant or beneficiary to submit himself to examination on a date earlier than the third day after the day on which the notice was sent.

(3) Every claimant and every beneficiary who is required in accordance with this regulation to submit himself to a medical examination, to medical treatment or to any course of vocational or industrial rehabilitation training

- (a) shall attend at every such place and at every such time as is specified in the notice; and
- (b) may, in the discretion of the Board, be paid such travelling and other allowances as the Board may determine.

(4) For the purposes of this regulation the expression "medical authority" means a medical board, a medical appeal tribunal or any legally qualified medical practitioner appointed or nominated by the Board.

PART III

Claims

6. (1) Subject to paragraph (2), every claim for benefit shall be made in writing to the Director on the form approved by the Board for the purpose of the benefit for which the claim is made, or in such manner, being in writing, as the Director may accept as sufficient in the circumstances of any particular case or class of cases.

Claims to be made to the Board in writing.

(2) No claim for disablement benefit shall be required in any case where incapacity for work due to the relevant accident continues beyond the end of the period of 52 weeks beginning with the day of the relevant accident.

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

Supply of claim forms.

8. Where a claim for benefit has been made on an approved form other than the form appropriate to the benefit claimed, the Director may treat the claim as if it had been made on the appropriate form, or require the claimant to complete the appropriate form.

Claims not on appropriate forms.

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

Information to be given when making a claim for benefit.

(2) Every person who makes a claim for benefit shall, in particular, furnish, if required by the Director, the following information concerning himself or in respect of the person for whom benefit is claimed:

- (a) his identity, date of birth, national registration number, usual place of residence, occupation and where appropriate, his relationship to the claimant;
- (b) his position in regard to benefit under the Act, available sources of income 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 the other person, where appropriate, confirming the information given.

(3) Every person who makes a claim for death benefit shall, in particular, furnish, if required by the Director, a death certificate relating to the deceased.

(4) Every person who makes a claim for funeral grant shall, in particular, furnish the following information if the Director so requires:

- (a) a death certificate relating to the deceased;
- (b) the estimate or account of the undertaker; and
- (c) in the case of any council, association or other authority, particulars relating to the relevant person as may be specified by the Director.

(5) The Director may accept in support of claims and in the absence of the certificate or documents referred to in this regulation

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

(6) Where a claim for benefit has been made by or on behalf of an employer, the employer of that employee shall upon request of

the Director, furnish the Director immediately with a certificate of insurable earnings for the requisite period for that employee in the form approved by the Director.

10. For the purposes of any claim to benefit, the day of receipt of the claim at the office of the Board shall be deemed to be the date of claim.

11. (1) Where 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 form is returned properly 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 a benefit in accordance with these Regulations may amend his claim at any time before a decision has been given on that claim by notice in writing delivered or sent to the office of the Board; and any claim so amended, may be treated as if it had been duly made in the first instance.

(3) Where a person who has made a claim for disablement benefit wishes, with a view to withdrawing his election to treat an injury benefit period as having come to an end, to withdraw a claim, he may deliver or send to the office of the Board written notice signed by him withdrawing the claim; and the notice so given shall, if it is received at the office of the Board before the claim has been finally determined, operate to withdraw the claim on the date of its receipt at the office.

(4) For the purposes of paragraph (3), the expression "injury benefit period" has the meaning assigned to it by regulation 3 of the *National Insurance and Social Security (Employment Injury Benefit) Regulations, 1970*.

12. Where it appears that a person who has made a claim for

(a) sickness benefit under section 21(1) of the Act may be entitled to injury benefit; or

(b) survivors' benefit under section 21(1) of the Act may be entitled to death benefit,

the claim may be treated by the Director as a claim in the alternative for that other benefit.

Time for
claiming
benefit.

13. (1) The prescribed time for claiming benefit is,

(a) in the case of injury benefit, not later than 4 days from the earliest day in respect of which the claim is made;

(b) in the case of

(i) disablement benefit and increases of the disablement benefit on account of incapacity or hospital treatment; or

(ii) death benefit,

the period of 3 months from the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled to that claim;

(c) in the case of funeral grant, the period of 6 months from the date of death of the deceased; and

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(d) in the case of medical expenses, not later than 6 months from the date on which the relevant expenses were incurred.

