TURKS AND CAICOS ISLANDS

CHAPTER 17.09

NATIONAL INSURANCE ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 March 2018

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

Continued on the Inside Cover …

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CHAPTER 17.09

NATIONAL INSURANCE ORDINANCE

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CHAPTER 17.09

NATIONAL INSURANCE ORDINANCE

(Ordinances 10 of 1991, 8 of 1997, 9 of 1998, 3 of 2009, 31 of 2011, 11of 2012 12 of 2012 23 of 2014 and 19 of 2017and Legal Notices 24/1993 and 46/1993)

AN ORDINANCE TO ESTABLISH A SYSTEM OF NATIONAL INSURANCE PROVIDING FOR PAYMENTS IN RESPECT OF RETIREMENT, INVALIDITY, DEATH, SICKNESS, MATERNITY, EMPLOYMENT INJURY AND OLD AGE; TO ESTABLISH A NATIONAL INSURANCE FUND; AND FOR CONNECTED PURPOSES.

Commencement

*[sections 10 and 64 – 15 February 1992
remainder of Ordinance – 6 April 1992]*

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the National Insurance Ordinance.

Interpretation

2. (1) In this Ordinance—

"beneficiary" means a person entitled to a benefit;

"benefit" means a benefit which is payable under this Ordinance;

"Board" means the National Insurance Board established under section 27;

"child" includes a step-child, an illegitimate child and a child adopted in a manner recognised by law and the terms "parents", "mother" and "father" shall be construed accordingly;

"claimant" means a person claiming a benefit under this Ordinance;

"confinement" means labour resulting in the issue of a living child, or labour after twenty-eight weeks of pregnancy resulting in the issue of a child, whether alive or dead;

"contribution" means a contribution payable under this Ordinance;

"contribution week" means a period of seven consecutive days commencing at midnight on any Sunday;

"Director" means the Director appointed by the Minister under section 34 and includes any person appointed or empowered to act in his place;

"earnings", in relation to an employed person, means such wages or other remuneration as may be prescribed;

"employed person" means a person employed in an insurable employment specified in Part I of Schedule 1;

"employer" includes the Government of the Islands;

"employment injury" means an injury arising out of and in the course of employment;

"Fund" means the National Insurance Fund established under section 46;

"incapable of work" means incapable of engaging in gainful occupation by reason of some specific disease or bodily or mental disablement;

"insurable employment" means any employment specified in Part I of Schedule 1 or in Part I of Schedule 2;

"insured person" means a person insured under this Ordinance;

"medical practitioner" means a person registered under the Health Practitioners Ordinance to practise any of the health professions described in paragraphs *(a)*, *(b)*, *(c)* and *(j)* of Schedule 3 of that Ordinance;

"Minister" means the Minister for the time being responsible for national insurance;

"minor" means—

(a) a person under sixteen years;

(b) an unmarried person between the ages of sixteen and twenty-one who is receiving full time education or is attending a course of training approved by the Director; or

(c) an unmarried person over sixteen years who is permanently incapable of self-support;

"National Health Insurance Board" means the National Health Insurance Board established under section 12 of the National Health Insurance Ordinance; *(Inserted by Ord. 23 of 2014)*

"National Health Insurance Plan" means the National Health Insurance Plan established under section 3 of the National Health Insurance Ordinance; *(Inserted by Ord. 23 of 2014)*

"National Insurance Board Investment Policy Statement" means a statement prepared under section 46(5); *(Inserted by Ord. 23 of 2014)*

"negligible earnings" means earnings of an employed person below a prescribed weekly or monthly amount, and the term "negligible" shall be construed accordingly;

"prescribed" means prescribed by regulations under this Ordinance;

"regulations" means regulations made by the Minister under this Ordinance; and "residual amount" means the amount of money available after distribution is made to any person entitled thereto as a result of any warrant, distress or application referred to in section 63(1); *(Inserted by Ord. 23 of 2014)*

"self-employed person" means a person employed in insurable employment specified in Part I of Schedule 2.

"statutory body" means a body corporate established under any Ordinance; *(Inserted by Ord. 19 of 2017)*

"Turks and Caicos Islands Integrity Commission" means the Integrity Commission established by section 97 of the Constitution. *(Inserted by Ord. 23 of 2014)*

(2) For the purposes of this Ordinance—

(a) a person shall be deemed to be over any age if he has reached that age;

(b) a person shall be deemed to be between two ages if he has reached the lower, but has not reached the upper, of those two ages;

(c) a person shall be deemed not to have reached the age of sixteen years until the beginning of the sixteenth anniversary of the day of his birth, and similarly with respect to any other age.

PART II

INSURED PERSONS AND CONTRIBUTIONS

Persons to be insured

3. Subject to the provisions of this Ordinance, every person who is—

(a) between the ages of sixteen and sixty-five years; and

(b) gainfully occupied in an insurable employment,

shall be insured under this Ordinance and remain so insured throughout his life.

Description of classes of insured persons

4. (1) For the purposes of this Ordinance, insured persons shall be divided into the following three classes, namely—

(a) employed persons, that is to say persons gainfully occupied in an insurable employment specified in Part I of Schedule 1 but excluding persons specified in Part II of that Schedule;

(b) self-employed persons, that is to say persons, other than employed persons, gainfully occupied in an insurable employment specified in Part I of Schedule 2 but excluding persons specified in Part II of that Schedule;

(c) other insured persons as specified in section 5.

(2) Regulations may provide for—

(a) the inclusion or exception of specified categories of persons for all or any specified purposes of this Ordinance;

(b) the modification of the class of any insured person or the exclusion of any person from any class where it appears to the Minister desirable to make a regulation for that purpose by reason of the nature of that person's employment or occupation or otherwise;

(c) for treating for the purposes of this Ordinance or of such provisions thereof as may be prescribed the employment of any person as—

(i) continuing during periods of holiday, incapacity for work or such other circumstances as may be prescribed;

(ii) ceasing in such circumstances as may be prescribed.

(3) The Minister may by Order amend, repeal or repeal and replace all or any of the provisions of Schedules 1 or 2.

Voluntary insurance

5. (1) An insured person who is not liable to pay contributions shall be entitled to apply to and receive from the Director a certificate of voluntary insurance if he satisfies the prescribed conditions.

(2) A certificate of voluntary insurance may be cancelled by the Director if the person concerned fails to pay contributions within the prescribed conditions for voluntary insurance.

(3) An insured person holding a certificate of voluntary insurance may pay, within such time and in such manner as may be prescribed, a weekly contribution at the prescribed rate for any week for which he is not liable to pay a contribution as an employed or self-employed person.

Source of funds

6. (1) For the purpose of providing monies for meeting the expenditure on benefits and making any other payments which, under this Ordinance, are to be made out of the Fund, contributions shall, subject to the provisions of this Ordinance, be payable by insured persons and by employers.

(2) Regulations shall provide for fixing from time to time, the rates or amounts of contributions to be paid by such different categories of insured persons and employers as may be prescribed.

Contributions by insured persons and employers

7. (1) Except where regulations otherwise provide, an employer liable to pay contributions in respect of a person employed by him shall, in the first instance, be liable to pay also, on behalf of and to the exclusion of that person, any contribution as an insured person payable by that person for the same contribution period, and for the purposes of this Ordinance, contributions paid by an employer on behalf of an insured person shall be deemed to be contributions by the insured person.

(2) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the earnings of a person employed by him, or otherwise to recover from such person the employer's contribution in respect of that person.

(3) Notwithstanding the provisions of any law or contract to the contrary, the amount of any contribution paid by the employer on behalf of an employed person may be deducted or recovered from the earnings due from the employer to that person in respect of the contribution period or part thereof for which the contribution is payable and not otherwise.

(4) The employer of an apprentice shall be liable to pay both the contribution payable by him and the contribution payable by the apprentice in respect of any difference between the actual earnings of the apprentice and the prescribed earnings which the apprentice is deemed to receive and shall not be entitled to recover any part thereof from the apprentice.

Persons to be treated as employers

8. (1) In relation to persons who—

(a) are employed by more than one employer in any contribution week; or

(b) work under the general control or management of some person other than their immediate employer,

and in relation to any other cases for which it appears to the Minister that special provision is needed, regulations may provide that for the purposes of this Ordinance the prescribed person shall be treated as their employer.

(2) Regulations made under subsection (1) may provide for adjusting the rights between themselves of the person prescribed as the employer, the immediate employer and the persons employed.

Exceptions from liability for, and crediting of, contributions

9. Regulations may provide for—

(a) excepting insured persons from liability to pay contributions for such periods as may be prescribed or, without prejudice to the generality of the foregoing, for periods—

(i) of incapacity for work;

(ii) when their earnings are negligible, unless the person employed is an apprentice;

(b) crediting contributions to insured persons for periods for which such persons are excepted from liability to pay contributions

under paragraph *(a)* or for such other periods as may be prescribed.

General provisions as to the payment and collection of contributions

10. Subject to the provisions of this Ordinance, Regulations may provide for any matter relating or incidental to the payment and collection of contributions under this Ordinance and the regulations may provide for**—**

(a) the registration of insured persons and employers;

(b) the method of collection of contributions and the time within which those contributions are to be paid;

(c) the payment of additional charges if contributions are not paid within the prescribed time;

(d) the maintenance by employers and insured persons of registers and records and the particulars to be shown in such documents;

(e) requiring employers and other persons to supply to the Board, in such form and manner as may be required by the Board or prescribed, records of wages and contributions paid, and such information as may be required to determine liability to contribution;

(f) the maximum amount of earnings on which contributions shall be payable;

(g) the amount of earnings to be prescribed in respect of an apprentice if his actual earnings are below a prescribed amount;

(h) the income of self-employed persons on which contributions shall be payable or brackets of such income and the conditions for election of such brackets;

(i) the validity of contributions paid by the different classes or categories of insured persons and of credited contributions for the purposes of the conditions to be prescribed for the payment of benefits;

(j) treating for the purpose of any right to a benefit contributions paid after the due dates as having been paid on such dates as may be prescribed, or as not having been so paid;

(k) treating as paid, for the purpose of any right to a benefit, contributions payable by an employer on behalf of an insured person but not paid, when the failure to pay is shown not to have been with the consent or connivance of or attributable to any negligence on the part of the insured person;

(l) the circumstances in which a person shall be deemed not to be gainfully occupied;

(m) treating contributions of the wrong class or category or at the wrong rate as paid on account of contributions properly payable;

(n) the return of contributions paid in error.

Review of amounts of earnings and incomes

11. The Board shall review every two years the amount of negligible earnings, the maximum amount of earnings on which contributions are payable, the amount of earnings prescribed in respect of an apprentice and the amounts of the income brackets of self-employed persons in relation to the general level of earnings and other incomes; and shall report to the Minister on the findings of such review and of the possibility of revising those amounts having regard to the increase in the general level of earnings and other incomes since the said amounts were last fixed.

PART III

BENEFITS

Description of benefits

12. (1) Benefits shall be of the following kinds, namely—

(a) retirement benefit, that is to say periodical payments or a lump sum payment to an insured person on or after reaching the age of sixty years;

(b) invalidity pension, that is to say periodical payments to an insured person who is rendered permanently incapable of work otherwise than as a result of employment injury;

(c) survivors' benefit, that is to say periodical payments or a lump sum payment made in respect of an insured person who dies otherwise than in consequence of an employment injury;

(d) funeral grant, that is to say a payment on the death of—

(i) an insured person;

(ii) a person in a prescribed relationship to an insured person; or

(iii) a person entitled to a benefit under this Ordinance;

(e) sickness benefit, that is to say periodical payments to an insured person who is rendered temporarily incapable of work otherwise than as a result of employment injury;

(f) maternity benefit, that is to say—

(i) a maternity allowance to an insured woman by means of periodical payments in the event of her pregnancy or confinement;

(ii) a grant to an insured woman or to the wife of an insured man in respect of her confinement.

(2) In addition to the kinds of benefit specified in subsection (1), there shall be an employment injury benefit which shall comprise—

(a) injury benefit, that is to say, in addition to such free medical care and attention as may be prescribed, periodical payments to an employed person who suffers personal injury which is caused by an accident arising out of and in the course of his employment as an employed person or who develops any disease due to the nature of such employment;

(b) disablement benefit, that is to say, in addition to such free medical care and attention as may be prescribed, a payment or periodical payments to an employed person who, as a result of an injury or disease such as is referred to in paragraph *(a)*, suffers loss of faculty;

(c) death benefit, that is to say periodical payments in respect of an employed person who dies as a result of such injury or disease as is referred to in paragraph *(a)*;

(d) death grant, that is to say, a payment on the death of an employed person who dies as a result of such injury or disease as is referred to in paragraph *(a)*, or on the death of a person entitled to injury benefit, disablement benefit or death benefit:

Provided that, subject to sections 58 and 59, employment injury benefit shall not be payable in respect of an accident happening or a prescribed disease developing while the employed person is outside the Islands.

(3) Regulations may extend the payment of employment injury benefit to other classes or categories of insured persons or may exclude such payment from certain categories of employed persons.

Non-contributory old age pension

13. In addition to the benefits specified in section 12, a non-contributory old age pension shall be payable to such persons and under such conditions as may be prescribed.

Presumptions and general provisions relating to accidents

14. For the purposes of this Ordinance, an accident—

(a) arising out of the employment of an employed person shall be presumed, unless the contrary is shown, to have occurred in the course of his employment and, where the accident occurred in the course of the employment of such a person it shall be presumed, unless the contrary is shown, to have arisen out of his employment;

(b) shall be deemed to arise out of and in the course of the employment of an employed person, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if he is acting for the purpose of and in connection with the trade or business of the employer;

(c) happening while an employed person is travelling to or from his place of work, notwithstanding that he is under no obligation to his employer to travel by a particular route or by a particular vehicle, ship, vessel or aircraft, shall be deemed to arise out of and in the course of his employment:

Provided that an accident shall not be so deemed, if the employed person is travelling to or from his place of work, which he has left during working hours for a purpose not connected with his employment;

(d) happening to an employed person in or about any premises at which he is for the time being employed for the purposes of the trade or business of his employer shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

Rates of and conditions for benefits

15. Regulations shall provide for—

(a) the rates or amounts of benefits and the variation of such rates or amounts in different or special circumstances;

(b) the conditions subject to which and the periods for which a benefit may be granted;

(c) the date as from which a benefit is provided;

(d) the circumstances in which entitlement to a benefit may cease.

Claims

16. (1) It shall be a condition precedent to a person's right to a benefit—

(a) that he makes a claim therefor, within the prescribed time, to the Director on a form provided by the Director for the purpose or in such other manner as the Director may accept in the circumstances of the case; and

(b) that he produces such certificates, documents, information and evidence and attends at such office or place as the Director may require for the purpose of determining the right to a benefit.

(2) Regulations may require employers to maintain such records, to make such reports and to furnish such information as may be prescribed for the purpose of establishing any person's right to any benefit.

Time and manner of paying benefit

17. Regulations may provide—

(a) for disqualifying a person for the receipt of any benefit if he fails to make a claim therefor within the prescribed time:

Provided that any such regulations shall provide for extending the time within which the claim is to be made in the cases where good cause is shown for the delay;

(b) for the prevention of the receipt of two or more benefits and for the adjustment of benefits in special circumstances;

(c) for the time and manner of payment of benefit and the information to be furnished by any person when applying for payment;

(d) for adjusting the commencement and the termination of benefits so that, except in the case of sickness benefit and injury benefit, payments are not made in respect of periods less than a contribution week or at different rates for different parts of a contribution week;

(e) for the circumstances in which and the time for which a person is disqualified for or disentitled to receive benefits;

(f) for the circumstances in which a benefit may be forfeited or suspended and, without prejudice to the generality of the foregoing, for the suspension of payment of a benefit to or in respect of any person during any period when he is—

(i) absent from the Islands; or

(ii) undergoing imprisonment or detention in legal custody,

and for the circumstances and the manner in which payment of the whole or of any part of any benefit may instead of being so suspended be made during any such period to or for the maintenance of such persons as may be specified in the regulations, being persons nominated by the person entitled to the benefit or who in the opinion of the Director are dependants of that person;

(g) for the appointment of a person to exercise on behalf of—

(i) a claimant or beneficiary who is a minor;

(ii) a claimant or beneficiary who is unable to act; or

(iii) a claimant or beneficiary who becomes unable to act,

any right or power that the claimant or beneficiary is entitled to exercise under this Ordinance;

(h) for a person appointed in pursuance of regulations made under paragraph *(g)* to receive and deal with any sum payable by way of benefit on behalf of the claimant or the beneficiary;

(i) for a claim to be made or proceeded with in the name of a deceased person where the claim arose from the death of that person, and for the payment or distribution of the benefit to or amongst persons claiming as legal heirs, personal representatives, legatees, next of kin, dependants or creditors;

(j) for dispensing with the strict proof of the title of persons claiming in pursuance of regulations made under paragraph *(i)*;

(k) for such other matters as may be necessary for the proper administration of benefits, including the obligations of persons claiming any benefit on their own behalf or on behalf of others, and the obligations of beneficiaries and employers.

Occupational diseases and employment injuries not caused by accidents

18. (1) Subject to this section, a person who is under this Ordinance insured against personal injury caused by accident arising out of and in the course of his employment shall be deemed to be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of the employment.

(2) A disease or injury may be prescribed for the purposes of this Ordinance, in relation to any insured persons, if the Minister is satisfied that—

(a) it ought to be so prescribed, having regard to its cause and incidence and any other relevant consideration, as a risk of their occupations and not as a risk common to all persons; and

(b) it is such that, in the absence of special circumstances, its incidence in particular cases can be attributed with reasonable certainty to the nature of the employment concerned.

(3) Regulations prescribing any such disease or injury may provide that, subject to any prescribed conditions, a person who developed the disease on or at any date after a date specified in the regulations, not being a date earlier than 6 April 1992, shall be treated for the purposes of this Ordinance as if the regulations had been in force when he contracted the disease.

(4) Regulations may provide for determining the time at which a person is to be treated, for the purposes of this Ordinance, as having contracted any prescribed disease and where the person in question had previously suffered therefrom, the circumstances in which any such disease is to be treated as having recrudesced or been contracted afresh.

(5) Nothing in this section shall affect the right of any person to benefit in respect of a disease which is a personal injury caused by accident within the meaning of this Ordinance:

Provided that a person shall not be entitled to benefit in respect of a disease as being an injury caused by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the employment in which he is engaged.

Application to prescribed diseases and injuries of provisions as to benefits and claims

19. (1) Subject to subsection (2), the benefit payable under this section and under section 18 in respect of prescribed disease or injury, and conditions for receipt of such benefit shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment.

(2) Regulations may provide for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of the employment of any person where he was employed in any prescribed occupation at the time when, or within a prescribed length of time (whether continuous or not) before, he developed the disease or injury;

(ii) not to be due to the nature of the employment of any person unless he was employed in some prescribed occupation at the time when, or within a prescribed length of time (whether continuous or not) before, he developed the disease or injury.

Accidents or prescribed diseases or injuries in course of illegal employment

20. (1) Where a claim for a benefit is made under this Ordinance in respect of any accidental injury or of any prescribed disease or injury, the Director may determine for the purposes of this Ordinance that the relevant employment shall in relation to that accident or disease be treated as having been insurable employment, notwithstanding that by reason of a contravention of or non-compliance with some provisions contained in or having effect under any enactment passed for the protection of persons in employment or any class of such persons, the contract purporting to govern the employment was void or the person employed was not lawfully employed therein at the time when or in the place where the accident happened or the disease developed.

(2) In this section, "relevant employment" means, in relation to an accident, the employment out of and in the course of which the accident arises and, in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

Appointment of medical practitioners, medical boards etc

21. (1) Regulations may provide for the appointment of medical practitioners, medical boards or other professional persons for the purposes of this Ordinance, and for obtaining other professional services.

(2) There shall be paid out of the Fund to medical practitioners, members of boards or other professional persons appointed under such regulations such salary or other remuneration as the Board with the prior approval of the Minister may determine and such expenses incurred in connection with the work of such medical practitioners, boards or professional persons as may be so determined.

Constant attendance allowance

22. (1) An insured person who is entitled to disablement benefit in respect of disablement assessed at 100% shall also be entitled to constant attendance allowance at the prescribed rate and for so long as he is severely incapacitated as to require constantly the personal attendance of another person.

(2) Except as regulations may otherwise provide, constant attendance allowance shall not be payable to an insured person for any period during which

he receives treatment as an inpatient free of charge at a hospital or if the cost of such treatment is paid in whole or in part out of the Fund.

Repayment of benefit improperly received

23. (1) Without prejudice to any other provision of this Ordinance, if it is found that any person by reason of the non-disclosure or of misrepresentation by him of a material fact, whether the non-disclosure or misrepresentation was or was not fraudulent, has received any sum by way of benefit while he was not entitled to that benefit, he shall be liable to repay the sum so received by him.

(2) Where any person is liable to repay any sum received by him by way of benefit, that sum may, unless that person shows that he received it in good faith and without knowledge that he was not entitled to it, be recovered without prejudice to any other remedy by means of deductions from any benefit to which he thereafter becomes entitled.

Unrecovered benefit

24. Any sums paid on account of a benefit to or on behalf of persons not lawfully entitled thereto, so far as they are not recovered, shall be treated as expenditure on benefit and charged to the Fund.

Benefit to be inalienable

25. Every assignment of or charge on a benefit and every agreement to assign or charge a benefit shall be void; and on the bankruptcy of a beneficiary the benefit shall not pass to any trustee or other person acting on behalf of the creditors.

Matters affecting entitlement to be reported

26. (1) A person in receipt of any benefit shall report to the Director as soon as possible every event or fact which affects or is likely to affect the continuance of the right to benefit or the rate thereof.

(2) The provisions of subsection (1) shall also apply to a person authorised to receive payment of a benefit on behalf of some other person.

PART IV

ADMINISTRATION, FINANCE AND LEGAL PROCEEDINGS

Administration

Establishment of National Insurance Board

27. (1) For the purposes of this Ordinance, there shall be established a Board, to be known as the National Insurance Board, in which the Fund shall be vested and which shall have and may exercise the powers, rights, authorities and functions conferred upon it by this Ordinance, and shall be charged with and shall perform the duties and obligations imposed upon it thereby.

(2) The Board shall be responsible to the Minister for the administration of this Ordinance, and shall consider and advise upon all matters which may from time to time be referred to it by the Minister, and shall furnish to the Minister such information as he may reasonably require about the operation of this Ordinance.

(3) The provisions of Schedule 3 shall apply as respects the constitution of the Board and its proceedings.

(4) The Board shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(5) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document or notice and shall presume that it was duly affixed.

(6) The head office of the Board shall be established at such place in the island of Grand Turk as the Minister on the recommendation of the Board may appoint and, for the efficient and proper performance of its functions and duties, it may establish branch offices in the other islands.

(7) If at any time the Board is not functioning, all the powers, rights, authorities and functions conferred upon the Board by this Ordinance shall be exercised by the Minister, who shall be charged with all duties and obligations with which the Board is charged:

Provided that the Minister may delegate in writing any of the powers and functions conferred upon him under this subsection to the Permanent Secretary of the Ministry for which the Minister is responsible.

(8) If at any time it appears to the Minister that the operations of the Board are not being carried out in the best interest of the insured persons or that the Board has failed to act in conformity with the provisions of this Ordinance, the Minister may, after such inquiry as may be necessary and on the advice and recommendations of the Turks and Caicos Islands Integrity Commission, take steps to rectify the situation in the manner recommended. *(Inserted by Ord. 23 of 2014)*

(9) Nothing in this Ordinance shall be construed as precluding the Board from discharging any statutory responsibility in respect of the National Health Insurance Plan and for that purpose the Board may with the approval of the

Minister enter into an agreement upon such terms as agreed with the National Health Insurance Board. *(Amended Ord. 3 of 2009)*

Remuneration of members of Board

28. Members of the Board shall be paid from the Fund such remuneration and travelling and other allowances as may be fixed by the Minister.

Conditions of leave of absence

29. The Minister may grant leave of absence to any member of the Board upon such conditions as to remuneration or otherwise as the Minister thinks fit.

Termination of appointment

30. The Minister may terminate the appointment of a member or an acting member for misbehaviour or physical or mental incapacity.

Vacation of office

31. A member shall be deemed to have vacated his office—

(a) if his appointment is terminated by the Minister under this Ordinance;

(b) if he becomes bankrupt or compounds with his creditors or makes any assignment of his remuneration for their benefit;

(c) if he becomes of unsound mind;

(d) if he resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Minister; or

(e) if he absents himself, except with leave granted by the Minister, from three consecutive meetings of the Board.

Delegation of powers by Board

32. (1) The Board may, in relation to any particular matter or class of matters or to any particular part of the Islands, by writing under its seal, delegate to any officer or employee of the Board or any prescribed person all or any of its powers under this Ordinance.

(2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Board.

Committee of the Board

33. (1) Subject to the provisions of this Ordinance, the Board may appoint such committees to assist the Board in relation to a matter as the Board thinks fit.

(2) A committee appointed under this section shall consist of such persons, whether members of the Board or not, as the Board thinks fit, but any committee so appointed shall include not less than two members of the Board.

(3) A member of a committee who is not a member of the Board may be paid, in respect of attendance at meetings of the committee or while engaged with the approval of the Board on the business of the Board, such fees, expenses and allowances as the Minister may determine.

(4) A committee shall make such inquiries and furnish to the Board such reports with respect to the matter in relation to which it has been appointed as the Board may direct.

(5) Without limiting the generality of subsection (1), the Board shall appoint an Investment Committee and an Audit Committee. *(Inserted by Ord. 23 of 2014)*

Director

34. (1) The Minister shall, after consultation with the Board, appoint as Director a fit and proper person having the relevant qualifications and experience, who shall be the Chief Executive Officer of the Board, on such terms and conditions as the Minister thinks fit. *(Amended by Ord. 23 of 2014)*

(2) The Director shall, subject to the provisions of this Ordinance and any directions by the Minister or the Board, be responsible for the management of the Fund and in particular for—

(a) the collection of contributions under this Ordinance;

(b) the payment of benefit and of the expenditure necessary for the administration of this Ordinance; and

(c) accounting for all monies collected, paid or invested under this Ordinance.

(3) Except where this Ordinance or any other Ordinance otherwise provides, the Director shall be responsible to the Board for the day to day operations of the Board. *(Inserted by Ord. 19 of 2017)*

Delegation by the Director

35. (1) The Director may, in relation to any matter or class of matters, by writing under his hand, delegate to an officer or employee of the Board any of his functions under this Ordinance.

(2) Every delegation under this section shall be revocable at will, but no delegation shall prevent the performing of any function by the Director.

Deputy Director

36. (1) The Board may appoint a fit and proper person to be the Deputy Director, to assist the Director in the performance of his functions under this Ordinance.

(2) During the temporary absence of the Director or while the post of Director is for any reason vacant, the Deputy Director shall have and may exercise all the powers, duties and functions of the Director:

Provided that in the event that the post of Director is vacant, the Minister may appoint any other fit and proper person to act as Director until such time as he appoints a Director.

(3) Subject to the proviso to subsection (2), the fact that the Deputy Director exercises any power, duty or function under subsection (2) shall be sufficient evidence of his authority to do so.

Staff of the Board

37. (1) The Board shall employ such other officers and employees as it may consider necessary for the administration of this Ordinance.

(2) The terms and conditions of service of the staff of the Board, except those of the Director, shall be determined by the Board in consultation with the Minister.

(3) With the prior approval of the Minister, the Board may make Staff Rules to regulate the conditions of service of all its employees, other than the Director, which may include matters concerning discipline, leave, termination of appointment and retirement.

(4) Subject to the provisions of the Staff Rules, the Director shall be responsible for the direction of the staff of the Board.

Maximum expenditure on administration

38. The Minister may in his discretion determine or prescribe the maximum annual amount to be expended out of the Fund on the administration of this Ordinance.

Designation and powers of inspectors

39. (1) The Board may designate such officers in its service as it thinks fit to be inspectors for the purpose of giving effect to the provisions of this Ordinance.

(2) An inspector shall, for the purposes of giving effect to the provisions of this Ordinance, have power to do all or any of the following things, namely—

(a) to enter at all reasonable times any premises or place liable to inspection under this section;

(b) to make such examination and enquiry as may be necessary for ascertaining whether the provisions of this Ordinance are being or have been complied with in any such premises or place;

(c) to make enquiries, either alone or in the presence of such other person as he thinks fit, with respect to any matters under this Ordinance on which he may reasonably require information, from every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an insured person, and to require every such person to answer such enquiries;

(d) to exercise such other powers as may be necessary for the administration of this Ordinance.

(3) Subject to subsection (4), the occupier of any premises or place liable to inspection under this section, any person who is or has been employing any person, the servants and agents of any such occupier or other person and any insured person shall furnish to an inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid by or in respect of any person, or whether any benefit is or was payable to or in respect of any person.

(4) Every inspector shall be furnished with a certificate of his appointment and on his application for admission to any premises or place for the purposes of this Ordinance he shall, if so required, produce the certificate.

(5) The premises and places liable to inspection are any premises or place in which an inspector has reasonable grounds for believing that any persons are employed, but such premises or place do not include any private dwelling house not used by or with the permission of the occupier for the purpose of a trade or business.

(6) No person shall be required under this section to answer any questions or give any evidence tending to incriminate himself.

Proceedings against officers and employees of the Board

40. Notwithstanding any other enactment, no Court, Tribunal or other body shall entertain or proceed to judgement in any claim against any member of the Board or any agent, officer or employee of the Board arising from any act or omission of such member, agent, officer or employee done or omitted to be done in the performance of his functions, powers or duties under this Ordinance, unless the plaintiff shall have both pleaded and proved that the act or omission complained of was malicious or done or omitted to be done in bad faith or without reasonable and probable cause. *(Amended by Ord. 31 of 2011)*

Confidentiality

41. (1) No person who acquires information in his capacity as a member, officer, employee or agent of the Board shall without the express or implied consent of the person to whom the information relates disclose to any other person such information relating to the identity, assets, liability or medical condition of the second-mentioned person except—

(a) for the purpose of the performance of his duties or the exercise of his functions under this Ordinance;

(b) for the purpose of the performance of his duties within the scope of his employment;

(c) when the Board is lawfully required to make disclosure by a court of competent jurisdiction;

(d) on the request from a Permanent Secretary of a government ministry, the Commissioner of Police or the director or chief executive officer of another statutory body pursuant to a

memorandum of understanding agreed to by the Board and the relevant ministry or other statutory body; or

(e) to a person with a view to the institution of, or the purpose of—

(i) criminal proceedings;

(ii) disciplinary proceedings, whether within or without the Islands, relating to a counsel or attorney, auditor, accountant or actuary of his professional duties; or

(iii) disciplinary proceedings relating to the discharge by a public officer of his duties.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $10,000 or to imprisonment for a term of twelve months, or to both.

(Inserted by Ord. 23 of 2014)

Determination of claims and questions

42. (1) Regulations may provide for the determination by the Board, by the Director, or by a person or tribunal appointed or constituted in accordance with the regulations, of any question arising under or in connection with this Ordinance, including any claim to benefit, and they may also provide that any decision made thereunder on any such question shall be final.

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may in relation to the determination of questions in accordance with the regulations include provision—

(a) as to the procedure to be followed, the form of any document, the evidence to be required, and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;

(b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision, or for producing any evidence;

(c) for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses;

(d) for the representation of one person at the hearing of a case by another person whether having professional qualifications or not.

(3) Regulations made under subsection (1) may provide for—

(a) the reference to the Supreme Court of any question of law arising in connection with the determination of any question under the regulations;

(b) appeals to the Supreme Court from the decision of the Board or of a person or tribunal on any such question of law.

(4) Provision shall be made by rules of court for regulating reference and appeals to the Supreme Court under this section and for limiting the time within which appeals may be brought thereunder.

(5) Notwithstanding anything in any enactment, the decision of the Supreme Court under this section shall be final and the Court may make such order as to costs as it thinks just.

Interim payments, arrears and repayments

43. (1) Regulations shall provide for matters arising—

(a) pending the determination under this Ordinance (whether in the first instance or on appeal or on review) of any claim for a benefit or of any question affecting the right of any person to a benefit or to the receipt thereof; or

(b) out of the revision or appeal or review of any decision on any such claim or question.

(2) Without prejudice to the generality of subsection (1), regulations thereunder shall include provision—

(a) for the suspension of a benefit where it appears to the Director that there is or may be a question whether the conditions for the receipt thereof are or were fulfilled or whether the award ought to be revised;

(b) as to the date from which any decision on review is to have effect;

(c) for treating any benefit paid to any person which it is subsequently decided was not payable as properly paid, or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit;

(d) for treating a benefit paid to a person in respect of a child as properly payable for any period, notwithstanding that by reason of a subsequent decision another person is entitled to the benefit in respect of that child for that period, and for reducing or withholding accordingly any arrears payable for the period by virtue of that subsequent decision.

Payments to persons and tribunals appointed or constituted under section 42

44. There shall be paid out of the Fund to a person appointed under regulations made under section 42 and to a member of a tribunal constituted in accordance with such regulations, such remuneration and allowances, if any, and such amount in respect of expenses incurred in connection with his work as such, as the Board with the prior approval of the Minister may determine.

Actuarial review of operation of Ordinance

45. (1) The Board shall, with the assistance of an actuary approved by the Minister, review the operation of this Ordinance during the period ending with the thirty-first day of March in every third year; and at each such review shall make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of contributions to support benefits, having regard to its liabilities under the Ordinance:

Provided that the Minister may at any particular time direct that such a review be carried out at shorter periods.

(Amended by Ords. 8 of 1997 and 9 of 1998)

(2) The Minister shall, as soon as possible after receiving a report in accordance with subsection (1), lay a copy of it before the House of Assembly.

Finance

Establishment of National Insurance Fund

46. (1) For the purposes of this Ordinance, there shall be established under the control and overall management of the Board a Fund called "the National Insurance Fund".

(2) There shall be paid into the Fund—

(a) all contributions;

(b) all rent, interest, dividends and investments and other income derived from the assets of the Fund;

(c) all sums recovered for the Fund under this Ordinance; and

(d) all sums properly accruing to the Fund under this Ordinance including, without prejudice to the generality of the foregoing, the repayment of benefit.

(3) There shall be paid or met out of the Fund—

(a) all claims for benefits;

(b) all contributions which fall to be refunded under the provisions of this Ordinance;

(c) all expenses properly incurred in the administration of this Ordinance, including monies expended on the purchase of real property and disbursements by way of remuneration, allowances and expenses.

(4) Regulations shall provide for the financial organization of the monies of the Fund by—

(a) the establishment and maintenance of different autonomous branches for different purposes;

(b) the establishment and maintenance within the branches of different reserve funds.

(5) The Board shall, after consultation with the Minister, prepare a statement of investment policies and guidelines for the management of the Fund. *(Inserted by Ord. 23 of 2014)*

(6) With the prior approval of the Minister, any moneys forming part of the reserves of the Fund may from time to time be invested by the Board in accordance with the provisions of this Ordinance and the National Insurance Board Investment Policy Statement. *(Amended by Ord. 23 of 2014)*

Audit

47. (1) The accounts of the Board shall be audited annually by a qualified accountant approved for the purpose by the Permanent Secretary, Finance (in this Ordinance referred to as "the Auditor").

(2) The Auditor shall forward his report to the Board and a copy thereof to the Minister.

(3) The Minister or an officer delegated by him shall at all reasonable times have access to the books, accounts and other documents of the Board and may call for such explanation and information as he may require or examine any officer of the Board.

(4) The Permanent Secretary, Finance, shall not approve an accountant under subsection (1) unless he is satisfied that the accountant has had at least five years' experience auditing the accounts of public financial institutions.

Annual report and account to be submitted to the Minister

48. (1) The Board shall**—**

(a) in each year ending 31 March prepare a report of its activities during the last preceding year and shall furnish that report to the Minister not later than the 30th day of September;

(b) submit to the Minister every account certified by the Auditor together with the report of the Auditor thereon, within one month of such certification; and

(c) submit annually to the Minister an account of the securities in which monies of the Fund are for the time being invested. *(Amended by Ord. 8 of 1997)*

(2) The Minister shall cause a copy of every account or report submitted to him under this section to be laid before the House of Assembly.

Defrayment of initial expenditure and temporary insufficiency of funds

49. (1) The initial expenditure incurred in bringing this Ordinance into force shall be defrayed out of assets of the Fund as soon as may be practicable.

(2) Any temporary insufficiency in the assets of the Fund to meet the liabilities of the Fund under this Ordinance shall be met from money provided by the General Revenue of the Islands.

(3) Any monies provided by the General Revenue of the Islands under subsection (2) shall be repaid out of the Fund as soon as may be practicable.

Expenses of Ministry

50. There shall be paid to the National Health Insurance Board out of the Fund at such times and in such manner as the Board may direct, such sums as are actuarially assessed to be the amount to be transferred to the National Health Insurance Board for providing medical services to insured persons who suffer personal injury as a result of their employment. *(Substituted by Ord. 23 of 2014)*

Review of amounts of benefits

51. The Board shall review from time to time the amounts of benefits with a view to ascertaining whether those benefits have maintained their value in relation to the cost of living and the general level of earnings, and shall report to the Minister on the findings of such review and of the possibility of revising the amounts having regard to the financial condition of the Fund and the general economic conditions in the Islands.

Legal Proceedings

Offences and penalties

52. (1) An employer or a self-employed person who fails or neglects to pay any contribution or additional charge which is payable under this Ordinance commits an offence and is liable on summary conviction to a fine of $200 or to imprisonment for a term of three months, or to both; and if the offence is a continuing one to a further fine of $50 for every day or part of a day during which the offence has continued.

(2) Where a person is convicted of an offence under subsection (1), the Court by or before which he was convicted, in addition to any fine or other punishment, shall order that person to pay to the Fund a sum equal to the amount of any contribution or additional charge which he has been convicted of failing or neglecting to pay, together with any further additional charge proved to be due at the date of the conviction.

(3) Any sum ordered by a court to be paid to the Fund under this section shall be recoverable as a penalty.

(4) Any sum paid by an employer or self-employed person under subsections (1), (2) or (3) shall be treated as a payment in satisfaction of the unpaid contributions or additional charge, and any of those contributions which are payable by any employed person shall not be recoverable from that employed person.

(5) An employer who deducts or recovers the whole or any part of the contributions of the employer in respect of any person from the wages or other remuneration of that person commits an offence and is liable on summary conviction to a fine of $500 and in default of payment of the fine to imprisonment for a term of six months; and where an employer is convicted of an offence under this subsection, the Court by or before which he was convicted shall, in addition to any fine, order the employer to pay to that person such sum

as has been proved to have been deducted or recovered from the wages or other remuneration of that person.

(6) Any person who—

(a) for the purpose of obtaining any benefit or other payment under this Ordinance, whether for himself or for some other person, or for any other purpose connected with this Ordinance—

(i) knowingly makes any false statement or false representation; or

(ii) produces or furnishes, or causes or knowingly allows to be produced or furnished any document or information which he knows to be false in a material particular; or

(b) wilfully hinders, obstructs or molests the Director or an officer designated as inspector under section 39 in the exercise of any of the powers or functions conferred upon either of them by or under this Ordinance, commits an offence and is liable on summary conviction to a fine of $500 or to imprisonment for a term of six months, or to both.

(7) A person who commits an offence under this Ordinance for which no other penalty is provided is liable on summary conviction to a fine of $100; and if the offence of which he is convicted is continued after the conviction he commits a further offence and is liable to a fine of $100 for every day or part of a day during which the offence is so continued.

(8) If any employer, being a body corporate, fails to pay to the Fund any sum which the employer has been ordered to pay under this section, such sum or part thereof as remains unpaid shall be a debt due to the Fund jointly and severally from any of the directors of the body corporate who knew or could reasonably have been expected to know of the failure to pay that sum or that part thereof.

(9) Nothing in this section shall be construed as preventing the Board from recovering any sums due to the Fund by means of civil proceedings.

(10) In this section, "additional charge" means an additional charge required by regulations made under section 10*(b)* to be paid if contributions are not paid within the prescribed time.

Penalties which may be imposed by the Board

53. (1) Where an authorised person has reason to believe that any person has committed an offence under section 52(1), he may, subject to subsection (2), by written notice given to the alleged offender—

(a) indicate that he believes that that person has committed the alleged offence; and

(b) advise that if the alleged offender does not wish to have proceedings brought against him under that section, he may pay to the Board, within such time after the giving of the notice as may be fixed by the Board and set out in the notice, such sum of

money not exceeding $50, or if the alleged offence is believed to be a continuing one, not exceeding $50 for every day or part of a day during which the offence is believed to have continued, as may be fixed by the Board and set out in the notice, together with any sum of money believed to be due in respect of unpaid contributions and additional charge set out in the notice.

(2) An authorised person shall not give notice under subsection (1) unless he has first consulted the Board and the Board is satisfied that the procedure set out in that subsection would adequately punish the alleged offender.

(3) Where the sums of money set out in the notice have been paid within the time set out therein, the bringing of proceedings and the imposition of penalties under section 52 are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for an offence under that section.

(4) Payment of any sums of money under this section shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

(5) Notwithstanding section 7(3), contributions paid to the Board under this section which are payable on behalf of any employed person shall not be recoverable by the employer from that employed person.

(6) In this section, "authorised person" means the Director or such officer of the Board as may be specifically authorised by the Director in writing to give notices under this section.

General provisions as to prosecutions under this Ordinance

54. (1) Notwithstanding any law to the contrary, proceedings for an offence under this Ordinance may, with the consent of the Director, be instituted and conducted by any officer or officer falling within a class of officers of the Board authorised to do so by the Director, whether or not any such officer is or is licensed to practise as an attorney-at-law.

(2) Notwithstanding any provision in any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Ordinance may be commenced at any time within the period of six months from the date on which evidence sufficient in the opinion of the Director to justify a prosecution for the offence comes to his knowledge or within the period of twelve months after the commission of the offence whichever period last expires and for the purpose of this subsection a certificate purporting to be signed by or on behalf of the Director as to the date on which such evidence came to his knowledge shall be conclusive evidence thereof.

(3) In any proceedings for an offence under this Ordinance the wife or husband of the defendant shall be competent to give evidence whether for or against the defendant, but a wife or husband shall not be compelled to give evidence, or in giving evidence to disclose any communication made to her or him by the defendant during the subsistence of the marriage.

(4) Where an offence under this Ordinance is committed by a body corporate, partnership, firm or any other body of persons, every person who at the time of the commission of the offence was a director, manager, secretary, partner or other officer of that body corporate, partnership, firm or other body also commits the offence and he as well as that body shall be liable to be proceeded against and penalised accordingly. *(Substituted by Ord. 23 of 2014)*

(5) No person referred to in subsection (4) shall be found guilty of an offence where he proves that—

(a) the act constituting the offence took place without his knowledge or consent; or

(b) he exercised all due diligence to prevent the commission of the offence. *(Inserted by Ord. 23 of 2014)*

Civil proceedings to recover sums due

55. (1) All sums due to the Fund under this Ordinance shall be recoverable as debts due to the Fund and without prejudice to any other remedy may be recovered summarily as a civil debt.

(2) Proceedings for the summary recovery of sums due to the Fund may, notwithstanding anything in any enactment to the contrary, be brought at any time within three years from the time when the matter complained of arose.

(3) Notwithstanding any law to the contrary, proceedings for the summary recovery as civil debts of sums due to the Fund may be instituted and conducted by an officer of the Board authorised in that behalf by special or general directions of the Director, whether or not that officer is or is licensed as an attorney-at-law.

(4) In the recovery of unpaid sums in pursuance of subsection (1), the Director may, on being satisfied that outstanding contributions and additional charges are owed to the Fund, certify, in relation to the person who owes those sums, in a certificate called an unpaid national insurance certificate, the sums due and payable by that person.

(5) An unpaid national insurance certificate may be filed by the Director in the Magistrate's Court; and it shall be registered in the court in which it is filed.

(6) Subject to subsections (7) and (8), an unpaid national insurance certificate has, after the expiration of twenty-one days from the date on which it is filed, the same force and effect as a judgment of the court in which it is registered in favour of the Board against the person named in the certificate for the sum specified in the certificate and also for all reasonable costs and charges upon the registration of the certificate.

(7) A person to whom an unpaid national insurance certificate relates may file a defence in the court where the certificate is registered and serve a copy of such defence on the Director within fourteen days of receipt of service of the certificate and in such circumstances the court shall set and inform the parties of a date for hearing of the matter.

(8) Proceedings may be taken on an unpaid national insurance certificate as if it were a judgment of the court in which it was registered.

(9) Where an unpaid national insurance certificate is filed by the Director in a Magistrate's Court, the Director shall, without delay, deliver or caused to be delivered a copy of the unpaid national insurance certificate to the person to whom that certificate relates and, if the copy of the certificate is not so delivered within seven days from the date of the filing, then subsections (6) and (7) shall cease to have effect with respect to that certificate. *(Amended by Ord 19 of 2017)*

Garnishment

56.(1) Where the Director is satisfied that a person is indebted to or liable to make a payment to another person and that other person is indebted to the Fund, the Director may deliver to the first-mentioned person a demand for payment stating—

(a) the name of the person indebted to the Fund;

(b) the amount of the debt due to the Fund including any additional charge thereon; and

(c) where the first-mentioned person is the employer of the person indebted to the Fund, the amount demanded for each pay period, being an amount not exceeding one-third of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration.

(2) Every person who receives a demand for payment under subsection (1) relating to one of his employees shall pay to the Board at the same time as he would pay that employee the amount demanded by the Director or the amount of the employee's indebtedness to the Fund whichever is the lesser, and shall continue to do so on each occasion that the employee is entitled to be paid until the employee's indebtedness to the Fund is satisfied.

(3) Every person who receives a demand for payment under subsection (1) relating to someone other than one of his employees shall, if he is indebted to or liable to make a payment to that other person, pay to the Board the amount of his indebtedness or the amount which he is liable to pay to that person or the amount of that person's indebtedness to the Fund whichever is the lesser.

(4) Every person who has discharged any liability to a person indebted to the Fund after receiving a demand for payment under subsection (1), without complying with subsection (2) or (3) is liable to pay to the Board an amount equal to the liability discharged or which he was required under subsection (2) or (3) to pay to the Board whichever is the lesser.

(5) The payment of an amount to the Board under subsection (2) or (3) operates as a discharge of any liability of the person making the payment to the person to whom the payment would, but for this section, have been paid, to the extent of the amount paid to the Board.

(6) Any person who fails to pay to the Board the sums specified in subsection (2) or (3) of this Ordinance commits an offence and is liable on

summary conviction to a fine of $5,000 or to imprisonment for a term of six months, or to both.

(7) This section is effective notwithstanding the Employment Ordinance.
(Inserted by Ord. 19 of 2017)

Proceedings to recover benefit lost by employer's fault

57. (1) Where an employer has failed or neglected to pay any contribution which he is liable to pay in respect of or on behalf of any insured person, and by reason of such failure or neglect such person or any other person becomes disentitled to any benefit or entitled to a benefit at a lower rate, the Board may, on being satisfied that the contribution should have been paid by the employer pay to the person concerned a benefit at the rate to which he would have been entitled if the failure or neglect had not occurred, and the Board shall be entitled to recover summarily in a court of summary jurisdiction from the employer as a civil debt a sum equal to the amount of the sum so paid irrespective of the amount.

(2) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Ordinance in respect of the same failure or neglect.

PART V

MISCELLANEOUS

Persons employed on board ships, vessels or aircraft

58. (1) Without prejudice to the generality of any other power to make regulations, the Minister may make regulations modifying in such manner as he thinks proper the provisions of this Ordinance in relation to persons who are or have been employed on board any ship, vessel or aircraft.

(2) Without prejudice to the generality of subsection (1), regulations made thereunder may in particular provide—

(a) for the classification under this Ordinance of persons who are or have been employed on board ships, vessels or aircraft, notwithstanding that they do not fall within any of the classes set out in section 4;

(b) for excepting from insurance under this Ordinance or from liability to pay contributions as employed persons any persons employed as aforesaid who are neither domiciled nor have a place of residence in the Islands;

(c) for the taking of evidence for the purpose of any claim to benefit in any place outside the Islands; and

(d) for enabling persons on board ships, vessels or aircraft to authorise the payment of the whole or any part of any benefit to which they are or become entitled to such of their dependants as may be prescribed.

Insured persons outside the Islands

59. (1) Without prejudice to the generality of any other power to make regulations, the Minister may, subject to subsection (2), make regulations modifying in such manner as he thinks proper the provisions of this Ordinance in their application in relation to persons who are or have been outside the Islands while insured under this Ordinance.

(2) Regulations under this section may provide that where an insured person is throughout any prescribed period outside the Islands and is not in that period an employed person he shall not be liable to pay any contribution as an insured person for such period:

Provided that different provisions may be prescribed for different classes of insured persons.

Reciprocal agreements

60. For the purpose of giving effect to any agreement with the government of any country, being an agreement which provides for reciprocity in matters of national insurance, the Minister may by Order modify the provisions of this Ordinance in their application to cases affected by the agreement.