(2) Subject to paragraphs (3) and(4), a person failing to make a claim for benefit within the prescribed time shall be disqualified for receiving,

(a) in the case of injury benefit, benefit in respect of any day more than 4 days before the date on which the claim is made;

(b) in the case of

(i) disablement benefit and increases of that benefit on account of incapacity or the need for constant attendance or hospital treatment; or

(ii) death benefit,

benefit in respect of any period more than 3 months before the date on which the claim is made;

- (c) in the case of funeral grant, the grant;
- (d) in the case of medical expenses, the expenses.
- (3) Where in any case the claimant proves
 - (a) that on a date earlier than the date on which the claim was made, apart from satisfying the condition of making a claim, he was entitled to the benefit; and

- (b) that throughout the period between the earlier date and the date on which the claim was made there was good cause for delay in making a claim,

he shall not be disqualified under paragraph (2) for receiving any benefit to which he would have been entitled if the claim had been made on the earlier date.

- (4) No sum shall be paid by way of

- (a) injury benefit, disablement benefit or increases of disablement benefit on account of incapacity or the need for constant attendance or hospital treatment, death benefit or medical expenses in respect of any period more than 12 months before the date on which the claim therefor is duly made; and
- (b) a funeral grant if the claim for that grant is not duly made within 12 months after the date of the death of the person in respect of whom the grant is payable.

(5) Notwithstanding paragraphs (1) to (4), where it has been certified that a person is incapable of work and will continue to be incapable of work for the period specified in the certificate a claim for injury benefit may, unless the Director otherwise directs, be made by the person in respect of the period or such shorter period as the Director may in the circumstances determine, in either case commencing immediately after the date of the certificate.

(6) Any claim for injury benefit made under paragraph (5), may, if it is made on the form containing the certificate, be treated as a claim made also in respect of any days in that period referred to in paragraph (5) or in any such shorter period, as the case may be.

PART IV

Payments

Time and manner of payment of certain benefits and increases thereof and suspension of benefit pending appeals or references.

14. (1) Subject to these regulations, benefit to which paragraph (3) applies shall be paid in accordance with an award of that benefit as soon as is reasonably practicable after the award has been made by means of such payable instrument as the Board may determine or by cash payment in the home, if the circumstances of any particular case appear to render this appropriate.

(2) A person who applies for benefit or payment to which paragraph (3) applies shall produce on request satisfactory particulars of his identity.

(3) This paragraph applies to benefit by way of

(a) injury benefit;

(b) an increase of disablement benefit, under regulation 10 of the *National Insurance and Social Security (Employment Injury Benefit) Regulations, 1970* on account of incapacity or the need for constant attendance or on account of hospital treatment.

(4) Subject to paragraph (7), benefit to which paragraph (6) applies shall be payable

(a) in one sum by means of such payable instrument as the Board may determine; or

(b) by other means including cash payment in the home, if the circumstances of any particular case appear to render this appropriate.

(5) A person who applies for benefit or payment to which paragraph (6) applies, shall produce on request satisfactory particulars of his identity.

(6) This paragraph applies to benefit by way of

(a) funeral grant;

(b) death benefit payable in the form of a grant;

(c) disablement grant; and

(d) medical expenses.

(7) A death benefit payable in the form of a grant or a disablement grant may be payable by instalments of such amounts and at such times as appear reasonable to the Director in the circumstances of the case notwithstanding paragraph (4).

(8) An appeal shall not be brought against any decision that the grant referred to in paragraph (7) shall be payable by instalments or as to the amounts of any instalments or the time of payment of the instalments, but any decision may be varied by the Director at any time.

(9) So much of a pension as is awarded in respect of a period before the date of the award shall not be payable until after the expiration of a period of 21 days from that date; and where before the expiration of that period an appeal from the award or from a decision on which the award is based is brought, until after the decision on that appeal is given; and a grant, or any part thereof, excepting only funeral grant, shall not be payable until after the expiration of the time-limit for an appeal from the award thereof or from a decision on which the award was based, and where the appeal is brought, until after the decision on that appeal is given.

15. Subject to these regulations, disablement pension, death benefits payable in the form of pensions, or any other benefits shall be paid weekly in arrears or at such other intervals not exceeding 1 month as the Board determines by means of a payable instrument.

Time and manner of payment of disablement pension and death benefits payable in the form of pension.

16. (1) A payable instrument issued to any person remains the property of the Board.

Payable instruments to remain property of the Board.

(2) Any person having an unpaid payable instrument shall, on the termination of the benefit to which the payable instrument relates or when requested by an officer of the Board, deliver the payable instrument to the Board or to such person as the Board may direct.

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

17. (1) Subject to regulation 18, the right to a sum payable by way of benefit shall be extinguished where payment of that sum is not obtained within the period of 6 months from the date on which that sum is receivable in accordance with this regulation.