Exemption from stamp duty

61. Stamp duty shall not be chargeable upon any draft or order or receipt given in respect of a benefit or upon any receipt given in respect of any other payment out of the Fund pursuant to section 46 or upon any receipt given by an officer or employee of the Board for or in respect of any sum payable into the Fund.

Contributions etc. due to the Board to have priority over other debts

62. Sums due on account of contributions payable under this Ordinance and any other amount payable to the Board shall be included among debts accorded priority under any written law in force (being any law relating to personal insolvency, companies winding-up and the remedies of debenture holders and chargees) where such liability accrued before the date of the order of adjudication of the insolvent or the date of the winding-up, as the case may be.

Recovery of unpaid contributions by distress proceedings

63. (1) In any case where—

(a) any warrant or distress is executed against the property of an employer and the property is seized or sold in pursuance of the execution; or

(b) on the application of a secured creditor the property of an employer is sold,

the residual amount of the proceeds of the sale of the property shall not be distributed to any person until the court ordering the sale has made provision for the payment of any amount due to the Board from that employer in respect of contributions or other debts payable by the employer during the twelve months immediately preceding the date of the order:

Provided that in the case where any charges on any property have been registered at the Land Registry of the Islands after the commencement of this Ordinance, the court ordering the sale shall make provision for any amount due to the Board from the total proceeds of the sale.

(2) For the purposes of this section the expression “employer” includes any company in liquidation under the Companies Ordinance.

(Inserted by Ord. 23 of 2014)

Regulations

64. (1) The Minister may make Regulations prescribing all matters that are required or permitted by this Ordinance to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of the Ordinance.

(2) Except in so far as this Ordinance otherwise provides, any power conferred thereby to make Regulations shall be vested in the Minister and may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or different classes of case or different provisions as respects the same case or class of case for different purposes of this Ordinance;

(iii) any such provision either unconditionally or subject to any specified conditions.

(3) Without prejudice to any specific provision in this Ordinance, any regulations or Order made under this Ordinance may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations or Order.

(4) Without prejudice to any specific provision of this Ordinance, any regulations made under this Ordinance—

(a) may provide that they shall come into operation on a day to be appointed by the Minister by Order published in the *Gazette*;

(b) may provide that any contravention thereof constitutes an offence;

(c) may create offences (including continuing offences) relevant to their subject matter;

(d) may prescribe penalties for such contravention or offence by way of a fine not exceeding $1,000 or a term of imprisonment not exceeding one year, or both; or

(e) may prescribe penalties for a continuing offence by way of a fine not exceeding $500 for every day or part of a day during which the offence continues.

Regulations to be laid before the House of Assembly

65. (1) Regulations made under this Ordinance shall come into operation in accordance with section 26 of the Interpretation Ordinance, but shall be laid before the House of Assembly at its next meeting immediately following the date that they come into operation.

(2) If—

(a) at the meeting of the House of Assembly referred to in subsection (1), the House of Assembly passes a resolution annulling regulations which have been laid before it in accordance with that subsection; or

(b) any regulations made under this Ordinance are not laid before the House of Assembly in accordance with that subsection,

the regulations shall cease to have effect on and after—

(i) the day of the annulment; or

(ii) the day next following the day that the meeting is concluded,

as the case may require, but without affecting the validity or curing the invalidity of anything done or omitted to be done thereunder before that day or the making of new regulations.

(3) Notwithstanding section 23(2) of the Interpretation Ordinance, where—

(a) regulations are annulled under subsection (2) or are not laid before the House of Assembly in accordance with subsection (1); and

(b) those regulations amended or revoked regulations that were in operation immediately before the first-mentioned regulations came into operation,

the annulment under subsection (2) or failure to lay in accordance with subsection (1) revives the previous regulations on and after the day of the annulment, or in the case of failure to lay in accordance with subsection (1), on and after the day next following the day that the meeting of the House of Assembly referred to in subsection (1) is concluded.

Operation of private schemes

66. (1) Nothing in this Ordinance shall be construed as preventing an employer from operating any private scheme providing, for any person who is or has been employed by him, benefit of any kind whether similar to benefits under this Ordinance or otherwise.

(2) The amount of benefits under this Ordinance together with the amount of any corresponding benefits provided by the employer under any contract of service shall not be less favourable than benefits provided by the employer before 6 April 1992.

(3) Subject to subsection (2), benefits provided by the employer which correspond to benefits provided under this Ordinance may be reduced in consideration of the corresponding benefits provided under this Ordinance.

Reduction of payments under the Pensions Ordinance

67. (1) The amount of any periodical payment payable to any person under the Pensions Ordinance in respect of that part of any period or periods of employment in the service of the Government of the Islands beginning on or after 6 April 1992 shall be reduced by the amount of that corresponding benefit.

(2) The Pensions Ordinance, notwithstanding anything contained in that Ordinance, shall not apply to a person who was not the holder of a pensionable office, within the meaning of the Pensions Ordinance, on 6 April 1992.
(Amended by Ord. 12 of 2012)

Amendment of other enactments

68. The Employees Accident Compensation Ordinance 1985 shall not apply to employed persons who suffer an accident or develop a disease on or after 6 April 1992.

Evidence

69. A copy of an entry in the accounts of the Fund and of other extracts from the records of the Board, shall when certified under the hand of the Director, be received in all courts as *prima facie* evidence of such entry or record having been made and of the truth of its contents. *(Inserted by Ord. 19 of 2017)*

SCHEDULE 1

(Section 4(1)(a))

EMPLOYED PERSONS – INSURABLE AND EXCEPTED EMPLOYMENTS

PART I

INSURABLE EMPLOYMENTS

1. Employment in the Islands of a person under a contract of service or apprenticeship or under such circumstances from which the existence of a relation of employer and employee may be inferred, including employment by or under the Government of the Islands.

2. Employment of a person under such contract or circumstances as aforesaid where that person is ordinarily resident in the Islands and is employed as master or a member of the crew of a ship, or as captain or a member of the crew of an aircraft owned or managed by an employer, who resides or has his principal place of business in the Islands.

3. Employment in the office of member of the House of Assembly. *(Inserted by L.N. 46/1993)*

PART II

EXCEPTED EMPLOYMENTS

1. Employment as a member of any of the naval, military, and air forces of the Government of a country other than the Government of the Islands.

2. Employment in the civil or diplomatic service of the Government of a country other than the Government of the Islands where the person employed was engaged outside the Islands.

3. Employment in the service of the husband or wife of the person employed.

4. Employment of a person who is not ordinarily resident in the Islands, if the employer of that person is not ordinarily resident in the Islands and has no place of business there.

5. Employment as a secretary or clerk of a society, club, philanthropic institution, school or other similar body or institution, where personal service is ordinarily required only occasionally or outside the ordinary hours of work.

6. Employment in respect of which there is no payment of wages or other remuneration where the person employed is the father, mother, grandfather, grandmother, son or daughter of the employer.

SCHEDULE 2

(Section 4(1)(b))

SELF-EMPLOYED PERSONS – INSURABLE AND EXCEPTED EMPLOYMENTS

PART I

INSURABLE EMPLOYMENTS

1. Any employment in the Islands, where the person employed is running a business on his own account and is resident in the Islands.

2. Any employment in the Islands, where the person employed is working for gain but does not work under the control of an employer.

3. Any employment in the Islands, where the person employed is a married man or woman engaged in the trade or business of the spouse whether under a contract of service, as a partner or other similar arrangement.

PART II

EXCEPTED EMPLOYMENTS

Any employment in the Islands, where the person employed is ordinarily engaged for less than five hours in a contribution week. *(Amended by Ord. 23 of 2014)*

SCHEDULE 3

(Section 27)

CONSTITUTION AND PROCEEDINGS OF THE NATIONAL INSURANCE BOARD

Constitution

1. (1) The Board shall be appointed by the Minister and shall consist of—

(a) a Chairman;

(b) two persons to represent Government one of whom shall be the Permanent Secretary Finance or his nominated representative; *(Amended by Ord. 23 of 2014)*

(c) two persons to represent employers selected by the Minister after consulting with such employers and associations of employers as in his opinion represent employers;

(d) two persons to represent insured persons selected by the Minister after consulting with such persons or associations of persons as in his opinion represent insured persons.

(2) The Board shall appoint one of its members to be Deputy Chairman and one of its officers to be Secretary.

Attendance of meetings by Director

2. The Director shall be entitled to attend any meeting of the Board, to take part in discussion of any matter other than such as may concern himself personally, but shall not be entitled to vote.

Term of office

3. The initial term of office of members shall be for a period of five years in the case of the Chairman, and three years in the case of persons referred to in subparagraph (1)*(b)*, *(c)* and *(d)* of paragraph 1 above.

Subsequent appointments

4. After the completion of the first term, members shall be appointed for such term as may be specified in the instrument appointing them:

Provided that on the expiration of his term of office any member shall be eligible for re-appointment.

Vacancies

5. Notwithstanding any vacancy in its membership, it shall be lawful for the Board to hold meetings and to carry out all its duties, functions and obligations under this Ordinance:

Provided that the Minister shall take steps to fill any such vacancy as early as practicable.

Absence of Chairman

6. (1) In the case of the absence of the Chairman whether through illness or otherwise, the Deputy Chairman, if present, shall act as Chairman.

(2) In the case of the absence of both the Chairman and the Deputy Chairman, whether through illness or otherwise, the members present may appoint one of their number to act as Chairman but the Minister may, if he thinks fit, appoint a person to act as Chairman for such period as the Minister specifies.

Temporary absence of members

7. In the case of the absence of any other member, whether through illness or otherwise, the Minister may, if he thinks fit, appoint a person to perform the functions of that member during his absence.

Meetings and quorum

8. (1) The Board shall hold such meetings as in the opinion of the Chairman or at least three other members, are necessary for the efficient conduct of its affairs:

Provided that as a rule the Board shall meet not less than once a month.

(2) At meetings of the Board three of the members thereof, including the Chairman or member acting as Chairman, shall constitute a quorum.

Decisions

9. Any question arising at any meeting of the Board shall be determined by a majority of the votes of the members present. The Chairman shall have, if there is an equality of votes, a second or casting vote.

Co-option

10. The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such co-opted person shall have any right to vote.

Personal interest

11. (1) If any member of the Board or other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matters he shall, at the meeting and as soon as is practicable after the commencement of the meeting disclose the fact of his interest and shall not take part in the discussions, consideration or voting on such a contract or other matter. *(Amended by Ord. 23 of 2014)*

(2) If any board member fails to comply with subparagraph (1) he shall be removed from the Board unless he proves that he did not know that the matter in which he had a pecuniary interest was the subject of consideration at the meeting. *(Inserted by Ord. 23 of 2014)*

(3) A disclosure under subparagraph (1) shall be recorded in the minutes of that meeting. *(Inserted by Ord. 23 of 2014)*

(4) No act or proceeding of the Board shall be questioned on the grounds that a board member contravened subparagraph (1). *(Inserted by Ord. 23 of 2014)*

(5) A member of the Board shall be treated as having an interest in a contract, proposed contract or other matter if—

(*a*) he, his spouse, children, sister, brother or any nominee of his is a member of a company or other body which has a direct or indirect pecuniary or other interest in the contract, proposed contract or other matter under consideration;

(*b*) he, his spouse, children, sister or brother is a partner, or in the employment of a person with whom the contract was made, or who has a direct or indirect pecuniary or other interest in the contract, proposed contract or other matter under consideration; or

(*c*) he, his spouse, children, sister, brother or any partner of his is a professional advisor to a person who has a direct or indirect pecuniary or other interest in a contract, proposed contract or other matter under consideration. *(Inserted by Ord. 23 of 2014)*

Minutes

12. The Board shall cause minutes to be kept of every meeting. Such minutes shall be confirmed by the Board and signed by the Chairman.

Procedure

13. Subject to the provisions of this Ordinance, the Board may regulate its own procedure.

NATIONAL INSURANCE (CONTRIBUTIONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

CONTRIBUTIONS – EMPLOYED PERSONS

PART II

CONTRIBUTIONS – SELF-EMPLOYED PERSONS

PART III

VOLUNTARY CONTRIBUTIONS

PART IV

MISCELLANEOUS

NATIONAL INSURANCE (CONTRIBUTIONS) REGULATIONS – SECTIONS 10 AND 64

(Legal Notices 6/1992, 14/1993, 10/1994, 72/1994, 9/1995, 33/2011, 46/2011 and 58/2014)

Commencement

[6 April 1992]

Short title

1. These Regulations may be cited as the National Insurance (Contributions) Regulations.

Interpretation

2. In these Regulations—

“Benefit Regulations” means the National Insurance (Benefit) Regulations;

“contribution year” has the meaning given to it by the Benefit Regulations;

“insurable earnings” has the meaning given to it by the Benefit Regulations; and

“public officer” means any employed person employed by the Government of the Islands who, under the terms and conditions of his employment, is entitled to sick leave on full salary for at least three months during any period of twelve months ending on the last day of sick leave granted;

“temporarily resident employed person” means an employed person—

(a) who is not an Islander as defined in the Turks and Caicos Islander Status Ordinance or a permanent resident as defined in the Immigration Ordinance;

(b) who is employed in the Islands for a period not exceeding one hundred and eighty days in any period of twelve months;

(c) who, when not so employed, resides outside the Islands; and

(d) in respect of whom his employer makes an election as provided in regulation 4(4).

(Inserted by L.N. 9/1995)

PART I

CONTRIBUTIONS – EMPLOYED PERSONS

Liability for contributions

3. (1) For each contribution week, during the whole of which or part thereof a person has been employed as an employed person, there shall be liability for the payment of contribution by the employed person and by his employer.

(2) Notwithstanding subregulation (1), no contribution shall be payable for any contribution week—

(a) in respect of any one employment from which the earnings of the employed person are negligible, unless the employed person is an apprentice; or

(b) in respect of which the employed person is credited with a contribution under regulation 59 of the Benefit Regulations.

(3) The earnings of an employed person are negligible if—

(a) they are less than or are calculated to be less than $25 per week in the case of an employed person who is paid weekly or otherwise but not monthly; or

(b) they are less than or calculated to be less than $108 per month in the case of an employed person paid monthly.

(4) An employer may, in respect of the employment by him of any temporarily resident employed person, elect to pay the lower rate of contribution applicable to such persons under regulation 4(3), but—

(a) if he makes no such election in the manner and within the period provided by regulation 5 of the National Insurance (Registration of Employers and Insured Persons) Regulations; or

(b) if he makes such election but subsequently employs such person for a period exceeding one hundred and eighty days in any period of twelve months,

the employer and employed person concerned shall be liable for the payment of contributions as if the provisions of regulation 4(1) were applicable, and, in a case referred to in paragraph *(b)*, liability for payment of the outstanding contributions, including the additional charge provided by regulation 24, shall be calculated from the day on which the employer first employed such person. *(Inserted by L.N. 9/1995)*

Amount of contribution

4. (1) The amount of contribution payable for each contribution week in respect of the employment of an employed person other than a public officer or temporarily resident employed person shall be 8% of his earnings for that week, of which an amount equal to 4.6% of such earnings shall be payable by the employer and an amount equal to 3.4% of the said earnings shall be payable by the employed person. *(Amended by L.N. 9/1995)*

(2) The amount of contribution payable for each contribution week in respect of the employment of an employed person who is a public officer shall be 6.85% of his earnings for that week, of which an amount equal to 4.025% of such earnings shall be payable by the employer and an amount equal to 2.825% of the said earnings shall be payable by the employed person.

(3) The amount of contribution payable for each contribution week in respect of the employment of a temporarily resident employed person shall be 2.5% of his earnings for that week payable by the employer. *(Inserted by L.N. 9/1995)*

(4) The amount of contributions payable for each contribution week in respect of the employment of an insured person who is over the age of sixty-five years shall be 1.2% of his earnings for that week payable by the employer. *(Inserted by 33/2011)*

Earnings

5. (1) For the purposes of these Regulations, the earnings of an employed person shall be the gross earnings received by such person from his employer, including—

(a) overtime payments;

(b) cost of living allowance;

(c) family allowances or payments in respect of dependents;

(d) any amount of a transport allowance exceeding $100 per month;

(e) any amount of a telephone allowance exceeding $20 per month;

(f) housing allowances;

(g) supplements or rewards for long service or efficiency;

(h) service charges, production bonus or incentive pay;

(i) commission on profits or sales;

(j) gratuities paid by the employer, excluding lump sums paid on retirement and any Christmas bonus or other similar payment;

(k) payments in consideration of dirty or dangerous conditions;

(l) payment on account of night or shift work;

(m) holiday pay or other amounts set aside out of the employed person's remuneration throughout the year or part of the year and to be paid to him periodically or as a lump-sum:

Provided that in the case of payments specified under paragraphs *(a)* to *(m)*, the amounts so paid shall, if they are not paid together with the earnings for the period for which they were due, be included in the earnings for the period in, or immediately after which they are paid.

(Amended by L.N. 10/1994)

(2) Where the earnings of an employed person are not fixed on a time basis, the total amount of his earnings in a specific period for which a contribution or contributions are payable shall be taken into account for the purpose of contributions.

(3) Where an employed person does not receive any pecuniary remuneration from his employer, the Director may determine for the purposes of the Ordinance the amount of contribution payable on the basis of earnings normally derived from employment of the same type and in similar circumstances.

(4) Where the employed person's earnings 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.

(5) Where an employed person is paid monthly, his earnings for each contribution week for which there is liability for the payment of contribution and which begins in the month for which he is paid, earnings shall be considered to be equal to the quotient of the division of the amount of earnings for the month by the number of contribution weeks beginning in the month for which there is liability for the payment of contributions.

(6) 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.

Maximum amount of earnings for contributions

6. For the purposes of calculating the amount of contribution for each contribution week in respect of the employment of an employed person with any one employer, no account shall be taken of any part of the earnings of the employed person which exceed or are calculated to exceed—

(a) $700 per week beginning 1 April 2015; $810 per week beginning 1 April 2016 and $925 per week beginning 1 April 2017 in the case of an employed person paid weekly or otherwise but not monthly; or

(b) $3,000 per month beginning 1 April 2015; $3,500 beginning 1 April 2016 and $4,000 beginning 1 April 2017 in the case of an employed person paid monthly.

(Amended by L.N. 58/2014)

Earnings of an apprentice

7. For the purposes of calculating the amount of contribution for any contribution week in respect of the employment of an apprentice with no earnings or with earnings which are less than $25 for that week, it shall be deemed that the apprentice has earnings of $25 for the said week.

Earnings exceeding a number of full dollars

8. Where the total amount of earnings of an employed person for contribution weeks beginning in any calendar month exceeds a number of full dollars, that part of the earnings which exceeds the number of full dollars shall be ignored for the purpose of calculating the amount of contributions payable in respect of that employed person.

Employment by two or more employers

9. (1) Where an employed person is employed by two or more employers in the same contribution week, there shall be liability for the payment of contribution by each employer in relation to the earnings paid by him to the insured person for that week.

(2) In the case where subregulation (1) applies and the total earnings on which contributions have been paid exceed the amount specified in regulation 6, the employed person shall be entitled to a refund of his own contributions he has made on his earnings in excess of the amount specified in the said regulation, if he makes an application within twelve months after the end of the contribution year for which the contributions have been paid:

Provided that no contributions shall be refunded if they are less than $10;

Provided further that in no case an insured person shall be considered, for the purpose of the Ordinance, to have for any period insurable earnings exceeding the amount specified in regulation 6.

Various employment

10. Where an insured person is employed in the same contribution week concurrently or successively as an employed and as a self-employed person, there shall be liability for the payment of contribution for his employment as an employed person.

Time and manner of payment of contributions

11. (1) All contributions which an employer is liable to pay in relation to earnings paid for contribution weeks beginning in any calendar month shall be paid by him not later than the end of the calendar month following that in which the contribution weeks for which the contributions are payable begin.

(2) All contributions which an employer is liable to pay shall be paid by him at any place acceptable to the Board and designated by the Director, in cash or by cheque or in such other manner as the Director may authorize.

(3) With each payment of contributions the employer shall furnish a statement of contributions in such form as may be approved by the Director and shall provide such other information as the Director may require.

(4) The Director may vary the procedure provided in subregulation (3) in any particular case or class of cases.

(5) Notwithstanding subregulations (3) and (4), each employer shall furnish to an office of the Board in respect of each calendar month, a statement of contributions as prescribed in subregulation (3) no later than the end of the following calendar month whether or not contributions are being paid at the time, which shall be presumed to be a true and accurate record for such period.

(Amended by L.N. 58/2014)

Keeping of wage book

12. (1) Every employer shall keep a wage book or other record, in which he shall record, in respect of each person employed by him—

(a) the full name, address and national insurance number of that person;

(b) the dates of the commencement and termination of employment; and

(c) the amount of each payment of earnings and the period to which such payment relates.

(2) The wage book or other record shall be kept by the employer and be available for inspection at all reasonable times by an inspector designated under section 39 of the Ordinance.

PART II

CONTRIBUTIONS – SELF-EMPLOYED PERSONS

Liability for contributions

13. For each contribution week during the whole of which or part thereof a person has been employed as a self-employed person, he shall be liable for the payment of contribution.

Amount of contribution

14. The amount of contribution payable by the self-employed person for each contribution week in respect of his employment shall be 6.8%of the weekly income elected by him in accordance with regulation 15. *(Amended by L.N. 72/1994)*

Election of weekly income

15. (1) Subject to subregulations (2), (3), (4), (5) and (6), for the purpose of payment of contribution, every self-employed person shall elect a weekly income of any of the following amounts—

(a) $100;

(b) $200;

(c) $400; or

(d) $600.

(2) A self-employed person who is over the age of fifty years on the appointed day shall not elect a weekly income which exceeds $200.

(3) An insured person who has paid contribution as a self-employed person in the contribution year in which he reached the age of fifty-four years shall be deemed to have elected for any subsequent contribution year for which he is liable to pay contribution the same weekly income as the one he had elected for the contribution year in which he had reached the age of fifty-four years.*(Amended by L.N. 58/2014)*

(4) An insured person who has not paid a contribution as a self-employed person in the contribution year in which he reached the age of fifty-four, but who is liable to pay any contribution as a self-employed person for any subsequent contribution year, may elect for each such year a weekly income not exceeding $200.

(5) Every self-employed person shall elect a weekly income for each contribution year not later than the end of the calendar month following that in which the first contribution week in which he is liable to pay contribution as a self-employed person begins, and such election shall be valid for the whole contribution year in which the election is made:

Provided that for any subsequent contribution year the self-employed person may only elect a weekly income which is the immediately lower or higher amount of weekly income to the one the self-employed person had elected in the immediately preceding contribution year. *(Amended by L.N. 58/2014)*

(6) A self-employed person who fails to elect a weekly income within the time prescribed in subregulation (5) for any contribution year—

(a) in the case where he had elected a weekly income in the contribution year immediately preceding the one in which the failure occurred, shall be deemed to have elected the weekly income he had elected for the preceding contribution year;

(b) in any other case, subject to these Regulations the weekly income shall be determined by the Director after investigation as regards the amount of income of the self-employed person from his employment.

Time and manner of payment of contributions

16. (1) All contributions which a self-employed person is liable to pay in respect of contribution weeks beginning in any calendar month shall be paid by him not later than the end of the calendar month following that in which the contribution weeks for which the contributions are payable begin. *(Amended by L.N. 58/2014)*

(2) All contributions which a self-employed person is liable to pay shall be paid by him in cash or by cheque or in such other manner as the Director may authorise at any place acceptable to the Board and designated by the Director. *(Amended by L.N. 58/2014)*

(3) With each payment of contributions the self-employed person shall furnish a statement of contributions in such form as may be approved by the Director and shall provide such other information as the Director may require.

PART III

VOLUNTARY CONTRIBUTIONS

Conditions for voluntary insurance

17. (1) An insured person, on making an application to the Director within the time prescribed in subregulation (2) on a form approved by the Board, shall be entitled to receive a certificate of voluntary insurance if he has paid not less than fifty contributions as an employed or self-employed person.

(2) An application for voluntary insurance shall be made not later than the end of the contribution year following that in which the insured person ceases at any time to be liable to pay a contribution as an employed or self-employed person.

(3) Notwithstanding subregulation (1), an insured person shall not be entitled to receive a certificate of voluntary insurance or to pay voluntary insurance during any period that he is not resident in the Turks and Caicos Islands. *(Inserted by L.N. 33/2011)*

Entitlement to payment of voluntary contribution

18. A person holding a certificate of voluntary insurance is entitled to pay a voluntary contribution for every week for which he is not liable to pay a contribution as an employed or self-employed person.

Rate of voluntary contribution

19. (1) The amount of voluntary contribution shall be 10% of the average weekly insurable earnings of the person concerned. *(Amended by L.N. 58/2014)*

(2) For the purposes of this regulation, "average weekly insurable earnings" means the sum of the weekly insurable earnings on which contributions were paid or credited in the complete contribution year preceding the week in which the person concerned ceased to be liable to pay a contribution as an employed or self-employed person divided by the number of weeks for which contributions were paid or credited.

Time and manner of payment of voluntary contribution

20. For each contribution week for which a holder of a certificate of voluntary insurance is entitled to pay a contribution, he shall pay that contribution in cash or by cheque at the office of the Board designated by the Director in his case not later than twelve months from the end of the contribution year, which includes that contribution week, and he shall not be entitled to pay such contribution after the expiry of the said twelve months.

Cessation of validity of certificate of voluntary insurance

21. (1) A certificate of voluntary insurance issued under regulation 17 shall cease to be valid if the person concerned fails to pay contribution by the date specified under regulation 20.

(2) Where a certificate of voluntary insurance ceases to be valid in accordance with subregulation (1), the person concerned shall cease to be entitled to pay voluntary contribution until he has requalified therefor after he pays fifty contributions as an employed or self-employed person and makes an application for a certificate of voluntary insurance in accordance with regulation 17.

PART IV

MISCELLANEOUS

General exemption from liability for contributions

22. No contribution shall be payable by or in respect of any person under the age of sixteen years or over the age of sixty-five years, except in the case of a person over sixty-five years who is employed. *(Amended by L.N. 33/2011)*

Limitations as to the payment of contributions

23. (1) No contribution payable in respect of the employment of an employed person shall be paid after the lapse of six years from the end of the contribution week for which such contribution became payable.

(2) No contribution payable in respect of the employment of a self-employed person shall be paid after the lapse of three years from the end of the contribution week for which such contribution became payable.

Additional charge

24. Every employer or self-employed person who fails to pay any contribution within the time provided in these Regulations shall be liable to pay an additional charge at the rate of 10% of the outstanding contributions for the first month or part thereof of delay and a further 3% of the outstanding contributions for each additional month or delay or part thereof. *(Amended by L.N. 14/1993 and 46/2011)*

Validity of contributions

25. For the purposes of determining the right to benefit of any person—

(a) contributions paid under regulations 3 and 4(1) by or in respect of an employed person other than a public officer or temporarily resident employed person shall be taken into account for all benefits;

(b) contributions paid under regulations 3 and 4(2) by or in respect of an employed person who is a public officer shall be taken into account for all benefits with the exception of sickness benefit and maternity allowance;

(c) contributions paid under regulations 3 and 4(3) in respect of a temporarily resident employed person shall be taken into account for sickness benefit, injury benefit and maternity allowance; *(Amended by L.N. 33/2011)*

(d) contributions paid under regulations 13 and 14 by a self-employed person shall be taken into account for sickness benefit, maternity allowance, retirement benefit, invalidity pension, survivors' benefit and funeral grant;

(e) contributions paid under regulations 18 and 19 by a person holding a certificate of voluntary insurance shall be taken into account for retirement benefit, invalidity pension, survivors' benefit and funeral grant.

(Substituted by L.N. 9/1995)

Treatment of earnings paid in a month for benefit purposes

26. For the purpose of determining the amount of benefit of any person, the earnings of that person for each contribution week beginning in any calendar month for which a contribution has been paid shall be considered to be equal to the quotient of the division of the earnings for all contribution weeks beginning in that month for which contributions were paid divided by the number of such weeks.

Treatment of contributions improperly paid

27. The Board may treat any contributions which are paid at the wrong rate or are of the wrong class as paid on account of contributions properly payable.

Refund of contributions

28. Any contribution paid by an employer, employed person or self-employed person without liability or any contribution paid by a person holding a certificate of voluntary insurance otherwise than in accordance with these Regulations shall be refunded to the person who has made that contribution if he makes an application within twelve months after the end of the contribution year for which the contribution was paid:

Provided that no contributions shall be refunded if they are less than $10;

Provided further that no contributions shall be refunded in respect of a sham employment for the purpose of obtaining benefit under the Ordinance.

Late and unpaid contributions

29. (1) Where contributions are paid after the occurrence of the event for which the benefit is claimed and referring to contribution weeks preceding such occurrence, they shall be treated as having been paid before that occurrence—

(a) if they are contributions payable under regulation 3, irrespective of the time of payment of such contributions; and

(b) if they are contributions payable under regulation 13 or which can be made under regulation 18, only if the contributions have been paid within the prescribed time for the payment of such contributions.

(2) The provisions of subregulation (1) shall also apply—

(a) to contributions payable under regulation 3 and not paid, if the failure to pay such contributions 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 employed person; and

(b) to contributions payable under regulation 13, where the benefit payable is in respect of the death of the insured person, only if the contributions have been paid within a period of six months from the date of death and refer to contribution weeks beginning not earlier than the first contribution week of the contribution year preceding that in which the death of the insured person occurs:

Provided that the payment of any benefit by virtue of contributions to which the provisions of paragraph *(b)* apply shall commence as from the day of payment of such contributions.

Notification of termination of employment by self-employed persons

30. Every self-employed person, who terminates his employment as a self-employed person, shall notify such termination to the nearest office of the Board, not later than the end of the calendar month following that which includes the date of termination of employment.

Notification of discontinuance of employment by self-employed persons

31. (1) Where an insured person is employed or registered as a self-employed person, that employment shall be regarded as continuing, unless the person notifies the Board in writing of a discontinuance of the employment no later than the end of the calendar month following that which includes the date of such discontinuance of employment.

(2) Notwithstanding subregulation (1), the Director may waive any contributions and additional charges payable for the period during which there was a failure to give notification of discontinuance of employment, where the self-employed person proves to the satisfaction of the Director that he was not employed during that period.

(Inserted by L.N. 58/2014)

Offence

32. A self-employed person who contravenes regulation 15 or 30 commits an offence and is liable on summary conviction to a fine of $100.

NATIONAL INSURANCE (REGISTRATION OF EMPLOYERS AND INSURED PERSONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

NATIONAL INSURANCE (REGISTRATION OF EMPLOYERS AND INSURED PERSONS) REGULATIONS – SECTIONS 10 AND 64

(Legal Notices 2/1992 and 7/1995)

Commencement

[15 February 1992]

Short title

1. These Regulations may be cited as the National Insurance (Registration of Employers and Insured Persons) Regulations.

Interpretation

2. In these Regulations, "temporarily resident employed person" has the meaning given in regulation 2 of the National Insurance (Contributions) Regulations.

Registration of employers

3. (1) Every person who is an employer shall within fourteen days after the day he becomes an employer, apply in writing to the Director at the nearest office of the Board for registration as an employer on a form approved by the Director giving his name, address, place of business and such other information as the Director may require.

(2) Upon receipt of an application made under subregulation (1), the Director shall register the employer and allot to him a registration number, if he is satisfied that the person applying is an employer for the purposes of the Ordinance.

Notification of temporarily resident employed persons

4. (1) Every employer of a temporarily resident employed person shall, within 14 days after the day on which he employs such person, notify the Director at the nearest office of the Board by means of a form approved by the Director giving such employee's name, address within and outside the Islands, period of employment within the Islands, occupation and such other information as the Director may require.

(2) If the employer does not notify the Director in accordance with subregulation (1), regulation 5 shall apply to the temporarily resident employed person.

(Inserted by L.N. 7/1995)

Registration of insured persons

5. (1) Every person shall, within fourteen days after the day he becomes an employed or self-employed person, apply in writing to the Director at the nearest office of the Board for registration as an insured person on a form approved by the Director giving his name, address, occupation and such other information as the Director may require.

(2) An application for registration made under subregulation (1) by an employed person shall be completed in part by his employer.

(3) Upon receipt of an application made under subregulation (1), the Director shall register the insured person and allot to him a national insurance number, if he is satisfied that the person applying is liable to be insured under the Ordinance.

(4) This regulation does not apply to a temporarily resident employed person except as provided in regulation 4(2).

Issue of registration card

6. (1) Upon registration of an insured person in accordance with regulation 5, the Director shall issue to that person a registration card without charge and in such form as the Director may decide.

(2) A registration card issued under subregulation (1) shall bear the full name and national insurance number of the insured person, together with such other details as the Director may decide to indicate thereon.

Custody and replacement of the registration card

7. (1) An insured person to whom a registration card has been issued shall be responsible for its safe custody.

(2) Every employed person shall, on commencing employment with a new employer and on such other occasions as his employer may require, produce his registration card to his employer.

(3) If any registration card is destroyed, lost or defaced, the person responsible for its safe custody shall report the matter to the Director, who may replace the registration card subject to such conditions as he may decide.

Offences

8. A person who contravenes regulation 3(1) or 5(1) commits an offence and is liable on summary conviction to a fine of $100; and if the offence is a continuing one, to a further fine of $100 for every day or part of a day during which the offence has continued.

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NATIONAL INSURANCE (BENEFIT) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

NATIONAL INSURANCE (BENEFIT) REGULATIONS – SECTIONS 12 AND 64

(Legal Notices 4/1992, 57/1994, 8/1995, 30/1995, 17/1999, 2/2004, 4/2004, 26/2004, 34/2004, 28/2005, 24/2007, 32/2011, 41/2011, 3/2012, 57/2014, 29/2015, 41/2015 and 76/2017)

Commencement

[Part III: 1 April 1994
Remainder: 6 April 1992]

Short title

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

Interpretation

2. In these Regulations—

"accident", in relation to an employed person, means an accident arising out of and in the course of that person's insurable employment within the meaning of section 14 of the Ordinance;

"appointed day" means 6 April 1992;

"claim" means claim for benefit;

"Claims and Payments Regulations" means the National Insurance (Claims and Payments) Regulations;

"Contributions Regulations" means the National Insurance (Contributions) Regulations;

"contribution year" means the period of fifty-two or fifty-three weeks, as the case may be, beginning with the first Monday in the calendar year;

"credited contribution" means a contribution credited under regulation 59;

"Determination of Claims and Questions Regulations" means the National Insurance (Determination of Claims and Questions) Regulations;

"insurable earnings" means earnings or income on which contributions have been paid or credited and which can be taken into account in determining eligibility for or the amount of the benefit in question;

"medical certificate" means a certificate issued by a medical practitioner;

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

"paid contribution" means a contribution actually paid by or in respect of an insured person in accordance with the provisions of the Ordinance;

"permanently incapable of self-support", in relation to survivors' benefit or death benefit, means so incapable by reason of a specific disease or bodily or mental disablement which is likely to be permanent;

"registered midwife" means a midwife registered as a health practitioner under the Health Practitioners Ordinance;

"relevant accident" means the accident in respect of which benefit is claimed or payable;

"relevant injury" and "relevant loss of faculty" mean respectively the personal injury or the loss of faculty resulting from the relevant accident;

"relevant person" means, for the purpose of survivors' benefit or death benefit, the deceased insured person in respect of whom the benefit is claimed or payable;

"remunerative work" means work for which wages or other remuneration is paid or would ordinarily be payable and includes any work performed by the person concerned for the purpose of his own trade, business or profession; and

"temporarily resident employed person" has the meaning given in regulation 2 of the National Insurance (Contributions) Regulations. *(Inserted by L.N. 8/1995)*

PART I

BENEFITS IN RESPECT OF RETIREMENT, INVALIDITY, DEATH, SICKNESS AND MATERNITY

Retirement Benefit

Entitlement to retirement pension

3. (1) An insured person other than a temporarily resident employed person who—

(a) has attained the age of sixty years; and

(b) has retired from insurable employment or shows to the satisfaction of the Director that he is no longer substantially employed in insurable employment; and

(c) satisfies the relevant contribution conditions; or

(d) if he does not satisfy those conditions on the day he has attained the age of sixty years, as from the first day thereafter on which he satisfies those conditions,

shall be entitled to a pension, hereinafter referred to as "retirement pension". *(Amended by L.N. 8/1995)*

(2) Subregulation (1)*(b)* shall not apply to a person who is over the age of sixty-five years.

(3) The contribution conditions for a retirement pension are—

(a) that not less than one hundred and fifty contributions have been paid by the insured person; and

(b) that not less than five hundred contributions, including those referred to in paragraph *(a)*, have been paid by or credited to him.

(4) An insured person who has attained the age of sixty-five years and does not satisfy the conditions specified in subregulation (3) shall be entitled to a lump-sum payment, hereinafter referred to as "retirement grant", if he has paid not less than fifty contributions.

(5) For the purposes of this regulation, a person shall be deemed to be substantially employed in insurable employment—

(a) in the case of insurable employment as an employed person, if his earnings from one or more such employments calculated in accordance with the Contributions Regulations amount to 25% of the maximum amount of earnings provided under regulation 6 of the Contributions Regulations on which contributions are payable or more; *(Amended by L.N. 32/2011)*

(b) in the case of insurable employment as a self-employed person, if he is engaged in such employment for fifteen hours per week or more.

(6) A person under the age of sixty-five to whom a retirement pension has been awarded shall not be entitled to such pension for any week in which he is substantially employed.

(7) The weekly rate of retirement pension of an insured person under the age of sixty-five shall be reduced by one ½% of the full pension for each month that the age at the time of award precedes sixty-five years. *(Inserted by L.N. 57/2014)*

Rate of retirement pension

4. (1) Subject to these Regulations, the weekly rate of retirement pension payable to an insured person who has paid or to whom has been credited not less than five hundred contributions shall be 30% of the average weekly insurable earnings supplemented by an amount equal to—

(a) 2% of the average weekly insurable earnings for each unit of fifty paid or credited contributions in excess of the first five hundred, up to a total of seven hundred and fifty such contributions; and

(b) 1% of the average weekly insurable earnings for each unit of fifty paid or credited contributions in excess of seven hundred and fifty.

(2) For the purposes of this regulation, "average weekly insurable earnings" means the sum of the weekly insurable earnings in respect of which contributions were paid or credited during the best five years of contribution in the last ten contribution years of the insured person or such lesser number of the contribution years since the appointed day, as the case may be, divided by the number of weeks for which contributions were paid or credited in the same period. *(Amended by L.Ns. 57/2014 and 29/2015)*

(3) In subregulation (2) "the best five years of contribution" means the five years in which contributions were paid or credited in respect of the highest total amount of insurable earnings. *(Inserted by L.N. 29/2015)*

(4) The weekly rate of retirement pension—

(a) shall not exceed $100 in the case of a person who has paid less than two hundred and fifty contributions;

(b) shall not be less than $93.47 in any case and all retirement pension, except the minimum pension, paid to pensioners pursuant to regulation 4 are increased by 15%; (*Amended by L.N.s 26/2004, 24/2007, 32/2011, 29/2015, 41/2015 and 76/2017)*

(c) subject to paragraph *(b)*, shall not exceed a rate of 60% of the average weekly insurable earnings of the insured person.

(5) For the purpose of calculating retirement pensions to be awarded after 31 December 2011, the 15% increase in all retirement pensions, except minimum pensions, paid to pensioners

pursuant to the National Insurance (Benefit) (Amendment) (No.3) Regulations 2004 shall not be taken into account. *(Inserted by L.N. 32/2011)*

(6) For the purpose of calculating a retirement pension beginning 1 April 2014, the amount of weekly insurable earnings in excess of $600 to be taken into account in calculating the average weekly insurable earnings shall be 75% of the excess earnings, which shall be increased by 5% of the excess earnings annually on the 1st day of April in every subsequent year thereafter for a period of five years. *(Inserted by L.N. 57/2014)*

Amount of retirement grant

5. (1) The retirement grant shall be a lump-sum equal to two times the average weekly insurable earnings for each unit of fifty contributions paid or credited.

(2) In subregulation (1), "average weekly insurable earnings" has the meaning given to it by regulation 4(2).

Transitional Provisions For Retirement Pension

For persons over forty-eight years on appointed day

6. An insured person who is over forty-eight years of age on the appointed day shall be awarded a special credit of fifty contributions for each year of age in excess of forty-eight years, subject to a maximum special credit of three hundred and fifty such contributions:

Provided that such special credits—

(a) shall be awarded for retirement pension purposes only;

(b) shall not be taken into account in assessing the average weekly insurable earnings; and

(c) shall only be used to the extent necessary to enable an insured person to qualify for a retirement pension of 30% of the average weekly insurable earnings.

Invalidity Pension

Entitlement

7. (1) An insured person other than a temporarily resident employed person shall be entitled to invalidity pension if—

(a) he is under the age of sixty years;

(b) he is an invalid; and

(c) he satisfies the relevant contribution conditions.
(Amended by L.N. 8/1995)

(2) For the purposes of invalidity pension under these Regulations, an insured person is an invalid if he is incapable of work as a result of a specific disease or bodily or mental disablement which is likely to be permanent and has been so incapable for a period of not less than twenty-six consecutive weeks immediately preceding the week in which the benefit is claimed.

(3) The contribution conditions for invalidity pension are—

(a) that not less than one hundred and fifty contributions have been paid by the insured person; and

(b) that in the last three consecutive contribution years immediately preceding the year in which he becomes an invalid, not less than sixty contributions have been paid by or credited to him. (*Amended by L.N. 32/2011)*

(4) Subject to these Regulations, an invalidity pension shall be payable as long as the insured person is an invalid and is under the age of sixty years.

Special credits

8. (1) Where a claimant has satisfied the conditions specified in regulation 7, he shall be credited with a contribution for every contribution week falling in the period between the beginning of the week following that in which he becomes an invalid and the end of the week preceding that in which he will reach the age of sixty years.

(2) Contributions credited under subregulation (1) shall be valid only for invalidity pension purposes, and shall be taken into account for determining the rate of pension, but shall not be taken into account in assessing the average weekly insurable earnings.

Rate of invalidity pension

9. (1) The weekly rate of invalidity pension payable to an insured person in respect of whom at least five hundred contributions have been paid or credited shall be the percentage of the average weekly insurable earnings described in regulation 4(1) for retirement pension.

(2) The weekly rate of invalidity pension payable to an insured person in respect of whom less than five hundred contributions have been paid or credited shall be 30% of the average weekly insurable earnings.

(3) In this regulation, subject to regulation 8, "average weekly insurable earnings" has the meaning given to it by regulation 4(2).

(4) The weekly rate of invalidity pension—

(a) shall not be less than $93.47; and *(Amended by L.Ns. 34/ 2004, 32/2011, 29/2015, 41/2015 and 76/2017)*

(b) subject to paragraph *(a)*, shall not exceed a rate of 60% of the average weekly insurable earnings of the insured person.

Cessation of invalidity pension and subsequent claim to benefit

10. (1) Subject to subregulation (2), on cessation of an invalidity pension, nothing in these Regulations shall prevent the contributions on which the said invalidity pension was based from being taken into account for the purposes of establishing title toward any subsequent invalidity pension or any other benefit.

(2) In the case of a subsequent claim for invalidity pension, the provisions of regulation 8 shall apply again, but any credits awarded under that regulation for the purpose of the previous claim shall not be applied for the purpose of the subsequent claim.

Conversion of invalidity pension to retirement pension

11. An insured person in receipt of invalidity pension who, on reaching the age of sixty years, is not entitled to retirement pension or is entitled to such pension at a rate lower than the rate of invalidity pension which is payable to him, shall become entitled to retirement pension payable at the same rate as the rate of invalidity pension to which he was entitled immediately before reaching the age of sixty years.

Certification of invalidity

12. All claims for invalidity pension shall be accompanied by a medical certificate certifying that the insured person making the claim or on whose behalf the claim is being made is an invalid within the meaning of regulation 7(2) and specifying the condition causing invalidity.

Disqualification

13. (1) A person awarded an invalidity pension shall comply with every direction given at any time by the Director, which requires him—

(a) to submit himself to a medical examination or re-examination by a medical board;

(b) to submit himself to such medical treatment as is considered appropriate in his case by the medical practitioner in charge of his case or by a medical board; or

(c) to attend such vocational training or rehabilitation course as the Director may direct.

(2) A person shall be disqualified for receiving invalidity pension for such period not exceeding six weeks as the Director may decide if he has without good cause failed to comply with any direction given under subregulation (1):

Provided that, in the case of a person who is disqualified for receiving invalidity pension under this paragraph, one half of the rate of pension which, but for such disqualification, would have been paid to him shall be paid to his spouse or minor children whom he was wholly or mainly maintaining immediately before such disqualification.

(3) An insured person entitled to invalidity pension shall be disqualified from receiving such benefit for such period not exceeding six weeks as the Director may decide, if such person performs remunerative work:

Provided that, where an insured person who is in receipt of invalidity pension has been disqualified under this paragraph on at least two prior occasions there shall be no further disqualification unless it has been determined by an appeal tribunal that the insured person is no longer an invalid after re-examination by a medical board, in which case the disqualification shall be permanent. *(Inserted by L.N. 57/2014)*

Survivors' Benefit

Type of survivors' benefit and maximum available benefit

14. (1) Where at the date of his death a deceased insured person was in receipt of an invalidity pension or retirement pension, or would have been entitled to an invalidity pension had he been deemed to be an invalid or to retirement pension; survivors' benefit shall be a periodical payment hereinafter referred to as "pension".

(2) Where at the date of his death the deceased insured person would have been entitled to retirement grant had he been deemed to have reached the age of sixty-five years; survivors' benefit shall be a lump sum payment hereinafter referred to as "survivors' grant".

(3) The total rate or amount of benefit payable to all persons entitled to survivors' benefit may exceed the amount of periodical payment of lump sum payment which would have been payable to the deceased insured person under paragraph (1) or (2), hereinafter referred to as "maximum available survivors' benefit". *(Amended by L.N. 32/2011)*

(4) Subject to regulations 15, 16 and 17, survivors' benefit shall be payable to the widow or widower (as the case may be) of the relevant insured person and to his children.

Entitlement to widow's pension

15. (1) The widow of the relevant insured person shall be entitled to a periodical payment, hereinafter referred to as "widow's pension", if at the date of death of that person the widow—

(a) was pregnant by that person or had the care of a child of his under sixteen years of age, and shall be so entitled as long as she is so pregnant or has the care of such child;

(b) was over the age of fifty years, in which case the pension shall be payable for life; or

(c) was permanently incapable of self-support and wholly dependent on that person, in which case the pension shall be payable as long as she is so incapable.

(2) A widow who at the date of the relevant insured person's death was entitled to receive a pension in accordance with subregulation (1)*(a)* shall, subject to subregulation (3), be entitled to receive that pension for life if, on attaining the age of fifty years, she still has the care of the child mentioned in the former subregulation and the child is still under the age of sixteen years.

(3) A widow's pension shall cease if the widow remarries.

Entitlement to widower's pension

16. (1) The widower of the relevant insured person shall be entitled to a periodical payment, hereinafter referred to as "widower's pension", if at the date of death of that person the widower—

(a) had the care of a child of hers under sixteen years of age, and shall be so entitled as long as he has the care of such child;

(b) was over the age of fifty years, in which case the pension shall be payable for life; or *(Amended by L.N. 32/2011)*

(c) was permanently incapable of self-support and wholly dependent on that person, in which case the pension shall be payable as long as he is so incapable.

(2) A widower who at the date of the relevant insured person's death was entitled to receive a pension in accordance with subregulation (1)*(a)* shall, subject to subregulation (3), be entitled to receive that pension for life if, on attaining the age of fifty years, he still has the care of the child mentioned in the former subregulation and the child is still under the age of sixteen years. *(Amended by L.N. 32/2011)*

(3) A widower's pension shall cease if the widower remarries.

Entitlement to child's pension

17. (1) A periodical payment, hereinafter referred to as "child's pension", shall be payable to or in respect of a child of the relevant insured person if at the date of death of that person the child—

(a) was a minor; and

(b) was living with or, if not living with, was wholly or mainly maintained by that person or it is shown to the satisfaction of the Director that that person was legally obliged or liable to maintain the child.

(2) A child's pension shall be payable until the child ceases to be a minor.

Entitlement to Orphan's pension

18. Notwithstanding any other regulation, where a child becomes an orphan and is not otherwise entitled to a child's pension there shall be payable to or in respect of that child, until he ceases to be a minor, a pension at the same rate of the minimum survivors' pension payable to a widow or widower.