(2) In calculating the period of 6 months for the purposes of paragraph (1), no account shall be taken of

- (a) any period during which a payable instrument containing the sum is in the possession of the Board or any Post Office or other institution at which it is payable, other than a period after written notice has been given that the payable instrument is available for collection;
- (b) any period during which the Board has under consideration any representation that a payable instrument containing the sum has not been received or has been lost, mislaid or stolen;
- (c) any period during which the person concerned is for the time being unable to act by reason of any physical or mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed 1 year; or
- (d) any period during which the determination of any question as to such extinguishment is pending.

(3) For the purposes of this regulation, a sum payable by way of benefit shall, subject to paragraph (4) of this regulation and to paragraph (3) of regulation 23 be receivable

- (a) on or after the date indicated on the payable instrument;
- (b) on or after the date on which the payable instrument is authenticated and issued for payment;
- (c) in the case of a sum not contained in a payable instrument, where notice is given orally or in writing that the sum is available for collection
 - (i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post, and

- (ii) in any other case, on the date of the notice; and
 - (d) in any case to which sub-paragraph (a), (b) or (c) does not apply, 6 months or such longer period as may be determined by the Board in the circumstances of any particular case, after the date on which the sum became payable.
- (4) In determining when a sum is receivable under paragraph (3) the following provisions shall apply:
- (a) where a person proves that through no fault of his own he did not receive the payable instrument or written notice referred to under paragraph (3) until a date later than the appropriate receivable date determined in accordance with paragraph (3), the sum contained in the payable instrument or referred to in the notice shall be receivable
 - (i) on that later date, or
 - (ii) on the date which is 6 months after the appropriate receivable date,whichever is the earlier;
 - (b) where a person proves that through no fault of his own he has not received any payable instrument or written notice, referred to in paragraph (3) the sum contained in the original payable instrument referred to in the notice shall be receivable
 - (i) on the date determined in accordance with paragraph (3) on the basis of the issue of any further payable instrument or notice in respect of that sum, or
 - (ii) on the date that is 6 months after the receivable date determined in accordance with paragraph (3) on the basis of the original payable instrument or notice,whichever is the earlier;
 - (c) subject to paragraph (3) of regulation 23 and to sub-paragraph (b) of this paragraph, a sum that in accordance with this regulation, was receivable on any date, shall remain receivable on that date, notwithstanding the issue since that date of a payable instrument or notice in respect of that sum or any part of that sum.

(5) Any sum payable by way of benefit to a person who is for the time being unable to act shall be receivable in accordance with this regulation, notwithstanding his inability to give a receipt for the sum.

Payment of extinguished benefits.

18. Notwithstanding regulation 17, where a right to any sum payable by way of benefit is extinguished by virtue of regulation 17, the Board may authorise payment of that sum where it is of the opinion that such extinguishment would, in the circumstances, cause hardship.

Information to be given when claiming payment of benefit.

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

(2) Every beneficiary and every person by whom or on whose behalf sums payable by way of benefit are receivable, shall notify the Board in writing of any change of circumstances which he might reasonably be expected to know might affect the right to benefit, or to the receipt of the benefit, as soon as reasonably practicable after the occurrence of the change of circumstances.

(3) Where any sum is receivable on account of any other person the beneficiary shall, in such cases or classes of cases as the Director may direct, furnish a declaration signed by that other person confirming the particulars respecting him furnished by the claimant.

PART V

Miscellaneous

Forfeiture of benefit suspension of proceedings or claims and suspension of payments of benefit.

20. (1) Where in respect of any injury a person claiming or entitled to injury benefit or disablement benefit increased on account of incapacity

(a) without good cause behaves in any manner calculated to retard his recovery or fails without good cause to answer any reasonable enquiries by an officer of the Board directed to ascertain whether he is doing so;

(b) is absent from his place of residence without leaving word where he may be found; or

(c) undertakes work for which remuneration is or would ordinarily be payable,

he shall, subject to paragraphs (4) to (7), if the Director so decides, forfeit that benefit for such period as the Director determines.

(2) Where without good cause

(a) a claimant fails to furnish to the prescribed person any information required for the determination of the claim or of any question arising in connection with that claim;

(b) a beneficiary fails to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or to the receipt of that benefit or to furnish to the prescribed person any information required for the determination of any question arising in connection with the award; or

(c) a claimant for, or a beneficiary of injury benefit, disablement benefit, or medical expenses fails to comply with any requirement of regulation 5,

he shall, subject to paragraphs (4) to (7), if the Director so decides, forfeit any benefit claimed in respect of the period of such failure.

(3) Where a claimant or beneficiary wilfully obstructs, or is guilty of other misconduct in connection with any examination or treatment to which he is required under regulation 5 to submit himself, or any proceeding under the Act or regulations for the determination of his right to benefit or to the receipt thereof, he shall subject to paragraphs (4) to (7), forfeit any benefit claimed for such period as the Director determines.

(4) In any case to which paragraph (1), (2) or (3) relates, proceedings on the claim or payment of benefit, as the case may be, may be suspended for such period as the Director determines.

(5) Nothing in this regulation providing for the forfeiture of benefit for any of the following matters:

(a) failure to comply with the requirements of paragraph (1);

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- (b) failure to comply with the requirements of regulation 5;
- (c) obstruction of, or misconduct in connection with medical examination or treatment;
- (d) failure to comply with the requirements of paragraph (i) of regulation 21,

shall authorise the disentitlement of a claimant or beneficiary to benefit for a period of more than 6 weeks on any forfeiture.

(6) No person shall forfeit any benefit for refusal to undergo a surgical operation, not being one of a minor character.

(7) A person who would be entitled to any benefit but for the operation of this regulation shall be treated as if he were entitled to that benefit for the purpose of any rights or obligations under the Act and regulations, whether of himself or any other person, which depend on his being so entitled, other than the right to payment of that benefit.

Obligations
of bene-
ficiaries to
notify
changes of
circum-
stances.

21. (1) A person in receipt of benefit shall inform the Board of any change in his circumstances affecting his continued right to receive the benefit or the rate at which the benefit is payable, within 1 week of the occurrence of the change.

(2) The Board may require any person entitled to benefit to furnish from time to time documented evidence that he is alive and that the conditions governing the grant of the benefit continue to be fulfilled. If the evidence is not given to the Board within the time required, the Board may suspend payment of the benefit until the date on which the evidence is given.

Persons
unable to
act.

22. (1) Subject to paragraph (2), in the case of any person to whom benefit is payable or who is alleged to be entitled to benefit or by whom or on whose behalf a claim for benefit has been made, and who is a child or is unable for the time being to act, where no person or authority has been duly appointed under the law to have charge of his estate the Board may, upon written application being made to it, 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 the child or person.

- (2) Notwithstanding paragraph (1),
- (a) any appointment made by the Board under that paragraph shall terminate on the date immediately prior to the date on which the Board is notified that a person or authority has been duly appointed under the law;
 - (b) a person who has not attained the age of 18 shall not be capable of being appointed to act under this regulation;
 - (c) the Board may at any time in its absolute discretion revoke the appointment made under this regulation; and
 - (d) any person appointed under this regulation may, on giving the Board one month's notice in writing of his intention to do so, resign his office.

(3) Anything required by these Regulations to be done by or to any person to whom paragraph (1) refers who is a child or who is for the time being unable to act, may be done by or to any person or authority duly appointed under the law to have charge of that person or of his estate or by or to the person appointed under this regulation to act on behalf of that 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, notwithstanding that the person has not attained the age of 18.

23. (1) On the death of a person who has made a claim for benefit or who is alleged to have been entitled to benefit or in respect of whose death a funeral grant is alleged to be payable, the Board may appoint such person as it thinks fit to proceed with or to make a claim for the benefit, and the provisions of these Regulations shall apply subject to the necessary modifications to the claim. Payment on death.

(2) Where in respect of a person's death a funeral grant is payable, a claim may be made by any person specified in paragraph (3).

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(3) Subject to paragraph (10), any sum payable by way of benefit that is payable under an award on a claim proceeded with or made under paragraph (1) or (2) may be paid or distributed to or amongst persons claiming as personal representatives, legatees, next-of-kin, or creditors of the deceased, or amongst other persons; and the provisions of regulation 17 shall apply to that payment or distribution.

(4) Where a sum is paid under an award or claim made under paragraph (1) or (2)

(a) the receipt of a person who has attained the age of 16 shall be a good discharge to the Board and the Fund for any sum so paid; and

(b) where the Board is satisfied that a sum or part of a sum is needed for the benefit of any person under the age of 16, the Board may obtain a good discharge of that sum by paying the sum or part of the sum to a person over that age who need not be a person specified in this paragraph, who satisfies the Board that he will apply the sum so paid for the benefit of the person under the age of 16.