(Inserted by L. N. 76/2017)

Rates of widow's and widower's and child's pension and amount of survivors' grant

19. (1) Subject to regulations 15, 16 and 17, the rate of widow's or widower's pension and of child's pension shall be a proportion of the maximum available survivors' benefit and such proportion shall be equal to—

(a) one-half, in the case of a widow or widower; *(Amended by L.N. 32/2011)*

(b) two-fifths, in the case of a child over sixteen years who at the date of death of the relevant person was permanently incapable of self-support; and *(Amended by L.N. 32/2011)*

(c) one-fourth, in the case of any other child. *(Amended by L.Ns. 34/2004 and 32/2011)*

(2) Where the total rate or amount of benefit payable in respect of all beneficiaries in accordance with subregulation (1) exceeds the maximum available survivors' benefit, the share of each beneficiary shall be reduced proportionately:

Provided that in no case shall a survivor's pension be less than $300 per month in respect of a widow or widower and $120 per month in respect of a child. *(Inserted by L.N. 32/2011 and Amended by L.N.s 29/2015, 41/2015 and 76/2017)*

(3) Subject to subregulation (2), where no widow or widower is entitled to benefit, the maximum available survivors' benefit shall be payable to or in respect of the children of the deceased. *(Amended by L.N. 32/2011)*

Distribution of survivors' grant

20. Subject to regulation 19(2) the amount of survivors' grant payable in respect of each eligible survivor shall be distributed in the proportions set out in regulation 18(1). *(Amended by L.N. 32/2011)*

Funeral Grant

Funeral grant

21. (1) Subject to these Regulations, a funeral grant shall be payable in respect of the death of any person if—

(a) he satisfies the relevant contribution conditions in subregulation (4)*(a)* and *(b)* or *(c)* at the date of his death; *(Amended by L.N. 76/2017)*

(b) he was entitled at the date of his death to retirement pension, invalidity pension, survivors' pension, sickness benefit, maternity allowance or non-contributory old age pension;

(c) he was either a dependent of an insured person, who satisfies the relevant contribution conditions at the time of the dependent's death or a dependent of a person who at the time of the dependent's death is entitled to any of the benefits referred to in paragraph *(b).*

(Inserted by L.N. 8/1995 and amended by L.N. 2/2004))

(2) For the purposes of the payment of a funeral grant in respect of the death of any person under subregulation (1), the person must not have been a temporarily resident employed person. *(Inserted by L.N. 2/2004)*

(3) In this regulation, "dependent", in relation to any person, means a relative or the spouse or minor child of such person with whom he was living or who was wholly or mainly maintained by him immediately before his death. (*Amended by L.N. 2/2004)*

(4) The contribution conditions for a funeral grant are—

(a) that not less than twenty-six contributions have been paid by the insured person; and

(b) that not less than eight contributions have been paid by or credited to him in any continuous thirteen contribution weeks of the last twenty-six contribution weeks immediately preceding the week in which the death occurs; or *(Amended by L.N.s 32/2011, 3/2012 and 76/2017))*

(c) that not less than five hundred contributions have been paid by or credited to the insured person. *(Inserted by L.N. 76/2017)*

(5) The amount of the funeral grant shall be $2,390 in respect of the death of a person to whom subregulation (1)*(c)* does not apply and $1,550 in respect of death of a person to whom subregulation (1)*(c)* applies. (*Amended by L.N.s 17 /1999, 32/2011, 29/2015 and 76/2017)*

(6) Any funeral grant which is payable under this regulation shall be paid—

(a) to the widower or widow of the deceased, if the deceased was married;

(b) to a relative of the deceased; or

(c) in any other case, to such person as the Director may in his discretion determine.

(7) In this Regulation "relative" means brother, sister, aunt, uncle or parent. *(Inserted by L.N. 2/2004*)

Sickness Benefit

Entitlement to benefit

22. Subject to these Regulations, sickness benefit shall be granted to an insured person who is rendered incapable of work as a result of some specific disease or bodily or mental disablement; and for this purpose 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 infectious disease.

Day from which benefit is to commence; no entitlement after sixty -five

23. (1) An insured person who is eligible for sickness benefit shall not be entitled to receive such benefit for the first three days of any continuous period of incapacity for work, but only as from the fourth day of any such period.

(2) For the purpose of computing the first three days of any continuous period of incapacity for work mentioned in subregulation (1)—

(a) public holidays shall be included; and

(b) Sundays shall be excluded.

(3) No insured person shall be entitled to sickness benefit on or after attaining the age of sixty-five years.

Conditions to be satisfied

24. An insured person shall be entitled to sickness benefit if—

(a) he has paid not less than twenty-six contributions;

(b) he has paid not less than eight contributions in any continuous thirteen contribution weeks of the last twenty-six contribution weeks immediately preceding the week in which the first day of the continuous period of incapacity for work occurred; and *(Amended by L.N.s 32/2011and 3/2012)*

(c) he was engaged in insurable employment as an employed person immediately prior to the day on which the first day of the continuous period of incapacity for work occurred.

Duration

25. (1) Sickness benefit shall be paid for each day (excluding Sundays) as long as incapacity for work continues, subject to a maximum of one hundred and fifty-six days in any continuous period of incapacity for work.

(2) Where sickness benefit has been paid for one hundred and fifty-six days in any continuous period of incapacity for work, the eight contributions required under regulation 23*(b)* shall be contributions paid after the last day in respect of which sickness benefit was paid.

(3) For the purposes of this regulation and of regulation 26, any two periods of incapacity for work not separated by more than eight contribution weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of these periods.

Rate of benefit

26. (1) The weekly rate of sickness benefit shall be 60% of the average weekly insurable earnings and the amount of benefit per day shall be one sixth of the weekly amount.

(2) In this regulation, "average weekly insurable earnings" means the sum of the weekly insurable earnings on the basis of which contributions were paid or credited during the period as specified in regulation 24*(b)* divided by the number of weeks for which contributions were paid or credited in the said period. *(Amended by L.N. 3/2012)*

(3) Where a period of incapacity is the second or later period in a continuous period of incapacity for work, the rate of benefit in such second or later period shall be the daily rate of benefit paid or which would have been payable during the first period of such continuous period of incapacity for work.

Certification and medical examination

27. (1) Subject to the Claims and Payments Regulations, a claim for sickness benefit shall be supported by a medical certificate or by such evidence as the Director may require for the purpose of establishing the claimant's incapacity for work.

(2) The Director may, for the purpose mentioned in subregulation (1), also require the claimant to attend for and submit himself to medical examination by one or more medical practitioners appointed by the Board.

Disqualification

28. An insured person entitled to sickness benefit shall be disqualified for receiving benefit for such period not exceeding six weeks as the Director may decide, if such person—

(a) has become incapable of work through his own misconduct;

(b) fails, without good cause, to comply with a notice in writing by the Director requiring him to attend for and submit himself to medical or other examination;

(c) fails to refrain from behaviour calculated or likely to retard his recovery; or

(d) performs remunerative work.

Maternity Benefit

Entitlement to maternity allowance

29. (1) Subject to these Regulations, maternity allowance shall be payable in the case of pregnancy and confinement to an insured woman who satisfies the relevant contribution conditions.

(2) The contribution conditions for maternity allowance are—

(a) that not less than twenty-six contributions have been paid by the insured woman; and

(b) that not less than eight contributions have been paid by or credited to her in any continuous thirteen contribution weeks of the last twenty-six contribution weeks immediately preceding the fifth week before the expected week of confinement or in which occurs the day from which the allowance is claimed, whichever is the later. *(Amended by L.N.s 32/2011 and 3/2012)*

Commencement and duration of payment of allowance

30. (1) Subject to these Regulations, maternity allowance shall be payable to an insured woman for a period starting from a date not earlier than five weeks before the expected week of confinement and continuing until the expiration of—

(a) fourteen weeks; or

(b) eight weeks from the week in which the confinement occurs,

whichever is the later. *(Amended by L.N. 57/2014)*

(2) Maternity allowance shall not be payable for any period after the death of a woman who was entitled to such allowance.

Rate of maternity allowance

31. (1) The weekly rate of maternity allowance shall be equivalent to 60% of the average weekly insurable earnings and the amount of benefit per day shall be one-sixth of the weekly amount.

(2) In this regulation, "average weekly insurable earnings" means the sum of the weekly insurable earnings on the basis of which contributions were paid or credited during the period of the thirteen contribution weeks specified in regulation 29(2)*(b)* divided by the number of weeks for which contributions were paid or credited in the said period.

Certification and medical examination

32. (1) Subject to subregulation (3), a claim for maternity allowance shall be accompanied—

(a) in the case of a claim made prior to the date of confinement, by a medical certificate stating the expected date of confinement; or

(b) in the case of a claim made subsequent to the date of confinement, by a medical certificate or a certificate issued by a registered midwife, stating the actual date of confinement.

(2) An insured woman in receipt of maternity allowance shall, as soon as possible after her confinement, obtain a certificate of her confinement from the medical practitioner or registered midwife who assisted thereat, and forward it to an office of the Board within three weeks after the date of confinement:

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

(3) The Director may require a claimant or beneficiary to attend for and submit herself to examination by one or more medical practitioners appointed by the Board.

Disqualification for maternity allowance

33. An insured woman shall be disqualified for receiving maternity allowance—

(a) if, during the period for which the allowance is payable, she does any remunerative work; and such disqualification shall be for such part of the said period as may be determined by the Director, but it shall not be less than the number of days on which the woman so worked during the said period;

(b) if she fails without good cause to attend for or to submit herself to any medical examination required in accordance with regulation 32(3); and such disqualification shall be for such part of the said period for which benefit is payable (being a part beginning not earlier than the day on which the failure occurs) as may be decided by the Director, subject to the qualification that in the event of her being confined after such failure, she shall not by reason of such failure be so disqualified for the day on which the confinement occurs or any day thereafter.

Maternity grant

34. (1) Subject to these Regulations, maternity grant shall be payable to a woman who has been confined—

(a) if at the date of her confinement she or her husband satisfies the relevant contribution conditions; or

(b) in case she claims in respect of the posthumous child of her late husband, if at the date of his death her husband satisfied the relevant contribution conditions:

Provided that a woman shall not be entitled to a maternity grant by virtue both of her own and of her husband's insurance.

(2) The contribution conditions for maternity grant are—

(a) that no less than twenty-six contributions have been paid by the insured person; and

(b) that not less than eight contributions have been paid by or credited to the insured person in the first thirteen contribution weeks of the last twenty-six contribution weeks immediately preceding the week in which the confinement occurs.

(3) The amount of maternity grant shall be $600 for every child.
(*Amended by L.N.s 17/ 1999, 34/2004, 32/2011, 29/2015 and 76/2017)*

PART II

BENEFITS FOR PERSONAL INJURY BY
ACCIDENT AND PRESCRIBED DISEASES

General provision

35. (1) Where an employed person suffers personal injury as a result of an accident occurring on or after the appointed day, there shall be payable to or in respect of such person the benefits provided under this Part.

(2) Except for regulations 36, 37, 38, 39, 44 and 45, this Part does not apply to any employed person who is a temporarily resident employed person. *(Inserted by L.N. 8/1995 and Amended by L.N. 32/2011)*

Injury Benefit

Entitlement to injury benefit

36. (1) Subject to these Regulations, where an employed person suffers personal injury caused by accident, he shall be entitled to injury benefit in respect of any day on which, as the result of the injury so caused, he is incapable of work during the period of twelve months beginning with the day of the accident.

(2) In determining whether the insured person is incapable of work on the day of the accident, any part of that day before the happening of the accident shall be disregarded.

Rate of injury benefit

37. The rate of injury benefit shall be calculated in accordance with Schedule 1.

Commencement of injury benefit payment

38. (1) Subject to subregulation (2), an employed person who is eligible for injury benefit shall not be entitled to receive such benefit for the first three days of any continuous period of incapacity for work resulting from the relevant injury, but only as from the fourth day of such period.

(2) Subject to subregulation (3), for the purpose of computing the first three days of any continuous period of incapacity for work mentioned in subregulation (1)—

(a) public holidays shall be included; and

(b) Sundays shall be excluded.

(3) Where an insured person had already had an earlier continuous period of incapacity for work exceeding three days for which sickness or injury benefit had been paid, and the interval between the last day of such period and the commencement of the further period of incapacity for work is no more than eight weeks, injury benefit shall be payable from the first day (Sunday being excluded) of the further period at a rate calculated in accordance with regulation 37.

Certification and medical examination

39. A claim for injury benefit shall be made in the prescribed manner and shall be supported by a medical certificate or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work:

Provided that the Director may, before deciding a claim to injury benefit, require the claimant to attend for and submit himself to medical examination by one or more medical practitioners appointed by the Board.

Disablement Benefit

Disablement Benefit

40. (1) Subject to these Regulations, an employed person who suffers personal injury caused by accident shall be entitled to disablement benefit, if, as a result of the relevant injury, he is suffering on the fourth day after the day of the relevant accident or on any subsequent day from loss of physical or mental faculty, and for that day he is not entitled to injury benefit, unless it is a day to which regulation 38(1) applies:

Provided that for the purposes of this regulation there shall be deemed not to be any loss of faculty at any time, when the extent of the resulting disablement, assessed in accordance with the following provisions of this regulation, amounts to less than 10%.

(2) For the purposes of this regulation, the extent 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) the disabilities to be taken into account shall be all disabilities (whether or not involving loss of earning power or additional expenses) to which the claimant may be expected, having regard to his physical and mental condition at the date of the 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 subparagraph *(c)*, it shall not be so treated in so far as the claimant either—

(i) would in any case have been subject thereto as the result of congenital defect or of any injury or disease received or contracted before the relevant accident; or

(ii) would not have been subject thereto but for some injury or disease received or contracted after, and not 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 and mental condition;

(d) the percentage degree of disablement shall, for those losses of faculty listed in Schedule 2, be the percentage degree there indicated and other disabilities shall be assessed accordingly; and

(e) the assessment shall take account of disfigurement.

(3) The period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period beginning not earlier than the fourth day after the day of the relevant accident during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty:

Provided that if on any assessment the condition of the claimant is not such, having regard to the possibility of the changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the said period—

(a) a provisional assessment shall be made, taking into account such shorter period only 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 end of the period taken into account by the provisional assessment.

(4) An assessment shall state the degree of disablement in the form of a percentage and—

(a) such percentage shall not be specified more particularly than is necessary for the purpose of determining in accordance with this regulation the claimant's right to disablement benefit; and

(b) a percentage between twenty and 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 nearest percentage which is a multiple of ten.

Type and amount and rate of disablement benefit

41. (1) Where the extent of disablement is assessed as amounting to less than 20%, disablement benefit shall be a lump sum, hereinafter referred to as "disablement grant".

(2) Where the extent of disablement is assessed for the period taken into account as amounting to 20% or more, disablement benefit shall be a periodical payment for that period, hereinafter referred to as "disablement pension":

Provided that where the period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

(3) The amount of disablement grant and the rate of disablement pension shall be calculated in accordance with Schedule 1.

Partial disablement treated as total disablement

42. (1) Where a beneficiary entitled to a disablement pension enters any hospital or similar institution for the purpose of receiving approved hospital or other treatment related to the accident, then, if the degree of disablement in respect of which the pension is payable was assessed at less than 100%, it shall be treated, for the period for which he receives such treatment, as if it had been assessed at 100%.

(2) Where, in accordance with a requirement of the Director under regulation 45(1)*(e)*, a beneficiary entitled to a disablement pension attends a course of full time occupational training or rehabilitation, then if the degree of disablement in respect of which the pension is payable was assessed at less than 100%, it shall, for the period for which he is to receive such occupational training or rehabilitation, be treated as if it had been assessed at 100%.

(3) Where a beneficiary entitled to a disablement pension in respect of disablement assessed at less than 100%, which resulted from an injury caused on or after the appointed day, is incapable of work and is likely to remain permanently so incapable and his incapacity is due

wholly or mainly to the said disablement, he shall be treated as if his disablement had been assessed at 100%.

Constant attendance allowance

43. (1) For the purpose of determining entitlement to constant attendance allowance under section 22 of the Ordinance, the Director may refer the case for advice to a medical board or a medical practitioner appointed by the Board.

(2) Where a person is entitled to constant attendance allowance, the weekly rate of disablement pension shall be increased by $50 per week and the increase shall be payable for such period as may be determined by the Director at the time it is awarded, but may be renewed from time to time.

(3) For the purpose of section 22(2) of the Ordinance (period during which patient receives in-patient hospital treatment), any period which is less than one week shall be disregarded.

Medical treatment

44. An insured person shall be entitled to a refund of travelling expenses incurred as a result of periodic treatment for the personal injury provided under this regulation up to an amount which the Director considers reasonable in the circumstances of a particular case. *(Amended by L.N. 32/2011)*

Disqualifications for injury benefit and disablement pension

45. (1) A person shall be disqualified for receiving injury benefit or disablement pension for such period not exceeding six weeks as the Director may direct, if—

(a) after the Director has required him to submit himself to medical or other examination, or to a medical treatment, he refuses or fails without good cause to attend for or submit himself to such examination or treatment;

(b) he refuses or fails without good cause to follow the instructions of the medical authority;

(c) he works on a day for which he has claimed injury benefit;

(d) he behaves in a manner likely to retard his recovery; or

(e) he fails without good cause to attend vocational training or a rehabilitation course after the Director has required him to attend.

(2) In the case of a person who has been disqualified for receiving injury benefit or disablement pension under subregulation (1), one-half of the rate of the benefit which, but for such disqualification, would have been paid to him, shall be paid to his spouse or minor children whom he was wholly or mainly maintaining immediately before such disqualification.

Death Benefit

Death benefit payable to survivors

46. Subject to this Part, where an employed person dies as a result of a personal injury caused by accident, death benefit shall be payable by way of periodical payments to—

(a) the widow or widower (as the case may be) and to the children of the relevant person; or

(b) where at the date of death of the relevant person the persons entitled to death benefit under paragraph *(a)* do not take up the total available death benefit, a parent of the relevant person.

Entitlement to widow's death benefit

47. (1) Subject to subregulation (3), the widow of the relevant person shall be entitled to death benefit, hereinafter referred to as "widow's death benefit", if at the date of death of that person the widow—

(a) was pregnant by that person or had the care of a child of his under sixteen years of age and shall be so entitled as long as she is pregnant or has the care of such child;

(b) was over fifty years, in which case the benefit shall be payable for life; or

(c) was permanently incapable of self-support and wholly dependent on that person, in which case the benefit shall be payable as long as she remains so incapable.

(2) A widow who at the date of the relevant person's death is entitled to receive a pension in accordance with subregulation (1)*(a)* shall, subject to subregulation (3), be entitled to receive such pension for life if, on attaining the age of fifty years, she still has the care of the child mentioned in the former paragraph and the child is still under the age of sixteen years.

(3) A widow's death benefit shall cease if the widow remarries.

Entitlement to widower's death benefit

48. (1) The widower of the relevant person shall be entitled to death benefit, hereinafter referred to as "widower's death benefit", if at the date of death of that person the widower—

(a) had the care of a child of hers under sixteen years of age and shall be so entitled as long as he has the care of such child;

(b) was over the age of sixty years, in which case the benefit shall be payable for life; or

(c) was permanently incapable of self-support and wholly dependent on that person, in which case the benefit shall be payable as long as he is so incapable.

(2) A widower who at the date of the relevant person's death was entitled to receive benefit under subregulation (1)*(a)* shall, subject to subregulation (3), be entitled to receive that benefit for life if, on attaining the age of sixty years, he still has the care of the child mentioned in the former subregulation and the child is still under the age of sixteen years.

(3) A widower's death benefit shall cease if the widower remarries.

Child's death benefit

49. The provisions of regulation 17 (relating to entitlement to child's pension) have effect under this Part for the purpose of benefit to a child of the relevant person, hereinafter referred to as "child's death benefit".

Entitlement to parent's death benefit

50. A parent of the relevant person shall be entitled to death benefit, hereinafter referred to as "parent's death benefit", if such parent shows to the satisfaction of the Director that he or she was wholly or mainly maintained by the relevant person at the time of his death.

Rates of death benefit

51. (1) Subject to regulations 47, 48, 49 and 50, the weekly rate of death benefit payable to each beneficiary shall be a proportion of 60% of the relevant person's average weekly insurable earnings and such proportion shall be equal to—

(a) one-half, in the case of a widow or widower;

(b) two-fifths, in the case of a child over sixteen years of age who at the date of the relevant person's death was permanently incapable of self-support; and

(c) one-fourth, in the case of any other child. *(Amended by L.Ns. 34/2004 and 32/2011)*

(2) Regulations 19(2) and (3) shall apply, with such modifications as the circumstances require, to death benefit under subregulation (1).

(3) The rate of death benefit payable to a parent shall be equal to two-fifths of 60% of the average insurable earnings of the relevant person.

(4) In this regulation, "average weekly insurable earnings" has the meaning given to it by paragraph 4 of Schedule 1.

Death Grant

Death grant

52. (1) A death grant shall be payable in respect of the death of—

(a) an employed person who dies as a result of a personal injury caused by accident;

(b) a person who, at the date of his death, was entitled to death benefit; or

(c) a person who, at the date of his death, was a dependent of a person entitled to death benefit.

(2) In this regulation, "dependent" has the meaning given to it by regulation 21(3).

(3) The amount of the death grant shall be $2,390 in respect of the death of a person to whom subregulation (1)*(c)* does not apply and $995 in respect of the death of a person to whom subregulation (1)*(c)* applies. *(Amended by L.N.s 17/1999 and 76/2017)*

(4) Any death grant which is payable under this regulation shall be paid—

(a) to the widower or widow of the deceased, if the deceased was married; or

(b) in any other case to such person as the Director may in his discretion determine.

(5) Entitlement to the payment of death grant in respect of the death of any person under this regulation excludes entitlement to payment of funeral grant in respect of the death of the same person under regulation 20.

Provisions Relating to Prescribed Diseases and Injuries

Prescription of diseases and injuries

53. (1) Each disease or injury set out in column (1) of Schedule 3 is prescribed in relation to all persons who have been employed on or after the appointed day in insurable employment as employed persons in any occupation set out against such disease or injury in column (2) of the said Schedule.

(2) Where a person has developed any disease or injury prescribed as being a disease or injury due to the nature of an occupation, which is prescribed in relation to that disease or injury, and that person has been employed as an employed person on or after the appointed day in that occupation, the benefits payable under the provisions of the foregoing regulations of this Part shall be payable and for this purpose in those regulations—

(a) any reference to suffering personal injury caused by accident is a reference to the development of a disease or injury due to the nature of an employment; and

(b) any reference to the date of an accident means—

(i) if the first claim in respect of a disease or injury is for injury benefit, the first day on or after the appointed day on which the claimant has been incapable of work as the result of that disease or injury;

(ii) if the first claim in respect of a disease or injury is for disablement benefit, the first day on or after the appointed day on which the claimant has suffered from loss of physical or mental faculty as the result of the disease:

Provided that where a person claims injury benefit in respect of a disease or injury for which he has previously received injury benefit or disablement benefit, his earlier claim in respect of that disease or injury shall be disregarded, if he is incapable of work and his incapacity is predominantly due to further exposure to the risk of that disease or injury.

PART III

NON-CONTRIBUTORY OLD AGE PENSION

Entitlement

54. (1) Subject to subregulations (2), (3), (4) and (5), a person who—

(a) has attained the age of sixty-eight years;

(b) satisfies the conditions of residence on attaining that age,

(c) is a Turks and Caicos Islander; and *(Inserted by L.N. 76/2017)*

(d) satisfies the Board's "Means Test" in effect at the time. *(Inserted by L.N. 76/2017)*

shall be entitled to a non-contributory old age pension.

(2) The conditions of residence are that the person concerned must have—

(a) legally resided in the Islands for an aggregate period of twenty years since attaining the age of forty years; or

(b) legally resided in the Islands for an aggregate period of thirty years since attaining the age of sixteen years.*(Amended by L.N. 57/2014)*

(3) For the purpose of computing residence in the Islands under subregulation (2), any periods of absence from the Islands of less than three months in any calendar year shall be counted as periods of residence in the Islands.

(4) A person who otherwise qualifies to receive a non-contributory old age pension under this Part but who also receives from any source any other pension or similar payment—

(a) which is equal to or exceeds the weekly rate of non-contributory old age pension, shall be disqualified from receiving or continuing to receive the non-contributory old age pension; or

(b) which is less than the weekly rate of non-contributory old age pension, shall be paid a non-contributory old age pension equivalent to the difference between the full weekly rate of non-contributory old age pension and the weekly rate of the other pension or payment:

Provided that a person shall be disqualified from receiving or continuing to receive any non-contributory old age pension if the weekly amount payable under this paragraph is less than $2.50. *(Substituted by L.N. 30/1995)*

(5)In subregulation (1)*(d)*, “Means Test” means an investigation conducted by the Board into the financial status of a claimant to determine whether or not the claimant has the financial resources or ability to otherwise support himself.