(5) Subject to paragraph (10), any sum payable by way of benefit to the deceased, payment of which he had not obtained at the date of his death, may, unless the right to that sum was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (3), and regulation 17 and that paragraph shall apply to the payment or distribution.

(6) Notwithstanding paragraph (5), and for the purposes of paragraph (1) of regulation 17, the period of 6 months shall be calculated from the date on which the sum was receivable by the person referred to in paragraph (3) and not from the date on which it was receivable by the deceased; and for those purposes the reference in paragraph (3)(d) of regulation 17 to the date on which the sum became payable shall be construed as a reference to the date of application to the Board made in accordance with paragraph (9).

(7) In relation to a funeral grant, the reference in paragraph (3) 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 grant to a person by virtue of this paragraph shall be subject to the condition that, if the person fails to carry out any

26. (1) Subject to paragraph (2), a person shall be disqualified for receiving any benefit for any period during which that person is undergoing imprisonment or detention in legal custody.

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

(2) Where the Board is satisfied that a person undergoing imprisonment or detention in legal custody has dependants who, immediately prior to such imprisonment or detention, were wholly or mainly maintained by him, it may authorise payment to or in respect of the dependants of an amount not exceeding one-half of the benefit which would otherwise be payable during such a period as the Board may allow, having regard to the particular circumstances of the case.

FIRST SCHEDULE

(Regulations 4(3), 8, 11 and 21)

1982/23.
1985/124.
1988/116.

1. (1) The daily rate of injury benefit shall be 90 percent of the average insurable weekly earnings of the insured person divided by 6.

(2) The weekly rate of disablement benefit for disablement assessed at 100 per cent shall be 90 per cent of the average insurable weekly earnings of the insured person.

(3) With effect from 2nd January, 1989, for the purposes of sub-paragraphs (1) and (2) the expression "the average insurable weekly earnings" means

1988/116.

(a) where the insured person has been in the service of the employer for 7 or more contribution weeks in the contribution quarter but one immediately preceding the contribution quarter in which the accident happened, the sum of the insurable earnings on which contributions were based (including any contributions credited in accordance with regulation 57 of the Benefit Regulations and regulation 24 of these regulations) over that period of the quarter but one immediately preceding the contribution quarter in which the accident occurred, divided by the number of the contribution weeks;

(b) where the insured person has not been in the service of the employer for 7 or more contribution weeks in the contribution quarter but one immediately preceding the contribution quarter in which the accident happened but has been in the service of the employer for 7 or more contribution weeks in the contribution quarter immediately preceding the contribution quarter in which the accident occurred, the sum of the insurable earnings on which contributions were based (including any contributions credited

in accordance with regulation 57 of the Benefit Regulations and regulation 24 of these regulations) over that period divided by the number of the contribution weeks; and

- (c) where the insured person has not been in the service of the employer for 7 or more contribution weeks in the contribution quarter immediately preceding the contribution quarter in which the accident occurred, the sum of the insurable earnings on which contributions were based (including any contribution credited in accordance with regulation 57 of the Benefit Regulations and regulation 24 of these regulations) over that part of the contribution quarter immediately preceding the contribution week in which the accident occurred divided by the number of the contribution weeks:

1988/116.

Provided that where, by reason of the shortness of the time during which the insured person has been in the employment of such employer, or of the casual nature of the employment, or of the terms of the employment, it is impracticable to compute a rate of remuneration which would be representative of the average insurable weekly earnings of the insured person at the date of the accident, regard may be had to the average insurable weekly earnings during the contribution quarter immediately preceding the contribution quarter but one in which the accident occurred of a person of similar earning capacity in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment.

(3A) Where, by reason of the shortness of the time during which the insured person has been in the employment of such employer, or of the casual nature of the employment, or of the terms of the employment, it is impracticable to commute a rate of remuneration which would be representative of the average insurable weekly earnings of the insured person at the date of the accident, regard may be had to the average insurable weekly earnings during the 13 contribution weeks previous to the contribution week in which the accident occurred of a person of similar earning capacity in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment.

(4) A period of service shall, for the purposes of this Schedule, be deemed to be continuous if a contract of service or apprenticeship, whether written or oral, express or implied, subsisted throughout that period.

1982/23.
1985/124.

2. (1) The weekly rate of death benefit available for payments to survivors shall be 90 per cent of the average insurable weekly earnings of the deceased.

(2) For the purposes of sub-paragraph (1), the average insurable weekly earnings of the deceased shall be calculated as in paragraph 1(3).