(6)Where the Director makes a request to a claimant to provide relevant information or evidence to assist the Board in making a determination as to the claimant’s financial means, the claimant shall provide such information or evidence. *(Inserted by L.N. 76/2017)*

(7) The rate of non-contributory old age pension shall be $69.23 per week. *(Amended by L.N.s 4/2004, 24/2007, 29/2015 41/2015 and 76/2017)*

Disqualification by failure or refusal to register

55. (1) Notwithstanding regulation 54(1), (2) and (3), where the Board is satisfied that a person—

(a) has been gainfully employed; and

(b) has failed or refused to be registered under the Ordinance; or

(c) being registered under the Ordinance has failed or refused to pay his contributions,

that person shall be disqualified from receiving a non-contributory old age pension.

(2) Paragraph (1) shall not apply to a person who is in receipt of a non-contributory old age pension prior to 11 October 2005.

(Inserted by L.N. 28/2005)

PART IV

MISCELLANEOUS PROVISIONS

Meaning of "the husband" and "the wife"

56. In these Regulations "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.

Special treatment in case of survivors' benefit or death benefit of persons living in certain associations

57. For the purposes of these Regulations—

(a) where it is a condition for title to survivors' benefit or death benefit that—

(i) a woman is the widow of an insured man, 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; or

(ii) a man is the widower of an insured woman, 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 the Director shall be satisfied that in all circumstances he or she should be so treated;

(b) where the question of marriage or remarriage or the date of marriage or remarriage arises in regard to the title or cessation of title to survivors' benefit or death benefit, 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 paragraph *(a)*; and

(c) the determination of the Director under paragraphs *(a)* or *(b)* shall, unless the context otherwise requires, have the effect of extending, as regards title or cessation of title to survivors' benefit or death benefit payable to a man or woman, the meaning of the word "marriage" to include the association between such a single woman or widow as aforesaid with such a single man or widower as aforesaid and the association between such single man or widower as aforesaid, with such a single woman or widow as aforesaid, and for this purpose the words "wife", "husband", "widow", "widower" and "spouse" shall be construed accordingly.

Expenses for occupational training or rehabilitation

58. (1) Any person who participates in a course of occupational training or rehabilitation in accordance with regulation 13(1)*(c)* or 45(1)*(e)* shall be entitled to an allowance out of the Fund for every day of participation in the said course.

(2) The allowance mentioned in subregulation (1) shall be equal to the expenses incurred by the person participating in the said course for travelling, food and accommodation, subject to a maximum amount to be fixed by the Board.

(3) Any fees payable by a person participating in a course of occupational training or rehabilitation shall be paid out of the Fund to the person or institution providing the training or rehabilitation.

Credited contributions

59. (1) A contribution shall be credited to an insured person without actual payment thereof—

(a) for every week after he reaches the age of sixteen years falling in any period during which he is receiving full-time education or is attending a course of training approved by the Director:

Provided that in no case a contribution shall be credited for any week before the appointed day or after the insured person attains the age of twenty-three years; and

(b) for every week for the whole of which he is entitled to—

(i) invalidity pension;

(ii) sickness benefit;

(iii) maternity allowance;

(iv) injury benefit; or

(v) disablement pension assessed at 100% and the person concerned is incapable of work as a result of the relevant loss of faculty.

(2) A contribution credited under subregulation (1)*(a)* shall be assessed on weekly insurable earnings of $25.

(3) A contribution credited under subregulation (1)*(b)* shall be assessed on the weekly insurable earnings on the basis of which the benefit has been paid.

(4) Subject to these Regulations, a contribution credited under subregulation (1) shall be valid for retirement benefit, invalidity pension, survivors' benefit, funeral grant, sickness benefit and maternity benefit.

Duplicate rights

60. (1) Subject to subregulation (2), where a person would be entitled, but for this regulation, to two or more periodical benefits for the same period under these Regulations, he shall be entitled to the benefit which is payable at the highest rate and if the benefits are payable at the same rate, to the benefit which was first awarded.

(2) A person shall be entitled to receive two or more disablement pensions at the same time, and in calculating the total amount of those pensions account shall be taken of the total degree of the relevant disabilities and of the highest of the two or more average weekly insurable earnings as ascertained for the relevant pensions in accordance with the provisions of Schedule 1:

Provided that the total degree of disablement taken into account shall not exceed 100%.

Persons outside the Islands

61. (1) Subject to subregulations (2), (3) and (4), a person shall be disqualified for receiving retirement pension, invalidity pension, sickness benefit, maternity allowance, injury benefit and non-contributory old age pension for any period during which he is absent from the Islands.

(2) A person over the age of sixty-five years shall not be disqualified for receiving retirement pension during any period he is absent from the Islands.

(3) A person temporarily absent from the Islands for the purpose of receiving—

(a) special treatment required as a result of incapacity; or

(b) treatment in connection with pregnancy,

shall, subject to the approval of the Board, be entitled to receive for the period of such absence sickness benefit, maternity allowance or injury benefit, as the case may be, upon his return to the Islands. *(Substituted by L.N. 57/1994)*

(4) A person absent from the Islands shall be entitled to receive a retirement pension to which regulation 3(1)*(b)* applies, invalidity pension or non-contributory old age pension; for such period and in such circumstances as the Board may determine having regard to the particular aspects of the case.

Persons undergoing imprisonment or detention in legal custody

62. (1) Subject to subregulation (2), a person shall be disqualified for receiving any benefit payable by periodical payments for any period during which he is undergoing imprisonment or detention in legal custody.

(2) In the case of a person disqualified for receiving any benefit under subregulation (1), one half of the rate of benefit which but for such disqualification would have been paid to him shall be paid to his spouse or minor children whom he was wholly or mainly maintaining immediately before such disqualification.

SCHEDULE 1

(Regulations 37 and 41)

RATES OF INJURY BENEFIT AND DISABLEMENT BENEFIT

Rate of injury benefit

1. The weekly rate of injury benefit shall be 60% of the average weekly insurable earnings of the insured person and the amount payable for any day of incapacity shall be one-sixth of the weekly rate (Sundays being disregarded).

Amount of disablement grant

2. The amount of disablement grant shall be a lump sum equal to two hundred and twenty times the average weekly insurable earnings multiplied by the degree of disablement.

Rate of disablement pension

3. (1) The weekly rate of disablement pension, if the degree of disablement is assessed at 100%, shall be 60% of the average weekly insurable earnings of the insured person.

(2) If the degree of disablement is assessed at less than 100%, the weekly rate of disablement pension shall be fixed in proportion to the degree of disablement.

Average insurable earnings

4. In this Schedule, "average weekly insurable earnings" means—

(a) where the insured person has been in the service of the employer throughout the continuous calendar period of thirteen complete contribution weeks immediately preceding the contribution week in which the accident happened, the sum of the insurable earnings on which contributions were based (including any contribution credited in accordance with regulation 59(1)*(b)*) over that period, divided by thirteen;

(b) where the insured person has been in the service of the employer throughout a continuous calendar period of less than thirteen complete contribution weeks immediately preceding the contribution week in which the accident happened, the sum of the insurable earnings on which contributions were based (including any contributions credited in accordance with regulation 59(1)*(b)*) over that period of complete contribution weeks divided by the number of such weeks:

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 employment, it is impracticable to compute a rate of remuneration which would be representative of the average weekly insurable earnings of the insured person at the date of the accident, the Director shall determine the average weekly insurable earnings having regard to the average weekly insurable earnings during the thirteen 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.

SCHEDULE 2

(Regulation 40)

PRESCRIBED DEGREES OF DISABLEMENT

Serial No.	Description of Injury	Degree of Disablement *per centum*
1.	Loss of two limbs	100
2.	Loss of both hands or of all fingers and thumbs	100
3.	Total loss of sight	100
4.	Total paralysis	100
5.	Injuries resulting in being bed-ridden permanently	100
6.	Loss of remaining eye by one-eyed person	100
7.	Loss of remaining arm by one-armed person	100
8.	Loss of remaining leg by one-legged person	100
9.	Loss of a hand and a foot	100
10.	Any other injury causing permanent total incapacity	100
11.	Very severe facial disfigurement	100
12.	Absolute deafness	100
	Amputation cases *Upper limbs (either arm)*	
13.	Amputation through shoulder joint	80
14.	Amputation of arm between elbow and shoulder	70
15.	Loss of arm at elbow	70
16.	Loss of arm between wrist and elbow	70
17.	Loss of hand at wrist	60
18.	Loss of four fingers and thumb of one hand	60
19.	Loss of four fingers of one hand	40
20.	Loss of thumb – both phalanges	30
21.	Loss of thumb – one phalanx	20
22.	Loss of index finger – three phalanges	14
23.	Loss of index finger – two phalanges	11
24.	Loss of index finger – one phalanx	9
25.	Loss of middle finger – three phalanges	12
26.	Loss of middle finger – two phalanges	9
27.	Loss of middle finger – one phalanx	7
28.	Loss of ring or little finger – three phalanges	7
29.	Loss of ring or little finger – two phalanges	6
30.	Loss of ring or little finger – one phalanx	5
31.	Loss of little finger – three phalanges	7
32.	Loss of little finger – two phalanges	6
33.	Loss of little finger – one phalanx	5
34.	Loss of metacarpals – first or second (additional)	5
	Loss of metacarpals – third, fourth or fifth (additional)	4
	Amputation cases *Lower limbs*	
35.	Double amputation through thigh, or through thigh on one side and loss of other foot, or double amputation below knee	100
36.	Double amputation through leg lower than 5 inches below knee	100

37.	Amputation of one leg lower than 5 inches below knee and loss of other foot	100
38.	Amputation of both feet resulting in end-bearing stumps	90
39.	Amputation through both feet proximal to the metatarsophalangeal joint	80
40.	Loss of all toes of both feet through the metatarsophalangeal joint	40
41.	Loss of all toes of both feet proximal interphalangeal joint	30
42.	Loss of all toes of both feet distal to the proximal interphalangeal joint	20
43.	Amputation through hip-joint	90
44.	Amputation below hip with stump not exceeding 5 inches in length measured from tip of great trochanter	80
45.	Amputation below hip with stump exceeding 5 inches in length measured from tip of great trochanter, but not beyond middle thigh	70
46.	Amputation below middle thigh 3½ inches below knee	60
47.	Amputation below knee with stump exceeding 3½ inches but not exceeding 5 inches	50
48.	Amputation below knee with stump exceeding 5 inches	40
49.	Amputation of one foot resulting in end-bearing stump	40
50.	Amputation through one foot proximal to the metatarsophalangeal joint	40
51.	Loss of all toes of one foot proximal to the interphalangeal joint, including amputation through metatarsophalangeal joint	20
52.	Loss of great toe – both phalanges	10
53.	Loss of great toe – one phalanx	5
	Loss of great toe part with some loss of bone	3
	Loss of toes other than great toe each	3
54.	Loss of toes other than great toe – part with some loss of bone.	1

Other Specific Injuries

55.	Loss of one eye, without complications, the other being normal	40
56.	Loss of vision of one eye without complications or disfigurement of the eye-ball, the other being normal	30
57.	Loss of hearing – one ear	20

Complete post-traumatic ankylosis of limbs and joints

	Complete ankylosis of:	
58.	Spine	30
59.	Shoulder	40
60.	Elbow	30
61.	Wrist	30
62.	Superior and inferior radio-ulnar	30
63.	Thumb – first metacarpophalangeal	30
64.	One joint of any finger excluding thumb	3
65.	All three joints of one finger excluding thumb joints	10

66.	Joints of all fingers excluding thumb	30
67.	Finger joints of all fingers including thumb	40
68.	Hip joints	40
69.	Knee	19
70.	Ankle	19
71.	Subtailar – sub-astragaloid group of joints	19
72.	Big toe – first metatarsophalangeal	19
73.	Toe joints	10
	Post-traumatic paralysis of limbs or parts of the body	
74.	Total paralysis due to spinal cord injury	100
	Total paralysis of—	
75.	Brachial plexus	70
76.	Radial nerve	50
77.	Medial nerve	40
78.	Ulnar nerve	40
79.	Sciatic nerve	70
80.	Medial popliteal	40
81.	Lateral popliteal	30

1. In the case of a right-handed person, the degree of disablement for injury to the right arm or hand, and in the case of left-handed person, for an injury to the left arm or hand, shall be increased by 10% of the percentage specified above.

2. In the case of post-traumatic shortening in a lower limb, the degree of the relevant disablement shall be increased by 10% of the percentage specified above.

3. The degree of disablement for partial post-traumatic ankylosis or paralysis, shall be assessed by reference to the degree of disablement for the corresponding complete ankylosis or total paralysis.

4. The degree of disablement of cases not specified in this Schedule shall be assessed on the basis of the general principles referred to in regulation 40(2) taking into account cases specified in this Schedule of equal or similar effect.

SCHEDULE 3

(Regulation 53)

LIST OF PRESCRIBED DISEASES AND INJURIES
AND THE OCCUPATIONS FOR WHICH THEY ARE PRESCRIBED

	Description of disease or injury (1)	Nature of occupation (2)
	Poisoning by:	Any occupation involving:
1.	Lead or a compound of 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.
2.	Manganese or a compound of 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.
3.	Phosphorus or phosphine or poisoning due to the anti-cholinesterase action of organic phosphorus compounds.	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.
4.	Arsenic or a compound of 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.
5.	Mercury or a compound of 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.
6.	Chrome or a compound of chrome.	The use or handling of, or exposure to the fumes of chrome or a compound of chrome, or a substance containing chrome.
7.	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 of bisulphide.
8.	Benzene or a homologue.	The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
9.	A nitro-or amino-or chloro-derivative of benzene, or of a homologue of benzene or by nitrocholor-benzene.	The use or handling of, or exposure to the fumes of, or vapour containing, a nitro-or amino-or chloroderivative of benzene or of a homologue of benzene or nitrochlor- benzene.
10.	Dinotrophenol or a homologue or by substituted dinitrophenols or by the salts of such substances.	The use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or a homologue or substituted dinitrophenols or the salts of such substances.
11.	Tetrachlorethane or toxic halogen derivatives of hydrocarbons of the aliphatic series.	The use or handling of, or exposure to the fumes, or vapour containing tetrachlorethane or toxic halogen derivatives of hydrocarbons of the aliphatic series.
12.	Tri-cresyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate.
13.	Tri-phenyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate.
14.	Diethylene dioxide (dioxan).	The use or handling of, or exposure to the fumes of, or vapour containing, diethylene dioxide (dioxan).
15.	Methyl bromide.	The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide.

16.	Chlorinated napthalene.	The use or handling of, or exposure to the fumes of, or dust or vapour containing chlorinated naphthalene.
17.	Nickel carbonyl.	Exposure to nickel carbonyl gas.
18.	Nitrous fumes.	The use or handling of nitric acid or exposure to nitrous fumes.
19.	GoniomaKammasic (African Box-wood).	The manipulation of GoniomaKammasic or any process in or incidental to the manufacture of articles therefrom.
20.	Anthrax.	The handling of wool, hair bristles, hides or skins or other animal products or residues or contact with animals infected with anthrax or the loading or unloading or transport of merchandise which may have been contaminated by animals or animal carcasses infected with anthrax.
21.	Glanders.	Contact with equine animals or their carcasses.
22.	*(a)* Infection by Leptospira-icterohaemorrhagiae;	Work in places which are, or are liable to be, infested by rats.
	(b) Infection by Leptospira-camicola.	Work at dog kennels or the care or handling of dogs.
23.	Ankylostomiasis.	Work in or about a mine.
24.	*(a)* Dystrophy of the cornea (including ulceration of the corneal surface) of the eye; *(b)* Localised new growth of the skin, papillomatous or keratotic; *(c)* Squamous-celled carcinoma of the skin, due in any case to arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot, anthracene or any compound product (including quinone or hydroquinone), or residue of any of these substances.	The use or handling of, or exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot, anthracene or any compound product (including quinone or hydroquinone).
25.	Diseases caused by ionising radiations.	Exposure to ionising radiations.
26.	Heat cataract.	Frequent or prolonged exposure to rays from molten or red-hot material.
27.	Decompression sickness.	Subjection to compressed air.
28.	Cramp of the hand or forearm due to repetitive movements.	Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.
29.	Subcutaneous cellulitis of the hand (Beat hand).	Manual labour causing severe or prolonged friction or pressure on the hand.
30.	Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (Beat knee).	Manual labour causing severe or prolonged external friction or pressure at or about the knee.
31.	Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external	Manual labour causing severe or prolonged external friction or pressure at or about the elbow.

	friction or pressure at or about the elbow (Beat elbow).	
32.	Traumatic inflammation of the tendons of the hand or forearm, or of the associated tendon sheaths.	Manual labour, or frequent or repeated movements of the hand or wrist.
33.	Miner's nystagmus.	Work in or about mine.
34.	Poisoning by beryllium or a compound of beryllium.	The use or handling of, or exposure to the fumes, dust or vapour of, beryllium or a compound of beryllium, or of a substance containing beryllium.
35.	*(a)* Carcinoma of the mucous membranes of the nose or associated air sinuses;	Work in a factory where nickel is produced by decomposition of a gaseous nickel compound which necessitates working in or about a building or buildings where that process or any other industrial process ancillary or incidental thereto is carried on.
	(b) Primary carcinoma of a bronchus or of a lung.	
36.	Tuberculosis.	Close and frequent contact with a source or sources of tuberculous infection by reason of employment— *(a)* in the medical treatment or nursing of a person or persons suffering from tuberculosis or in a service ancillary to such treatment or nursing; *(b)* in attendance upon a person or persons suffering from tuberculosis where the need for such attendance arises by reason of physical or mental infirmity; *(c)* as a research worker engaged in research in connection with tuberculosis; or *(d)* as a laboratory worker, pathologist or person taking part in or assisting at post-mortem examinations of human remains where the occupation involves working with material which is a source of tuberculosis infection.
37.	Primary neoplasm of the epithelial lining of the urinary bladder (papilloma of the bladder), or of the epithelial lining of the renal pelvis or the epithelial lining of the ureter.	*(a)* Work in a building in which any of the following substances is produced for commercial purposes: (i) alpha-naphthylamine or beta-naphthylamine; (ii) diphenyl substituted by at least one nitro or primary amino group or by at least one nitro and primary amino group; (iii) any of the substances mentioned in sub-paragraph (ii) above if further ring substituted by halogeno, nythyl or methane groups but not by other groups; (iv) the salts of any of the substances mentioned in subparagraphs (i) to (iii) above; or

		(v) auramine or magenta; *(b)* The use or handling of any of the substances mentioned in subparagraphs (i) to (iv) of paragraph *(a)* or work in a process in which any such substance is used or handled or is liberated; *(c)* The maintenance or cleaning of any plant or machinery used in any such process as is mentioned in paragraph *(b)*, or the cleaning of any clothing used in any such building as is mentioned in paragraph *(a)* if such clothing is cleaned within the works of which the building forms a part or in a laundry maintained and used solely in connection with such works.
38.	Poisoning by cadmium.	Exposure to cadmium fumes.
39.	Inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour or any disease caused by chrome or its toxic compounds.	Exposure to dust, liquid or vapour, or to chrome or its toxic compounds.
40.	Non-infective dermatitis of external origin (including chrome ulceration of the skin but excluding dermatitis due to ionising particles or electromagnetic radiations other than radiant heat).	Exposure to dust, liquid, or vapour or any other external agent capable of irritating the skin (including friction or heat but excluding ionising particles or electromagnetic radiations other than radiant heat).
41.	Pneumoconiosis, silicosis, siderosilicosis, asbestosis or any of these conditions accompanied by tuberculosis.	Mining of any kind whatsoever, either underground or on the surface of the earth, and generally any work connected with mines including asbestos mines, quarrying, crushing or excavation of stones or rock of any kind whatsoever, either underground or on the surface of the earth, and generally any work connected with quarries of any kind whatsoever or with machinery for the crushing of stones or rock of any kind whatsoever including pebbles.
42.	Primary malignant neoplasm of the mesothelium (diffuse mesothelioma) of the pleura or of the peritoneum.	*(a)* Mining, working or handling of asbestos or any admixture of asbestos; *(b)* The manufacture or repair of asbestos textiles 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 chambers, fixtures and appliances for the collection of asbestos dust; *(d)* Substantial exposure to the dust arising from any of the foregoing operations.

43.	Infection by brucella.	Contact with animals infected by brucella, their carcasses or parts thereof or their untreated products, or with laboratory specimens or vaccines of or containing brucella, by reason of employment— *(a)* as a farm worker; *(b)* as a veterinary worker; *(c)* as a slaughter house worker; *(d)* as a laboratory worker; or *(e)* in any other work relating to the care, treatment, examination or handling of such animals, carcasses or parts thereof, or products.

NATIONAL INSURANCE (CLAIMS AND PAYMENTS) REGULATIONS

ARRANGEMENT OF REGULATIONS

NATIONAL INSURANCE (CLAIMS AND PAYMENTS) REGULATIONS – SECTIONS 13 AND 64

(Legal Notices 8/1992 and 5/2004)

Commencement

[6 April 1992]

Short title

1. These Regulations may be cited as the National Insurance (Claims and Payments) Regulations.

Interpretation

2. (1) In these Regulations—

"accident" has the meaning given to it by regulation 2 of the Benefit Regulations;

"appointed day", in relation to a provision of these Regulations, means the day appointed by the Minister under regulation 1 in respect of that provision;

"Benefit Regulations" means the National Insurance (Benefit) Regulations;

"death benefit" means the benefit of the kind described in section 12(2)*(c)* of the Ordinance;

"death grant" means the benefit of the kind described in section 12(2)*(d)* of the Ordinance;

"disablement benefit" means the benefit of the kind described in section 12(2)*(b)* of the Ordinance;

"funeral grant" means the benefit of the kind described in section 12(1)*(d)* of the Ordinance;

"injury benefit" means the benefit of the kind described in section 12(2)*(a)* of the Ordinance;

"invalidity pension" means the benefit of the kind described in section 12(1)*(b)* of the Ordinance;

"maternity allowance" means the benefit of the kind described in section 12(1)*(f)*(i) of the Ordinance;

"maternity grant" means the benefit of the kind described in section 12(1)*(f)*(ii) of the Ordinance;

"medical certificate" means a certificate issued by a medical practitioner;

"non-contributory old age pension" means the benefit provided for by section 13 of the Ordinance;

"retirement benefit" means the benefit of the kind described in section 12(1)*(a)* of the Ordinance;

"retirement grant" means the grant referred to in regulation 3(4) of the Benefit Regulations;

"retirement pension" means the pension referred to in regulation 3(1) of the Benefit Regulations;

"sickness benefit" means the benefit of the kind described in section 12(1)*(e)* of the Ordinance;

"survivors' benefit" means the benefit of the kind described in section 12(1)*(c)* of the Ordinance;

"survivors' grant" means the grant referred to in regulation 14(2) of the Benefit Regulations; and

"survivors' pension" means the pension referred to in regulation 14(1) of the Benefit Regulations.

(2) For the purposes of these Regulations, a claim for a benefit is made on the day that the claim, properly made, in the opinion of the Director, in accordance with these Regulations, is first received at an office of the Board.

PART I

CLAIMS

Claims Generally

Making a claim

3. (1) Subject to these Regulations, a claim for a benefit shall be made in writing to the Director and shall be on the form approved by the Board for the making of that claim.

(2) The Director shall provide claim forms approved by the Board free of charge.

(3) The Director may, if he thinks fit, waive the requirements of subregulation (1).

Time for claiming a benefit

4. (1) A claim for a benefit shall be made within the time prescribed by subregulation (2).

(2) The prescribed time for claiming a benefit is—

(a) in the case of sickness benefit or injury benefit, the period of six days from the earliest day in respect of which the benefit is claimed;

(b) in the case of maternity allowance, the period of twenty-one days from the earliest day in respect of which the allowance is claimed;

(c) in the case of maternity grant, funeral grant or death grant, the period of six months from the date of confinement or from the date of the death of the deceased, as the case may require; and

(d) in the case of retirement benefit, invalidity pension, survivors' benefit, disablement benefit, death benefit or non-contributory old age pension, the period of three months from the date on which, apart from satisfying the conditions for making a claim, the claimant becomes entitled to the benefit.

(3) Subject to subregulation (4), a person who fails to make a claim within the prescribed time shall be disqualified from receiving—

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

(b) in the case of maternity allowance, allowance in respect of any day more than twenty-one days before the day on which the claim is made;

(c) in the case of maternity grant, funeral grant, death grant, retirement grant or survivors' grant, the grant; and

(d) in the case of retirement pension, invalidity pension, survivors' pension, disablement benefit, death benefit or non-contributory old age pension, benefit in respect of any period more than three months before the day on which the claim is made.

(4) Subject to subregulation (5), where a claim is not made within the prescribed time, if the claimant proves to the satisfaction of the Director that—

(a) on a day earlier than the day on which the claim was made, apart from satisfying the conditions for making the claim, he was entitled to the benefit; and

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

he shall not be disqualified, notwithstanding subregulation (3), from receiving any benefit to which he would have been entitled if the claim had been made on the earlier day.

(5) Notwithstanding subregulation (4), no sum shall be paid—

(a) by way of sickness benefit, maternity allowance or injury benefit, in respect of any period more than thirteen weeks before the day on which the claim therefor is made;

(b) by way of maternity grant, if the claim therefor is not made within twelve months after the date of confinement;

(c) by way of funeral grant or death grant, if the claim therefor is not made within twelve months after the date of the death of the person in respect of whom the grant is payable;

(d) by way of retirement grant or survivors' grant, if the claim therefor is not made within two years from the date on which, apart from satisfying the conditions for making a claim, the claimant becomes entitled thereto; or *(Amended by L.N. 5/2004)*

(e) by way of retirement pension, invalidity pension, survivors' pension, disablement benefit, death benefit or non-contributory old age pension, for any period more than six months before the day on which the claim therefor is made.

Computation

5. In computing the thirteen weeks period referred to in regulation 4(5)*(a)*, no consideration shall be given to any period spent outside the Islands by the claimant undergoing treatment for the sickness, maternity or injury relating to the claim. *(Inserted by L.N. 5/2004)*

Information and documents to accompany claim

6. (1) A claim shall be accompanied by such information, evidence, documents or certificates as the Director may require for the purpose of determining the claim.

(2) A claimant shall, if the Director for the purpose of determining his claim so requires, attend at such office or place as the Director may direct.

Medical certificates

7. (1) Where, in accordance with any regulations or with a requirement of the Director, a claim is required to be accompanied or supported by a medical certificate, the certificate shall comply with such requirements as may be approved by the Board.

(2) Without restricting the generality of the Board's power under subregulation (1), the medical certificate referred to in that subregulation shall, in particular—

(a) include—

(i) in the case of a claim requiring proof of incapacity for work or invalidity, a description of the condition causing the incapacity or invalidity;

(ii) the date of the medical examination to which the certificate relates; and

(iii) the signature of the medical practitioner by whom the certificate was issued, with his name and address printed thereunder; and

(b) be furnished in respect of such periods and at such intervals as the Director may require for the purpose of determining entitlement to benefit or the continuance thereof.

(3) The Director may, if he thinks fit—

(a) reject a medical certificate which, in his opinion, does not comply with the requirements of subregulation (2) or any requirements approved by the Board under subregulation (1), and thereupon suspend proceedings for the determination of the claim to which the certificate relates;

(b) notwithstanding any regulations to the contrary, accept, instead of a medical certificate, such other evidence as he considers appropriate.

Amendment of claims

8. A person who has made a claim for a benefit may, by notice in writing addressed to the Director at any office of the Board, amend the claim at any time before a decision is given thereon.

Benefit claimed treated as other benefit

9. Where it appears that a person who has made a claim for a benefit to which he is not entitled, may be entitled to a benefit other than the one claimed, the Director may treat the claim made as a claim properly made for that other benefit and may, if necessary, require the claimant to furnish such further information, evidence, documents or certificates relating to that other benefit as he thinks fit.

Claim not properly made

10. (1) Where, in the opinion of the Director, on the day that a claim is first received at an office of the Board, the claim is not properly made in accordance with these Regulations because—

(a) the claim is not made—

(i) on a form approved by the Board; or

(ii) on a form approved by the Board for the making of that claim;

(b) the claim is not accompanied by the required information, evidence, documents or certificates; or

(c) the required information, evidence, documents or certificates by which the claim is accompanied are not, in the opinion of the Director, sufficient or in order,

the Director shall refer the claim back to the claimant and require him to do whatever, in the opinion of the Director, is necessary for the claim to be properly made, within such time, not exceeding one month after the day that the claim is so referred, as the Director may direct.

(2) If a claimant back to whom a claim has been referred in accordance with subregulation (1) does not, within the time directed by the Director, do what the Director has required him to do for the claim to be properly made, the Director may refuse to accept the claim.

(3) If a claimant back to whom a claim has been referred in accordance with subregulation (1) does, within the time directed by the Director, do what the Director has required him to do for the claim to be properly made, the claim shall be treated as if it had been properly made on the day that it was first received at an office of the Board.

Notice of accident to be given by insured person

11. (1) Subject to this regulation, an insured person who suffers personal injury by accident shall give notice of the accident, either orally or in writing, as soon as practicable after the accident happens and in any case not later than forty-eight hours after the accident happens.

(2) The notice required by subregulation (1) may be given by a person other than the insured person, acting on behalf of the insured person.

(3) The notice required by subregulation (1) shall be given to the employer of the insured person, to any servant or agent of the employer under whose supervision the insured person is employed or to any person designated by the employer for the purpose.

(4) The notice required by subregulation (1) shall give the following particulars, namely—

(a) the full name, national insurance number, sex and home address of the insured person;

(b) the date and time of the accident;

(c) the place where the accident happened and its cause;

(d) the nature of the injury caused by the accident;

(e) the name and home address of any witness to the accident; and

(f) if the person giving the notice is a person other than the insured person, that person's full name, home address and occupation.

Notification, investigation and recording of accidents

12. (1) Every employer shall keep a book, to be known as an accident book, in which he shall record—

(a) such particulars of any accident causing personal injury to any insured person employed by him, of which he has been given notice under regulation 11, as the Board may require; and

(b) any circumstances which he is required to record in accordance with subregulation (4).

(2) An employer shall preserve the accident book when it is completed for a period of three years after the date of the last entry therein.

(3) An employer shall, if so required by the Director, within such reasonable time as the Director may specify—

(a) produce his accident book to the Director or any officer of the Board;

(b) furnish the Director or any officer of the Board with such information or particulars, whether recorded in his accident book or not, as the Director may require, concerning—

(i) any accident or alleged accident suffered by any insured person employed by him in respect of which a benefit may be claimed or payable; or

(ii) the nature of and any relevant circumstances relating to any occupation for which a disease or injury is prescribed by regulations in which any person to whom or in respect of whom benefit may be payable under the regulations was or is alleged to have been employed by him.

(4) Where, in accordance with regulation 11, an employer, his servant or agent or a person designated by him has been given notice of an accident, the employer shall take reasonable steps to investigate the circumstances of the accident and, if there appears to him to be any discrepancy between the circumstances found by him and the circumstances appearing from the notice, he shall record the circumstances found by him.

Non-compliance with regulations

13. No person shall be disqualified from receiving a benefit by reason only that the requirements of regulation 11 or 12 have not been complied with.

PART II

PAYMENTS

Place and manner of payment of benefits

14. (1) Benefits may be paid at an office of the Board, a Post Office or at such other place (including a bank or Government District Office) as the Board may from time to time determine by arrangement with the authority concerned, as the case may be.

(2) Benefits shall be paid by means of vouchers, pension orders, drafts or cheques or in such other manner as the Board may from time to time determine.

(3) Any document mentioned in subregulation (2) used for the payment of a benefit shall be in such form as the Board determines and such document shall, in particular, show the date from which the sum specified therein is payable and the date up to which or the period within which it may be received.

Time for payment of benefits

15. (1) Where a person is entitled to any benefit, payment shall be made—

(a) in the case of sickness benefit, maternity allowance or injury benefit, in arrears at such intervals as the Board may from time to time determine;

(*b*) in the case of retirement grant, survivors' grant, funeral grant, maternity grant, disablement grant or death grant, as soon as possible after the award has been determined;

(*c*) in the case of retirement pension, invalidity pension, survivors' pension, non-contributory old age pension, disablement pension and death benefit, monthly in arrears.

(2) The monthly rate of any of the benefits referred to in subregulation (1)*(c)* shall be one-twelfth of the weekly rate multiplied by fifty-two.

(3) Where the period for which any of the benefits referred to in subregulation (1)*(c)* is payable is not a complete month, the amount of benefit shall be the proportion of the monthly rate, which bears the same relationship as the number of days in the said period bears to the total number of days in the month, which includes that period.

Payment documents remain the property of the Board

16. (1) Any document issued by the Board to a person for the purpose of receiving payment of benefit thereby (including a voucher, a book of pension orders, draft or cheque) shall remain the property of the Board.

(2) Any person having a payment document specified in subregulation (1) shall, on the termination or suspension of the benefit to which the document relates or when requested by an officer of the Board, return such document to the Board or to such person as the Board may direct.

(3) If there is any event or fact which affects or is likely to affect the continuance of the right to a benefit or the rate thereof in respect of which a payment document has been issued, any person having in his possession such document shall notify the event or fact forthwith to and return such document to the Board.

Extinguishment of right to receive benefit payment

17. Where a beneficiary or other person through his own fault has not obtained payment of any sum payable by way of benefit within six months from the date on which an authority for payment or other document is issued to him by the Board, the right to that sum shall be extinguished.

PART III

MISCELLANEOUS

Obligations of persons receiving benefit payment

18. (1) Any person receiving payment for himself or on behalf of some other person shall inform the Director of any event or fact affecting the continuance of the right to receive such benefit or the rate thereof within one week of the occurrence of the event or fact, and in any case before receiving further payment of such benefit after the occurrence of the event or fact.

(2) The Board may require any person entitled to benefit or receiving benefit on behalf of another person to furnish from time to time documentary evidence that he is alive and to show that the conditions governing the award of such benefit continue to be fulfilled, and if such 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.

(3) A person applying to receive payment of any benefit shall produce on request to the authority making the payment such evidence of entitlement to the benefit and of his identity as may be required by the Board.

(4) Where benefit payment is received by a person on behalf of another person (the beneficiary not being a person unable to act), the latter person may be required by the Board to confirm any particulars furnished by the former person.

Persons unable to act and deceased persons

19. Where a person who has made a claim for benefit or who is alleged to be or to have been entitled to benefit or to whom any benefit is payable is unable to act for any reason or dies, the Board may appoint such person as it thinks fit to proceed with or to make a claim, or to receive payments of benefit on behalf of or as the representative of that person.

Offences

20. An employer who contravenes regulation 12 commits an offence and is liable on summary conviction to a fine of $100; and if the offence is a continuing one, to a further fine of $100 for every day or part of a day during which the offence has continued.

NATIONAL INSURANCE (DETERMINATION OF CLAIMS AND QUESTIONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART IV

MISCELLANEOUS

NATIONAL INSURANCE (DETERMINATION OF CLAIMS AND QUESTIONS) REGULATIONS – SECTIONS 21 AND 64

(Legal Notice 10/1992)

Commencement

[6 April 1992]

Short title

1. These Regulations may be cited as the National Insurance (Determination of Claims and Questions) Regulations.

Interpretation

2. In these Regulations—

"accident" has the meaning given to it by the Benefit Regulations;

"appeal tribunal" means an appeal tribunal established under regulation 9;

"Benefit Regulations" means the National Insurance (Benefit) Regulations;

"claim" means a claim for benefit;

"Claims and Payments Regulations" means the National Insurance (Claims and Payments) Regulations;

"constant attendance allowance" means the allowance referred to in section 22 of the Ordinance;

"death benefit" has the meaning given to it by regulation 2 of the Claims and Payments Regulations;

"disablement benefit" has the meaning given to it by regulation 2 of the Claims and Payments Regulations;

"disablement question" means a question arising from a claim to disablement benefit set out in regulation 5(2);

"grant" means a lump sum payment payable by way of benefit;

"injury benefit" has the meaning given to it by regulation 2 of the Claims and Payments Regulations;

"invalidity pension" has the meaning given to it by regulation 2 of the Claims and Payments Regulations;

"medical board" means a board appointed under regulation 7;

"medical referee" means a medical practitioner appointed under regulation 7;

"relevant accident" has the meaning given to it by the Benefit Regulations;

"relevant injury" has the meaning given to it by the Benefit Regulations; and

"reserved question" means a question set out in regulation 3(1).

PART I

DETERMINATION OF CLAIMS AND QUESTIONS

Determination of reserved questions

3. (1) Where any question (hereinafter referred to as a "reserved question") arises as to whether—

(a) any particular employment is insurable employment;

(b) a person is or was an employed or self-employed person;

(c) a person is or was the employer of a person;

(d) contribution is or was payable by or in respect of any person;

(e) any person is entitled to have a contribution credited to him for any week;

(f) a contribution has been paid by or in respect of any person for any week or credited to that person for that week,

that question shall be considered in the first instance by the Director who may, after making necessary inquiry, determine the question or refer it to the Board for determination, if he considers it expedient to do so.

(2) Where a person is aggrieved by the Director's decision on a reserved question, that question shall be referred to the Board for determination on the application of the aggrieved person. In such a case the Director shall submit to the Board a report of his inquiry and his findings thereon.

(3) Except where a question of law arises thereon, the decision of the Board on a reserved question shall be final, and such decision shall be given in writing and shall specify the reason on which the decision is based:

Provided that, if it is considered by the Board that a question is of sufficient importance or that a question of law may arise therefrom, the question may be referred to an appeal tribunal for decision.

(4) The Board may, if it finds it expedient so to do for the purpose of determining reserved questions, appoint a committee consisting of three members of the Board, one of whom shall be a person representing insured persons.

(5) The decision of a committee appointed under subregulation (4) shall be by simple majority of the members thereof and, for the purposes of these Regulations, the determination of a reserved question by such committee shall be a determination of that question by the Board.

(6) The Board or the committee appointed under subregulation (4) may, before determining a reserved question, appoint a person to hold an inquiry into the matter and to report thereon to the Board or the committee, as the case may be.

(7) In proceedings for the consideration of any reserved question, the Board, the committee appointed under subregulation (4) or the person mentioned in subregulation (6) may summon persons to attend at such proceedings and to produce such documents as may be required and to give evidence on oath. The oath shall be administered by the person presiding at the proceedings concerned.

(8) Any person who appears to the inquiring body or person to be a person who has an interest under the Ordinance in the matter under inquiry, shall be entitled to attend and to be heard at the proceedings mentioned in subregulation (7).

(9) Subject to this regulation, the procedure for the determination of any reserved question shall be such as the Board may determine.

(10) Except as may be directed by the Board, the procedure at any inquiry under subregulation (6) shall be such as the person holding the inquiry may determine.

Determination of claims

4. (1) Every claim shall be considered by the Director who may, subject to these Regulations—

(a) allow a claim;

(b) disallow a claim in whole or in part; or

(c) after giving notice to the claimant or to any other person who appears to him to be interested, refer the claim to an appeal tribunal for determination.

(2) The Director shall give notice of his decision on a claim to the claimant in writing, and where the claim is disallowed in whole or in part, the notice shall include a short statement of the grounds upon which the claim is so disallowed.

Claims to disablement benefit and determination of disablement questions

5. (1) Before determining a claim to disablement benefit, the Director shall refer the disablement questions arising from the claim to a medical board for determination.

(2) The disablement questions arising from a claim to disablement benefit are—

(a) whether the relevant accident has resulted in loss of faculty;

(b) at what percentage the extent of disablement resulting from loss of faculty is to be assessed, having regard to the provisions of the Benefit Regulations; and

(c) if the extent of disablement is assessed at 20% or more—

(i) whether the assessment is final; or

(ii) if the assessment is provisional, the period to be taken into account.

(3) Where a provisional assessment is made in accordance with subregulation (2), the Director shall again refer the case to a medical board before the end of the period taken into account by the provisional assessment.

(4) Where a person, who has been given reasonable notice to appear before a medical board for the purpose of any inquiry under this regulation, fails to do so, the medical board shall not proceed to determine the matter concerned without the consent of that person.

(5) A medical practitioner shall be debarred from acting as member of a medical board for the purpose of determining disablement questions if he—

(a) is or may be directly or indirectly personally affected by the outcome of the case; or

(b) has taken any part in such case as a medical assessor, as an employer or as a witness, or has attended on the claimant or beneficiary in his capacity as private medical practitioner.

(6) A medical board to whom disablement questions have been referred for determination shall send their decision to the Director as soon as practicable after the consideration of such questions, and the Director shall forthwith send a copy of the decision to the claimant:

Provided that where the medical board is of the opinion that any knowledge of their findings could be detrimental to the health of the claimant, they may recommend the form in which their decision should be communicated to him.

(7) Where it appears to a medical board that a question of law arises from any disablement question, they may state in writing the facts material to the question and refer the question of law (through the Director) for determination by an appeal tribunal.

(8) The Director shall as soon as practicable by notice refer the question of law mentioned in subregulation (7) to an appeal tribunal, and shall send a copy of the notice of such reference to the claimant.

(9) Upon receiving the tribunal's decision, the Director shall forthwith send a copy thereof to the claimant and to the medical board with a view to the board proceeding with the determination of the disablement question.

(10) Notwithstanding subregulation (1), any disablement question may, with the consent in writing of the claimant, be referred for determination to a single medical practitioner appointed by the Board to act as a medical referee.

(11) The provisions of this regulation relating to medical boards shall apply with such modifications as the circumstances require to a medical referee.

Claims to other benefits

6. (1) The Director, before determining a claim to—

(a) injury benefit, in respect of personal injury by accident, may refer the question of whether the incapacity for work has resulted from the relevant accident to a medical board or medical referee for advice;

(b) injury benefit, in respect of a prescribed disease or injury, shall refer the question of whether incapacity for work has resulted from a prescribed disease or injury or a recrudescence of such disease in accordance with the Benefit Regulations to a medical board or medical referee for determination;

(c) invalidity pension, shall refer the question of whether a claimant is an invalid in accordance with the provisions of the Benefit Regulations to a medical board or medical referee for advice;

(d) survivors' benefit or death benefit based on the ground that the claimant is permanently incapable of self-support, shall refer the question of whether the claimant is so incapable in accordance with the Benefit Regulations to a medical board or medical referee for advice; or

(e) constant attendance allowance under section 22 of the Ordinance, shall refer the question of whether the claimant is so severely incapacitated as to require the

constant personal attendance of another person to a medical board or medical referee for advice:

Provided that any question specified in paragraphs *(c)*, *(d)* or *(e)* shall be deemed not to have arisen if the claim from which the question arises fails on other statutory conditions.

(2) Without prejudice to subregulation (1), the Director may, in any circumstances in which a claimant or beneficiary may be required to submit to a medical examination, refer a claim to a medical board or medical referee for advice.

Medical boards and medical referees

7. (1) Medical boards shall be appointed by the Board and shall consist of two or more medical practitioners of whom one may be appointed to be Chairman.

(2) Members of a medical board shall hold office for such period or shall consider such case or cases as the Board may direct, but the Board may terminate the appointment of any member at any time and without stating any reason for so doing.

(3) A medical board shall not decide on any question referred to them for advice or determination for the purposes of the Ordinance if—

(a) any member thereof is unable to be present at the consideration of any question; or

(b) the board is unable to do so by a decision of a majority of its members.

(4) In any case in which, by reason of the circumstances specified in subregulation (3), a medical board is unable to reach a decision in any case referred to them, they shall immediately notify the Board and upon such notice the reference to that medical board shall be deemed to have been revoked, and the case shall forthwith be referred by the Board to another medical board:

Provided that—

(a) in a case to which subregulation (3)*(b)* relates, the reference shall be to another medical board consisting of three members, whose decision shall be that of the majority of such members;

(b) a member of a medical board referred to in subregulation (3) shall not be debarred from being a member of the other medical board to which the case is referred under this subregulation.

(5) A medical referee shall be appointed by the Board and shall hold office for such period and shall consider such cases as the Board may direct.

(6) The decision of a medical board or medical referee—

(a) shall be in writing and in such form as the Board may from time to time require;

(b) shall include a statement of the findings of the board or referee material to the decision;

(c) in the case of a medical board, if not unanimous, shall be by simple majority; and

(d) shall be sent to the Director as soon as practicable after the consideration of the case.

Notification of right to appeal

8. A person to whom a written notice of a decision is sent shall also be informed of his right to appeal against that decision in accordance with Part II.

PART II

APPEALS

Appeals and Appeal Tribunals

Establishment of appeal tribunals

9. (1) For the purposes of this Part, there shall be established such number of appeal tribunals as the Minister, on the recommendation of the Board, may consider necessary for the purposes of the Ordinance.

(2) Schedule 1 has effect with respect to the constitution of an appeal tribunal.

(3) Schedule 2 has effect with respect to the procedure of an appeal tribunal.

Appeal on point of law against determination of disablement question

10. (1) Subject to this regulation, where the Director or a claimant is aggrieved by the determination of any disablement question by a medical board or medical referee, the Director or the claimant, as the case may be, may appeal to an appeal tribunal against that determination on the ground that the determination was erroneous on a point of law.

(2) An appeal made by a claimant under subregulation (1) must be brought by giving notice of appeal in writing at an office of the Board not later than twenty-one days after the date on which the determination against which the appeal is made was issued to the claimant, or within such longer period, not exceeding sixty days, as the Chairman of an appeal tribunal may, in special circumstances, allow.

(3) The Board shall refer an appeal made under subregulation (1) as soon as practicable to an appeal tribunal by written notice of reference, and shall forthwith send a copy of the notice to the appellant.

(4) Where an appeal is made by the Director under subregulation (1) he shall—

(a) give notice of appeal in writing to an appeal tribunal within twenty-one days after the date of the determination against which the appeal is made; and

(b) send as soon as practicable a copy of such notice of appeal to the claimant.

(5) A notice of appeal given under subregulation (2) or (4) shall include a statement of the point of law and the grounds upon which the determination appealed against is alleged to be erroneous.

(6) The decision of an appeal tribunal on the point of law shall be referred to the medical board or medical referee against whose determination the appeal was made, and the board or referee shall thereupon confirm or revise the determination in accordance with that decision.

Appeal against determination of disablement question by medical referee

11. (1) A claimant aggrieved by the determination of any disablement question by a medical referee may, without restricting his entitlement to appeal against that determination on the ground that the determination was erroneous on a point of law under regulation 10, appeal to an appeal tribunal under this regulation against that determination on the ground that the determination was erroneous on any other point.

(2) An appeal made by a claimant under this regulation shall be made in accordance with the procedure for appeals under regulation 10 set out in subregulations (2) and (3) of that regulation.

(3) A notice of appeal given under this regulation shall include a statement of the grounds upon which the determination appealed against is alleged to be erroneous.

(4) An appeal tribunal may, after considering the determination appealed against under this regulation—

(a) dismiss the appeal; or

(b) direct that any disablement question to which the determination appealed against relates be referred to a medical board for determination.

Appeal from decision of Director as to right to benefit

12. (1) Subject to this regulation, a claimant who is aggrieved by a decision of the Director as to the right to any benefit may appeal against that decision to an appeal tribunal.

(2) Where the Director certifies in writing that his decision as to the right to any benefit is based solely on the determination in accordance with these Regulations of—

(a) a reserved question by the Board; or

(b) a disablement question by a medical board or medical referee,

no person may appeal against that decision under subregulation (1).

(3) An appeal made under subregulation (1) must be brought by giving notice of appeal in writing at an office of the Board not later than twenty-one days after the date on which the decision against which the appeal is made was issued to the claimant, or within such longer period, not exceeding sixty days, as the Chairman of an appeal tribunal may, in special circumstances, allow.

(4) A notice of appeal given under subregulation (3) shall include a statement of the grounds upon which the appeal is made.

(5) Subject to subregulation (2), the Board shall refer an appeal made under subregulation (1) as soon as practicable to an appeal tribunal by written notice of reference, and shall forthwith send a copy of the notice to the appellant.

(6) The decision of an appeal tribunal on an appeal made under subregulation (1) shall be referred to the Director, and the Director shall thereupon confirm or revise the decision against which the appeal was made in accordance with the decision of the appeal tribunal.

Persons entitled to be heard by an appeal tribunal

13. The following persons shall be entitled to appear before and be heard by an appeal tribunal—

(a) in the case of a reference by the Board under the proviso to regulation 3(3)—

(i) the representative of the Board; and

(ii) any person who appears to the tribunal to be a person who is interested in the reserved question;

(b) in the case of a reference by a medical board through the Director under regulations 5(7) and (8) or an appeal under regulations 10, 11, or 12—

(i) the claimant or his duly authorised representative; and

(ii) the Director or his duly authorised representative.

Power of appeal tribunal to summon witnesses

14. (1) An appeal tribunal shall have the power to summon witnesses, to require the production of such documents as the Chairman may consider necessary for the consideration of any question or claim before the tribunal and to administer oaths.

(2) Summons to a person to give evidence before an appeal tribunal shall be signed by the Chairman of that tribunal.

(3) Oaths shall be administered by the Chairman of the tribunal.

Appeal to Supreme Court

15. (1) An appeal shall lie with the leave of the court to the Supreme Court on a question of law arising from—

(a) a reserved question determined by the Board; or

(b) a decision of an appeal tribunal.

(2) An application for leave to appeal under subregulation (1) shall be made—

(a) in the case of a reserved question, by the person directly interested in the reserved question; and

(b) in the case of an appeal against the decision of an appeal tribunal, by—

(i) the claimant; or

(ii) the Board.

(3) An application for leave to appeal made under subregulation (1) shall—

(a) be made in writing to the Registrar of the Supreme Court not later than twenty-one days after the decision appealed against is given;

(b) include a short statement of the decision appealed against and a statement of the question of law arising from the decision and the facts material to the case; and

(c) specify the particulars of any party to the proceedings.

(4) The Registrar of the Supreme Court, upon receiving an application under subregulation (1), shall send a copy thereof to any party to the proceedings specified in accordance with subregulation (3)*(c)*.

(5) A person making an application under subregulation (1) shall deliver to the Registrar of the Supreme Court such number of copies of the application as may be required by the Registrar for the purposes of subregulation (4).

Hearing and determination of application for leave to appeal

16. (1) The Supreme Court shall hear and determine any application made under regulation 15 and shall—

(a) if it is of the opinion that the appeal raises a question of law, allow the application and instruct the Registrar to set the appeal down for hearing; or

(b) if it disallows the application, instruct the Registrar to strike out the said appeal and to communicate the said decision to the Board and to the claimant or beneficiary concerned.

(2) The decision of the Supreme Court on whether or not a question is a question of law shall be final and shall not be the subject of any further application to any court.

Reference to Supreme Court

17. (1) Where at any stage of the proceedings in any case before an appeal tribunal a question of law arises which in the opinion of the Chairman of the tribunal is a question of law, of such importance that it should be decided by the Supreme Court, the tribunal may state a case for decision by the Supreme Court.

(2) A case stated under subregulation (1) shall—

(a) be signed by the Chairman of the appeal tribunal;

(b) include a statement of the question of law arising for decision; and

(c) specify the particulars of the parties to the proceedings.

(3) Where a reference is made under subregulation (1), the appeal tribunal shall forthwith send a copy of the reference to each of the parties to the proceedings.

Rules of court

18. Subject to regulations 15 and 17, appeals and references to the Supreme Court shall be made in accordance with rules of court issued pursuant to section 42(4) of the Ordinance.

PART III

REVIEW OF DECISIONS AND ADJUSTMENT OF BENEFIT

Review of decisions on reserved questions

19. (1) The Board or a committee appointed under regulation 3(4), having given a decision on a reserved question, may review that decision if it is satisfied by fresh evidence that the previous decision was given—

(a) in ignorance of, or was based on a mistake as to some material fact; or

(b) in consequence of the non-disclosure or misrepresentation by the person concerned or by any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent):

Provided that any such decision shall not be reviewed while a reference or appeal is pending before the Supreme Court on a point of law arising in connection therewith, or before the time for appealing has expired.

(2) The provisions of regulation 3 relating to the procedure for consideration and determination of a reserved question shall apply with such modifications as the circumstances require to the procedure for the review of such a determination.

Review of decisions by Director or appeal tribunal

20. (1) The Director or an appeal tribunal, having given a decision on any claim or question, may review that decision if satisfied, on fresh evidence—

(a) in the case of an appeal tribunal, that the decision was given in ignorance of or was based on a mistake as to some material fact;

(b) in any case, that the decision was based on the non-disclosure or misrepresentation by the claimant or by any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent);

(c) that since the date of the decision there has been a relevant change of circumstances; or

(d) that the previous decision was based on the decision of any reserved question or disablement question which has been reversed.

(2) A decision of the Director or the appeal tribunal may be reviewed under subregulation (1)—

(a) at the instance of the Director; or

(b) on an application made in writing to the Director by the claimant or beneficiary or his duly authorised representative stating the grounds on which the application is based.

(3) The Director shall deal with any question arising from an application under subregulation (2)*(b)* in accordance with this regulation.

(4) Any decision given on review or any refusal to review under this regulation may be appealed against in like manner as an original decision, and the provisions of Part I or Part II shall apply with such modifications as the circumstances require to any such appeal.

(5) Notwithstanding subregulation (4), no appeal shall lie from a refusal to review if the application for review does not satisfy the conditions specified in subregulation (1)*(a)*, *(b)*, *(c)* or *(d)*.

Review of decisions involving certain grants

21. A decision shall not be reviewed so as to make a grant, other than a disablement grant, payable unless the claimant proves that the application for review was made not later than twelve months after the date of the decision.

Review of decisions on disablement questions

22. (1) Subject to this regulation, any decision of a medical board on a disablement question may be reviewed by a medical board, if such board is satisfied by fresh evidence that the previous decision was given in consequence of the non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any decision of a medical board on a disablement question may also be reviewed by a medical board, if such board is satisfied that since the making of the assessment there has been substantial unforeseen aggravation of the loss of faculty resulting from the relevant accident.

(3) Where on a claim for disablement benefit it was decided that the relevant accident did not result in loss of faculty, that decision may be reviewed under subregulation (2) as if it were an assessment of the extent of the disablement resulting from the relevant loss of faculty, and for the purposes of this subregulation a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as a decision that at that date the relevant accident did not result in loss of faculty.

(4) Subject to subregulations (1), (2) and (3), a medical board may deal with a case on review in any manner in which they could deal with it on an original reference to them.

(5) On a review of an assessment under subregulation (2), the period to be taken into account by any revised assessment may include any period not exceeding three months before the date of the application for the review, if the medical board is satisfied that throughout that period there has been substantial unforeseen aggravation of the results of the relevant injury since the making of the assessment under review.

Interim payments

23. (1) Subject to these Regulations, benefit shall be payable in accordance with the decision relating thereto, notwithstanding that an appeal against that decision is pending.

(2) Where it appears to the Director that a question has arisen whether—

(a) the conditions for the payment of a benefit are or were fulfilled; or

(b) a decision to award benefit ought to be revised in accordance with these Regulations,

he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.

Commencement of periodical payments on review

24. (1) Except where the claimant proves that he was entitled to a benefit from an earlier date, where a decision is revised on review so as to award a benefit consisting of periodical payments or so as to increase the rate of such a benefit, such decision shall have effect from the date of application for review.

(2) Where a claimant proves that he was entitled to a benefit of the kind referred to in subregulation (1) from a date prior to the date of his application for review, he may be paid such benefit from such earlier date if such earlier date is not earlier than—

(a) six months prior to the date of his application for review;

(b) the date on which the original award took effect or would have taken effect; or

(c) the date on which any material change of circumstances that led to the decision on review took place.

(3) For the purposes of this regulation, the date of the decision of the Director that a matter should be reviewed under regulation 20(1) shall be deemed to be the date of the application for review.

Adjustment of benefit on appeal or review

25. (1) Where a grant is awarded by a decision on appeal or review in lieu of a pension previously awarded, such decision shall apply so that any payments made on account of such pension, in so far as they do not exceed the amount of the grant, shall be treated as having been made on account of the grant.

(2) Where any benefit other than a grant is awarded by a decision on appeal or review in lieu of another kind of benefit previously awarded, as respects any payments made on account of the benefit previously awarded the appeal or review decision shall apply so that—

(a) in so far as the amount of the said payments does not exceed the amount of any arrears payable by way of the benefit awarded by the said decision, such payments shall be treated as having been made on account of such arrears; and

(b) to the extent by which the amount of the said payments exceeds the amount of the arrears, such payments shall (except in so far as it is required to be repaid under this regulation) be treated as having been made on account of sums becoming payable after the date of the appeal or review decision by way of benefit awarded thereby.

(3) Where on appeal or review a decision is reversed or revised so as to make a benefit previously awarded not payable or payable at a lower rate, the decision given on the review or appeal shall require repayment to the Fund of any benefit paid in pursuance of the original decision to the extent to which such benefit—

(a) would not have been payable if the decision on the review or appeal had been given in the first instance; and

(b) cannot be treated as paid on account of benefit due after the decision on review or appeal.

(4) Where an appeal decision directing that a benefit previously awarded is not payable or is payable at a lower rate is followed by a review decision directing that benefit is payable or payable at a higher rate from a date prior to the appeal decision, any benefit paid before the appeal decision shall, to the extent to which it would not have been payable if the appeal decision had been given in the first instance, be treated as having been paid on account of benefit made payable for the same period by the review decision, except in so far as in pursuance of the appeal decision the benefit has been repaid or treated as paid on account of the benefit awarded by the appeal decision.

(5) Where in accordance with a decision given on an appeal or review, any benefit is required to be repaid to the Fund then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or from any benefit payable on his death.

PART IV

MISCELLANEOUS

Decisions to be conclusive for purposes of proceedings in court

26. (1) If in any proceedings before any court—

(a) for an offence under the Ordinance; or

(b) involving any question as to the payment of any contributions under the Ordinance; or

(c) for the recovery of any sums due to the Fund,

any question arises under the Ordinance to be determined by the Board, the Director, a medical board, an appeal tribunal or the Supreme Court, the decision by the appropriate determining authority shall, unless an appeal under these Regulations is pending or the time for so appealing has not expired, be conclusive for the purpose of those proceedings.

(2) If in any proceedings mentioned in subregulation (1) a decision on any question is required for the purpose of such proceedings but such decision has not been obtained, the question shall be referred to the authority having power to determine it under these Regulations which shall determine it in accordance with the procedure prescribed for the determination of such a question in these Regulations.

(3) Where any appeal as is mentioned in subregulation (1) is pending or the time for so appealing has not expired, or where any question has been referred for decision in accordance with subregulation (2), the court dealing with the case shall adjourn the proceedings until such time as a decision upon the question has been obtained.

Travelling or other allowances to certain persons

27. There shall be paid out of the Fund such travelling or other allowances as the Board may determine to persons required to attend—

(a) and give evidence in accordance with regulations 3 or 14; or

(b) before a medical board or medical referee for the purposes of these Regulations.

Transmission of notices and documents

28. Except where otherwise prescribed, any notice or other document required or authorised to be given or sent to any person under 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 address.

Delivery of summons to witnesses

29. Any summons to witnesses authorised or required to be issued under these Regulations shall be delivered to the person concerned personally or by registered post and in the latter case, in proving service, it shall be sufficient to prove that the summons was properly addressed to the person concerned at his ordinary or last known address:

Provided that reasonable notice of the date, time and place of the hearing and of documents to be produced, if any, shall be given in the notice of summons.

Privileges of members of tribunals and witnesses

30. (1) A member of an appeal tribunal has, in the performance of his functions as a member, the same protection and immunity as a Judge of the Supreme Court.

(2) No person giving evidence under these Regulations shall be compelled to incriminate himself and every such person has, in respect of any evidence given or document produced by him, all the privileges to which a person giving evidence or producing any document before the Supreme Court is entitled in respect of evidence given or documents produced before that Court.

Offences and Penalties

31. Any person who, having been summoned to attend proceedings for the purpose of giving evidence or to produce documents in accordance with these Regulations—

(a) refuses or fails without sufficient cause to attend on the date, at the time and the place specified in the summons served on him;

(b) refuses or fails without sufficient cause to answer, or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Chairman or person so authorised under these Regulations; or

(c) refuses or fails without sufficient cause to produce books or documents mentioned or referred to in the summons served on him, which are in his possession or under his control,

commits an offence and is liable upon summary conviction to a fine of $100.

SCHEDULE 1

(Regulation 9(2))

CONSTITUTION OF APPEAL TRIBUNALS

1. An appeal tribunal shall consist of—

(a) a Chairman, who shall be an attorney-at-law of at least three years standing;

(b) a person drawn by the Board from a panel of persons representing employers;

(c) a person drawn by the Board from a panel of persons representing insured persons.

2. The Chairman of an appeal tribunal shall be appointed in writing by the Minister for a period not exceeding two years and shall hold and vacate office in accordance with the terms of his appointment.

3. The Minister, after consultation with the Board, may appoint more than one person to perform the functions of Chairman of appeal tribunals and may designate districts or areas in which each Chairman is to perform his functions.

4. The panels of persons representing employers and insured persons respectively shall be appointed by the Board after consulting such persons or organizations as in the opinion of the Board represent employers and insured persons respectively.

5. A person shall be appointed to a panel mentioned in paragraph 4 for a period not exceeding two years, and shall hold and vacate office in accordance with the terms of his appointment.

6. The Chairman of an appeal tribunal and members of the panels shall be eligible for re-appointment on completion of their current term of office.

7. No member of the Board shall be eligible for appointment as Chairman of an appeal tribunal or as a member of a panel.

8. As far as practicable the Board shall summon each member of a panel in turn to serve upon an appeal tribunal:

Provided that no member of a panel shall sit upon an appeal tribunal during the consideration of a case—

(a) in which he acted or appeared as the representative of the claimant;

(b) by the decision of which he is or may be directly affected; or

(c) in which he has taken part as an official or member of an association or a trade union, or as an employer, or as a witness.

9. Where in the consideration of an appeal—

(a) a Chairman of a tribunal becomes unable or unwilling to act, or dies, the Minister shall revoke the appointment of such person and appoint another Chairman; or

(b) any other member of a tribunal becomes unable or unwilling to act, or dies, the Board shall revoke the appointment of such person and summon another person from the panel from which the said member was drawn.

10. 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 in like manner the Board may revoke the appointment of a member of a panel.

11. Any person appointed as Chairman of a tribunal or member of a panel may resign his office on giving the Minister or the Board, as the case may be, one month's notice in writing of his intention to do so.

12. The appointment or termination of appointment of a Chairman of an appeal tribunal or of a member of a panel shall be published in the *Gazette*.

13. The Board shall appoint an officer of the Board to perform the functions of clerk to an appeal tribunal.

SCHEDULE 2

(Regulation 9(3))

PROCEDURE OF APPEAL TRIBUNALS

1. A person entitled to appear before and be heard by an appeal tribunal under regulation 13 may—

(a) be represented at the hearing by some other person duly authorised for the purpose to the satisfaction of the Chairman of the tribunal whether having professional qualifications or not, and for the purposes of the hearing, any such representative shall have all the rights to which the person whom he represents is entitled under these Regulations; and

(b) with the permission of the Chairman of the tribunal, call witnesses and question any witnesses called at the hearing.

2. Reasonable notice of date, place and time of hearing of a case 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 or interested person, the appeal tribunal shall not proceed with the hearing of the case unless such notice has been given.

3. If a claimant or other person to whom notice of hearing has been duly given in accordance with these Regulations fails to appear either in person or by a 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 thinks proper.

4. Where a member of an appeal tribunal, other than the Chairman, is prevented by extraordinary and unforeseen circumstances from being present at the hearing of an appeal, the tribunal may, with the consent of the claimant, and not otherwise, proceed with the appeal and if the members present are unable to agree on a decision, the Chairman shall have a second or casting vote.

5. For the purpose of arriving at a decision, or discussing any question or procedure, an appeal tribunal may, notwithstanding anything in these Regulations, order all persons, except the clerk of the tribunal, to withdraw from the hearing.

6. In any case before an appeal tribunal—

(a) a point of law arising from an appeal or reference shall be determined solely by the Chairman; and

(b) any other question or claim submitted to the tribunal in accordance with these Regulations shall be determined by simple majority of all members of the tribunal.

7. The appeal tribunal shall record its decision in writing and such record—

(a) shall include a statement of the reason for the decision and the findings of the tribunal on all questions of fact material thereto; and

(b) shall be signed by all the members of the tribunal:

Provided that the record of a decision on a question of law shall only be signed by the Chairman.

8. A copy of the record of the decision of the tribunal shall be sent, as soon as practicable after the decision, to the claimant or other interested person and to the Director or the Board, as the case may require.

9. Subject to the provisions of these Regulations, the procedure for the consideration and determination of any appeal or reference to an appeal tribunal shall be such as the Chairman of the tribunal may determine, due regard being had to the principles of natural justice.

NATIONAL INSURANCE (FINANCIAL AND ACCOUNTING) REGULATIONS – SECTIONS 46 AND 64

(Legal Notices 12/1992, 10/1995, 36/1995, 41/1996 and Ord. 8 of 1997)

Commencement

[6 April 1992]

Short title

1. These Regulations may be cited as the National Insurance (Financial and Accounting) Regulations.

Interpretation

2. In these Regulations—

"appointed day" means 6 April 1992;

"Contributions Regulations" means the National Insurance (Contributions) Regulations;

"death benefit" means a periodically payable benefit awarded under the National Insurance (Benefit) Regulations to survivors of an insured person who dies as a result of an employment injury;

"expenditure" means payments out of the Fund in accordance with section 46(3) of the Ordinance;

"income" means payments into the Fund in accordance with section 46(2) of the Ordinance; and

"Reserve" means any one of the Reserves constituted under regulation 15.

PART I
FINANCIAL ORGANIZATION

Benefit branches

3. Subject to these Regulations, benefits shall be grouped into three separate benefit branches, namely—

(a) Long-term Benefits Branch, comprising retirement benefit, invalidity pension, survivors' benefit, funeral grant and non-contributory old age pension;

(b) Short-term Benefits Branch, comprising sickness benefit and maternity benefit; and

(c) Employment Injury Benefits Branch, comprising injury benefit, disablement benefit, death benefit, death grant payable on death due to employment injury and medical care.

Financial autonomy of benefit branches

4. (1) Except as provided in these Regulations, each of the three benefit branches specified in regulation 3 shall 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 temporary transfer of an amount that may be necessary to meet it from another branch;

(b) an amount transferred under paragraph *(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 paragraph *(a)* continues beyond a period of three months, the Board, while authorising a temporary transfer of the necessary amounts, shall seek actuarial advice in accordance with regulation 16(3).

(2) Separate income and expenditure accounts shall be established and maintained for each of the benefit branches and shall be prepared in accordance with Part IV.

(3) Separate reserves shall be established and maintained in respect of each of the benefit branches in accordance with Part IV.

PART II
BUDGET ESTIMATES

Financial year

5. The financial year for the purpose of the budget and accounts shall be the year ending on the 31st day of March. *(Amended by L.N. 36/1995)*

Annual budget

6. (1) Before the 31st day of December of each financial year, the Director shall, in respect of each of the benefit branches specified in regulation 3, submit to the Board for its approval the estimates of income and expenditure for the next following financial year under heads to be determined by the Board. *(Amended by L.N. 41/1996)*

(2) The estimates submitted in accordance with this regulation, 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 the head without the prior approval of the Board:

Provided that expenditure in excess of the limits approved by the Board may be incurred in respect of benefits provided under the Ordinance, subject to subsequent ratification by the Board as soon thereafter as possible.

(3) If the budget estimates submitted to the Board have not been approved by it before the beginning of the financial year to which they relate, the Director may 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.

PART III

FINANCIAL CONTROL

Financial authorisations to staff

7. (1) 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 by the Board to approve payment vouchers, sign cheques, approve accounting transfers or exercise other similar functions and the list shall specify 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.

(2) Any changes in the list referred to in subregulation (1) shall be submitted on a supplementary list for the approval of the Board and the original list shall be revised accordingly.

Loss deficiencies and overpayment

8. (1) The Board may authorise the writing off of any loss, deficiency or overpayment as irrecoverable if it is satisfied in each case—

(a) that adequate investigation has been made into the causes of, and responsibility for, the loss, deficiency or overpayment; and

(b) that steps have been taken as far as possible to prevent the recurrence of similar losses, deficiencies or overpayments in the future.

(2) The Board may direct that specific measures be taken to prevent losses mentioned in subregulation (1).

Internal audit

9. The Board shall ensure that adequate arrangements shall be made for the internal audit of the financial procedures, benefit payments and the maintenance and operation of the accounts of the Fund.

Periodical reports to Board

10. (1) The Director shall submit to the Board periodical reports on the financial situation of the Fund with reference to income and expenditure.

(2) The Director shall submit to the Board any report by internal auditors concerning fraud, administrative abuse or serious irregularities.

PART IV

ACCOUNTS

Recording of transactions

11. All financial transactions of the Fund shall be recorded in the accounts.

Annual summary accounts

12. (1) At the end of each financial year the accounts as a whole shall be balanced and summary accounts and Balance Sheet shall be prepared, namely—

(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 three benefit branches specified in regulation 3; and

(c) a Balance Sheet for the Fund as a whole.

(2) 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 accounts and Balance Sheet specified in this regulation shall be prepared as soon as practicable after the end of the financial year and shall be submitted to the Board not later than the 31st day of July:

Provided that if the Board is satisfied that for certain practical reasons the accounts could not be submitted to it by such date, it may extend the said date by a period not exceeding thirty days.

(Amended by L.N. 41/1996)

Distribution of income among benefit branches

13. (1) All amounts of contributions payable by or in respect of the various categories of insured persons shall be distributed among the benefit branches in the proportion specified in the Schedule.

(2) The income from the investment of the Reserves in any year shall be distributed to the separate benefit branches in proportion to the amount of the Reserve of each benefit branch at the beginning of the respective year.

(3) The provisions of subregulation (1) shall apply with such modifications as the circumstances require for the distribution into the separate benefit branches of any other income to the Fund.

Distribution of the expenditure of funds

14. (1) The expenditure on each benefit shall be ascribed to that Branch under which the benefit is grouped in regulation 3.

(2) The administrative expenditure of the Fund shall be distributed among the Long-term Benefits Branch, the Short-term Benefits Branch and the Employment Injury Benefits Branch in the proportion 67%, 17% and 16%, respectively.

Reserves

15. (1) A Long-term Benefits Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Long-term Benefits Branch.

(2) A Short-term Benefits Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Short-term Benefits Branch.

(3) An Employment Injury Benefits Reserve shall be constituted to finance injury benefit, disablement grant, death grant and medical care by transferring thereto annually so much of the excess of income over expenditure of the Employment Injury Benefits Branch so as to maintain the level of the Reserve at one-half of the amount paid for the said benefits in the two previous financial years.

(4) A Disablement and Death Benefit Reserve shall be constituted by transferring thereto annually the excess of income over expenditure of the Employment Injury Benefits Branch, after the necessary transfer has been made to the Employment Injury Benefits Reserve in accordance with subregulation (3).

Level of Reserves and actuarial advice

16. (1) The minimum level of the Long-term Benefits Reserve shall be equivalent to the expenditure for benefits under the Long-term Benefits Branch during the three previous financial years.

(2) The minimum level of the Short-term Benefits Reserve shall be equivalent to one-fourth the expenditure for benefits under the Short-term Benefits Branch during the two previous financial years.

(3) Where the Reserves fall below the minimum level specified in subregulations (1) and (2) and the trend of reduction continues, actuarial advice shall be sought in accordance with the Ordinance, and necessary action shall be 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 prescribed level.

Audit under section 46 of Ordinance

17. (1) The Board shall require the Director to produce the accounts and the Balance Sheet to the Auditor approved under section 47 of the Ordinance on or before the 30th day of June following the close of the financial year to which they relate:

Provided that in the case of an extension under the proviso to regulation 12(3), the Board may extend the said date by a period not exceeding thirty days. *(Amended by Ord. 8 of 1997)*

(2) The Director shall submit to the Auditor all accounts required for the purpose of the audit and any other document, information or explanation which the Auditor may require for the purpose.

(3) Subject to section 47(2) of the Ordinance, the Auditor's report on the annual accounts shall be submitted to the Board in such form as it may specify and, in case the Auditor has called for any information or required an explanation from any officer of the Board in accordance with this regulation, the report shall specify whether such information or explanation has been satisfactorily furnished to him.

(4) The Auditor shall submit to the Board a separate statement, if necessary, in regard to—

(*a*) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of moneys due to the Fund or in the accounts of the Board; or

(*b*) any loss or waste of money or other property owned by or vested in the Board which has been caused by neglect or misconduct.

(5) The Board shall forthwith require the Director to remedy any defect or irregularity pointed out by the Auditor and shall determine responsibility therefor and report to the Minister on the action taken thereon.

SCHEDULE

(Regulation 13)

		Long-term Benefits Branch	Short-term Benefits Branch	Employment Injury Benefits Branch
1.	Amounts of contributions payable under regulation 4(1) of the Contributions Regulations	$\frac{5.5}{8}$	$\frac{1.3}{8}$	$\frac{1.2}{8}$
2.	Amounts of contributions payable under regulation 4(2) of the Contributions Regulations	$\frac{5.5}{6.85}$	$\frac{0.15}{6.85}$	$\frac{1.2}{6.85}$
3.	Amounts of contributions payable under regulation 4(3) of the Contributions Regulations.	—	$\frac{2.5}{2.5}$	—
4.	Amounts of contributions payable under regulation 14 of the Contributions Regulations	$\frac{5.5}{6.8}$	$\frac{1.3}{6.8}$	—
5.	Amounts of contributions payable under regulation 19 of the Contributions Regulations	$\frac{5.5}{5.5}$	—	—

(Substituted by L.N. 10/1995)